

Cherokee Nation Environmental Protection Commission

Minutes of January 5, 2006, Regular Meeting

206 E. Allen Road, Tahlequah, OK 74464

Present for the Commission:

Ed Fite, Chairman
Marty Matlock, Commissioner

Staff and Guests:

Jeannine Hale, Acting Administrator Cherokee Nation Environmental Programs
Jerrid Diffie, Cherokee Nation Environmental Programs
Nancy John, Cherokee National Environmental Programs
Harold Langdon, Cherokee Nation Enterprises
Doug Bane, Cherokee Nation Landfill
Michael Lynn, Cherokee Nation Roads Program
Pat Gwin, Cherokee Nation Natural Resources
Leslie Matthews, Cherokee Nation Environmental Programs
Betty J. Wilson, Cherokee Nation Environmental Programs
Michael Padon, Real-estate Services

Agenda Items

1. Chairman Fite called the meeting to order at 9:00 am on January 5, 2006.
2. Chairman Fite acknowledged the meeting notice and distribution list and placed the Record of Public Notice into the official record.
3. Commissioner Matlock made a motion to accept the minutes of the previous meeting and Chairman Fite Seconded the motion.

Roll Call:

Commissioner Matlock: Yes
Chairman Fite: Yes

4. Reports
 - A. Harold Langdon, CNE reported that a target date for completion of the Tahlequah Casino is September. They will move into that new building with further anticipation of the larger casino at the Y property once that goes into trust. There is a small casino going in at the Sallisaw area at highway 59 and interstate 40. Target for opening is the first of June. Will Rogers Downs is now up and running for gaming. The horse racing will be starting in the month of February. There is a Memorandum of Understanding between the Cherokee Nation, Cherokee Nation Enterprises and the Cherokee Nation Historical -The marketing and the museum store functions of the Heritage

Center are now run by CNE employees. The details from that coordination are still being worked out but we're putting in a lot of infrastructure getting our own point of sale systems, computer systems, and telephone systems. The biggest project is the Roland Travel Plaza. The bids for contractors should be back January 10th. Harold intends to invite Bobby Short and Robert Largent of CNEP to participate in the process. We are still on schedule for the end of August in terms of opening that facility. We will shortly be going out for bid for a general contractor. There is a lot of road work to do at that intersection and Commissioner Green has been kept informed of all the drainage and flooding problems are going to be resolved. The City of Roland is very pleased that a major problem they have is being solved and it is going to enhance the casino and travel plaza business.

- B. Environmental Programs: Nancy John submitted a written report that was placed into the record.
- C. Natural Resources: Pat Gwin submitted a written report that was placed into the record.
- D. Roads Program: Michael Lynn submitted a written report that was placed into the record.

5. Legislation

- A. Environmental Permit Procedures Code:
 - 1. Jeannine Hale reported that since the last meeting the major changes were in Part V, Environmental Permit Fees. A few of the changes were given as examples.
 - 2. Comments or discussion- Jeannine Hale noted that she spoke with Commissioner Green before the meeting, that he has seen the code, knew the item was on the agenda and that he doesn't feel the changes are significant.
 - 3. Action taken: Commissioner Matlock made motion to approve the Environmental Permit Procedures Code and Chairman Fite seconded the motion.
Roll call:
Commissioner Matlock- yes
Chairman Fite- yes.
- B. EPC Rules Chapter 1 and Chapter 3:
 - 1. Jeannine Hale gave a summary of content.
 - 2. Discussion-these rules can wait until next meeting to allow more opportunity for review
 - 3. Action: None taken
- C. Transportation Bill Rider:
 - 1. Update given by Jeannine Hale: Paula Holder Ragsdale, Legislative Officer Liaison in Washington DC, is helping with the Rider. One of the strategies is ask Senator McCain to assist. The Osage Tribe arranged a meeting with one OIPA member to discuss the Rider. We would like to meet with the oil industry and provide accurate information about ongoing efforts of the Tribes to address their concerns about multiple standards.

Word was received from Region VI that the State on January 13th will submit an application to assume all the delegable programs for Indian Country in Oklahoma pursuant to that Rider, but no one has seen this. Paula and Nancy are coordinating meetings with the EPA Administrator and maybe the General Counsel.

2. Action taken: None

6. Cherokee Nation Landfill

A. Reports by Landfill Management

Doug Bane submitted a written report that was placed into the record.

B. Reports by Cherokee Nation - moved to next item

C. Landfill permit

1. Minor modification of permit to add Indian Country Investments (ICI)

Jeannine Hale We have been working with Gary Pitchlynn of ICI and will ask you to approve the addition of ICI as operator, which we believe is a minor modification to the existing permits. Both state and federal rules generally allow this type of change as a minor modification. A new plan is being proposed by the landfill. Jeannine was contacted by Sharon Swepston and asked to attend a meeting with Doug and Benny Dixon, who is with the CN Commerce Department. Later they met with the Chief. The proposal is for the landfill to continue complying with the existing permit, and ICI would be bound by that as well. The original plan was to submit a request a modification in about 12 months for the expanded landfill. Now the proposal is to proceed in two phases. The first phase would be to prepare the master plan and all the required documents for the existing footprint first. Later they would file an application to expand the landfill area.

2. Discussion and opportunity for comments

The Commission moved to the next agenda item to hear from Mr. Bane before voting on the minor modification of the permit

D. Proposal to Develop a Master Plan for Existing Footprint (Phase I) into Permit

1. Report on proposal - Doug Bane presented the landfill's proposal:

We have a Subtitle D plan which is now outdated. We want to quantify and update that Subtitle D plan prepared by Terracon, using the same floor. We're doing geo technical work right now. We hope to modify and go deeper and increase capacity, but that is not part of this proposal. We want to obtain a permit for the life of the existing footprint. Roughly 20 years are estimated for that Terracon footprint. Region VI feels it is a good way to proceed and it gives us something that is long term for financing/contracting purposes with customers. The client schedule that we have in our interim permit now would be part of the new regular permit for the life of the existing footprint..

2. Staff perspective - Jeannine Hale

During the contract negotiations with ICI she asked about how the state usually charges a fee based on tonnage and the Nation did not want to complicate the negotiations at that point and time. It was suggested that

.25 cents out of that royalty fee would be set aside in a different account and would be used to offset the expenses of those who go out and do the inspections; if we want to do split samples of laboratory analysis or whatever from the regulatory compliance assistance side. A rough estimate based on current tonnage would be about \$52,000.00 a year.

3. Discussion and opportunity for comment

Doug Bane stated it was proposed to set up an account for environmental programs using contract payments. Recommended action is an addendum to the existing permit which would add ICI's operator bound to comply with the permit and compliance schedule. It is suggested to do this because it is a minor modification, doesn't require public notice and we can send this out today, get it in there and get it obligated

4. Action by the Commission:

Commissioner Matlock made a motion to add ICI as operator, as a minor modification to the permit, and require that ICI acknowledge in writing. Chairman Fite seconded the Motion.

Roll call:

Commission Matlock: Yes

Chairman Fite: Yes

7. Gravel Mining by Delaware County Commissioners in Dry Creek Streambed

1. Application for permit – Jeannine Hale – no application has been filed. Item tabled.

2. Discussion: Chairman Fite acknowledged that CN staff took them to the Dry Creek area late part of 2005. Commissioner Matlock, CN Staff and Chairman Fite spent considerable amount of time looking at that issue. Since we did not have a permit application or anyone here to solicit that application to be moved forward or advanced it has been tabled until such time that we would hear something.

8. Presentation on the CN Environmental Programs Open Dump Program – Jerrid Diffie

Item no. 9 on the agenda will be discussed, then meeting will adjourn to the training room for a power point presentation.

9. Discussion to set schedule for EPC meetings, legislation and rules

Next EPC meeting will be February 2 and will come back to item no. 9 at that time to set a schedule.

10. New Business – None

11. Miscellaneous discussion - none

***The Commission and attendees adjourned to the training room for agenda #8 and watched a presentation.

12. Meeting adjourned close to noon.