

CHEROKEE NATION ENVIRONMENTAL PROTECTION COMMISSION
Cherokee Nation Environmental Protection Office
206 E. Allen Road, Tahlequah, OK
April 7, 2009

PRESENT:

Commissioner: Mark Green
Commissioner: Ed Fite
Commissioner: Marty Matlock via phone

STAFF AND GUESTS:

Nancy John, CNEP
Tom Elkins, CNEP
Roger Fields, CNE
Dena Geib, CNB
John Freise, CNEP
Harold Langdon, CNE
Nathan Moton, Guest
Jack Crittenden, Guest
Joe Crittenden, Tribal Councilor, Dist. 2
Pat Gwin, CN Natural Resources
Will Chavez, CN Communications
Dwayne Beavers, CCRC
Shawn Slaton, CNE
Bobby Short, CNEP
Dwayne Fain, CN Risk Mgmt
Laura Adair, CNEP

1. Commissioner Green called the meeting to order at 9:36 A.M.
2. Commissioner Green acknowledged and placed into the record the Record of Public Notice and meeting attendance.
3. Commissioner Fite made a motion to approve the minutes from the February 3, 2009 and March 5, 2009 meetings. Commissioner Matlock seconded the motion, minutes approved.
4. Public Comment – No comments.
5. Reports

A. Natural Resources - Pat Gwin

In addition to the written report that has been submitted, Natural Resources gave away 2,000 seedlings during Arbor week. Greenleaf Nursery is growing out about 150 seedlings from a 250 year old Black Walnut tree on the NSU campus, which predates the female seminary for the Cherokee Nation. Cherokee Nation's Ethno-botany Project, which included input from Cherokee elders, has completed the 1st edition of the Tribe's Ethno-botany book. The elders were concerned that they are no longer able to find American ginseng and the Tribe does have some growing in different locations. Responding to an inquiry on the location of the Black Walnut tree, Mr. Gwin stated that the tree is located on the SW corner of Seminary Hall and is labeled by its scientific name.

B. Environmental Programs - Nancy John

In addition to the written report that has been submitted, Ms. John reported that the Clean Air application had been approved by EPA. However, EPA will be issuing a correction to

the approval letter. The original application referenced 5 parcels of land but the decision documents referenced four parcels. A letter was forwarded to EPA requesting that those corrections be made to the decision documents. Commissioner Fite asked if Senator Inhofe's legislation caused any trouble with that to derail the approval process? Ms. John responded by stating that members of both Senator Inhofe and Senator Coburn's staff made contact with EPA but she did not know the specifics of the communication.

C. Cherokee Nation Enterprises – Roger Fields

A couple of items to note on the standard report, the Pizza Hut and Pauline's Café building in Catoosa have been demolished and one property is being used for parking. Second item was a very minor leak of anti-freeze from a vehicle on the Roland property, response was immediate and the area was cleaned.

Overview of CNE Recycling Pilot Program – Roger Fields

A brief summary was provided along with handouts. A small scale pilot project was initiated with a third party recycling company a few ago. CNE has started a green team which consists of representatives from several different departments. The green team has an intranet passport page that can be accessed for information. This pilot project is now going company wide. A total of 29.27 tons has been diverted from the landfill which includes 25 tons of paper, .13 tons of aluminum, 1.32 tons of plastic, 1.03 tons of steel and 1.11 tons of glass. The program continues to expand and will include all CNE properties.

Overview of CNE's Recent UST Inspections – Harold Langdon

EPA recently performed inspections on CNE's fueling locations. One location has underground storage tanks regulated by CNEP and EPA. One location has above ground storage tanks that are also regulated by CNEP and EPA. The Roland location has underground storage tanks regulated by CNEP and OCC. Outpost I in Tahlequah has underground storage tanks, the product lines going from those tanks to the dispensers are fiberglass. Three of four tanks are lined and are in compliance. Outpost II has above ground storage tanks and underground product lines are also fiberglass within regulation. The Travel Plaza has four double-walled fiberglass tanks that exceed the minimum regulation. This was done to eliminate any type of potential environmental problem.

In Summary, (referenced page 2 of the report handout), registration of all the USTs include corrosion protection, spill and overflow, release detection, release reporting, financial responsibility and recordkeeping. Corrosion protection at Outpost I and Outpost II are not required to have cathodic protection. The USTs at Outpost I are lined and Outpost II are above ground. The sumps and underneath dispensers, any metal that is in contact with soil, require some type of cathodic protection. These two locations have sacrificial anodes and are inspected annually. Commissioner Fite asked the life expectancy of the sacrificial anodes. Mr. Harold replied about two years but they are checked and replaced as required every year. For spill/overflow protection, CNE has spill buckets, drop tubes with overflow valves, the trucker is required to come inside and verify how much fuel is in the tank, the size of the tank, and the usage to insure that the tank will hold the amount being put in. Containment is located around the unloading lines at Outpost II with above ground tanks. There are automatic tank gauging systems at all locations which provides information to compare against the bill of lading for accuracy of product being received. Monthly inventory reconciliations are also performed to determine amount bought, sold, and remaining product. The EPA uses this information and has a formula to determine compliance. A third party independent performs an annual tank tightness test to ensure that the integrity of the tank is acceptable and the lining is re-inspected every 5 years. The fiberglass lines will not corrode but they are still tested under pressure as well as the line lead detectors. For release

reporting, there are very specific requirements. As an example, the EPA and OCC require only releases of 25 gallons or more have to be reported. CNE has made the commitment that any release is reported to Cherokee Nation Environmental Programs, no matter the amount. Two months of failed inventory reconciliation must be reported to CNEP as well as the EPA. CNE performs two reconciliations, paper and automatic tank gauging. Recordkeeping is extensive. Records are held per time requirement of the EPA and are available any time an inspector arrives. CNE maintains records and regulatory monitoring from a corporate level and all records are shared with Cherokee Nation. On February 27th the EPA performed an inspection on Outpost I and no deficiencies were discovered. EPA also commended the facility for meeting all the requirements of the UST regulations.

- D. NEPA Projects for Realty, IHS, NAHASDA, Roads - Tom Elkins
Mr. Elkins reported on additional items not contained in the written report. Stimulus Projects have significantly increased the workload of Environmental Review staff, especially housing. On projects where CN is partnering with other entities, under NEPA law, you can use other entities NEPA documents. In the event of a partnership project, CNEP are reviewing those documents for accuracy and signing off for our use.
 - E. Tribally Funded Construction Projects - Pat Gwin reported for Jack Farmer.
One project is the old sewer lagoon, wetland field project. Per an EPC compliance order, the wetland area will be made a little bigger than what was in the original plans. The original plans do not include the removal of the adjacent waste material, the old sewage packet plant, but that will be removed. Updates will be given next month.
 - F. EPC Administrator-Tom Elkins commented on the Stimulus Package work and some of the guidelines.
6. Cherokee Nation Sanitary Landfill – Dena Geib
- A. Report
Construction is ongoing. Compliance activities that were due on the 23rd were submitted to the EPC. The previous closure plan was updated with new drawings and liner elevations. Several pieces of equipment have been repaired since last July and working on larger equipment purchases. Some cars and trucks have been purchased for Landfill employees.
 - B. Compliance Issues
A financial assurance plan has been developed for the site to ensure that closure fund calculations are done consistently with the same equations every year. This was reviewed by Callie Catcher before it was submitted. Operating procedures for the landfill are being developed. The methane plan for correcting Cell 2 readings has been provided in draft form to the EPC Administrator.
 - C. Discussion – Alternate Water Sources for Construction Activities
CNWM is requesting alternate water sources for construction activity. Southern Industrial Contractors have been using storm water from the storm water pond for the sub-grade. Because of limited rain, there is a need for an alternate water source to use because the pond is getting low. They are considering the leachate pond and some of the creek areas that are around the landfill. The leachate pond has tested well and the request to the Commission today is for approval to use the Candy Mink Springs area for the sub-grade that's to be constructed under the liner and then possibly to continue to use the leachate only for dust control on top of the existing cells or the new cells once created. The highlighted area (map provided and referenced) indicates location for planning to remove or draw water to use for the sub-grade. This is not on landfill property but it is within tribal trust boundaries. Pat Gwin stated that he thinks the area is located on CMS 52. It is an unnamed tributary from the Candy Mink Springs area just east of the Candy Mink Springs Park.

Commissioner Fite asked how much water would be pulled. Ms. Geib responded by stating they need a lot of water for this project but the actual volume is not known at this time. The construction team would use landfill water first from the storm water and then use the creek. Commissioner Fite asked if there has been any consideration developed for environmental flows to support the aquatic community. Ms. Geib responded by stating the CNWM has considered the entry to that spot, making sure that they would not be getting into the water source other than drawing water. They have discussed internally about the equipment that they use does not have oil leaks, etc. but nothing further has been discussed. Commissioner Fite stated that he is interested in making sure that the creek is not de-watered so that it kills the aquatic community. Mr. Elkins stated that he does not know all the factors but his concerns would be about the method used to draw the water, the volume, the depth of the water, and recovery. Mr. Gwin would have information on when water was pulled since he has a lot of the landfill history. Mr. Gwin stated that he doesn't have any history on this because in the past there has been plenty of water in the storm water pond. He also stated that if it's an either or situation or if there is the possibility of using some of the water from the leachate for construction use, in the past, the testing results have always proved that to be a very valuable source of water which unfortunately has been disposed of in an expensive manner. It would make great construction water as long as the testing results are maintained. Mr. Elkins stated that it meets the discharge level at Stilwell before they treat it.

Commissioner Green asked how often is it tested and what we did to make sure the testing was continued and done on a regular basis if we use the leachate. It seems it would be better to use the leachate water if it tested well rather than drain the creek. He also stated that he didn't know who is making the decision of how much water to take out of the creek and when to take it but it is something that we cannot control easily and we may find damage done to the creek that we do not anticipate and don't want. Mr. Elkins stated that we could measure and handle the out take of the leachate pond and ensure that they are not using water with issues. There are millions of gallons of water in the leachate pond if it continues to be tested on a regular basis. The cost of the testing could be absorbed by CNE, and Ms. Geib agreed. The pond is 3.6 acres and it is about 3 feet down right now. But as we get deeper in the pond it should be tested more consistently.

Mr. Crittenden stated that the location they are proposing to get the water supplied, Candy Mink Creek, is supplied by 3 springs. One in the park, one west about 1 mile, and one north on the mountain and he has never seen any of them go dry. They used to use that for wetting the dirt road down with a big water truck. When the leachate pond gets down low you will see that it is full of trash. Commissioner Fite asked how deep it is now if it is three feet down. Mr. Crittenden stated it is 3 feet below the scale, and I don't know how deep it is in the middle. In the past they did not use any fence to keep trash from blowing into the pond. Commissioner Fite stated that for every surface foot they have, 3.6 acres should be around 1.2 million gallons of water for each foot of depth. Mr. Elkins stated that if controls were put in place, where it didn't leave the site, he didn't see a problem with it. Commissioner Green asked when this was going to take place. When do they need this water? What are you asking us to do? Ms. Geib answered that they are starting to work on the sub-grade and they have not worked density checks for that sub-grade. They've done some leveling and they are not ready for the liner. It sounds like we need to do some more checking of the depths of the pond manually. Ms. Geib requested the Commission to approve the request based on contingencies at this point. She did not know how much they would pull but it would also depend on how much rainfall occurs over the next few weeks. Commissioner Green stated that the landfill is asking the Commission to approve something when we don't have all the facts. We don't know the depth of the pond, how it will test at what depth, nor do we know how much water they are going to pull, or how much water is in Candy Mink Creek and what the adverse affects of pulling the water will be. Commissioner Fite asked if the yield in Candy Mink was known. Mr. Moton stated that he is a resident of Candy Mink

Springs and he would rather see it pulled out of the leachate, if it's good, because the creek is small. Commissioner Green stated he thought everybody would rather use the leachate if it tests out and if it is sufficient. Mr. Elkins asked if it could be approved with the contingency that it meets storm water standards. Commissioner Green stated that it is storm water but the farther down the water column, the testing may well change, so how much are they going to take and how far down the water column are we going to go? Are we approving for them to take the top foot, or are we talking about taking five feet? Ms. Geib stated that she did not know how much water they would be using, we can test it every two feet, it is a very deep pond, probably about six feet, but if we need to get more information, we can do that. Commissioner Fite asked how many water trucks were used for construction. Ms. Geib responded by stating that they have one and there is a water wagon onsite. Mr. West stated that there is historical data on the sampling of the leachate pond that is done every quarter. Commissioner Green asked where the water sample came from. The water that will be placed in the clay is going to come from different levels as the need arises. The Commission is being asked to approve something and we do not have enough facts to approve. Commissioner Green requested that information be compiled and a special meeting can be scheduled. Ms. Geib stated that one test provided by the independent testing group, that the Council had requested, was done the end of July. Those test results may give a good indication of what we might find at the bottom of the pond. Those reports can be pulled and shared with EPC. Commissioner Green asked if we are going to be taking water from the creek, over what period of time are we going to be taking it. Ms. Geib responded by stating the construction is scheduled to be completed some time in May. Commissioner Fite asked whether staff had a recommendation for consideration. Mr. Elkins stated that Commissioner Green's concerns seem to be the best way to approach the issue. The construction people may have an estimate of the volume needed. Ms. Geib agreed that they could establish an amount needed and prioritize using the storm water first. Mr. Elkins asked whether as-builts on the dimensions of the pond were available. If so, a volume estimate can be provided within a day. Commissioner Green requested that this information be provided to Tom and ask for a Motion to table Item 6.D. until we receive further information. Motion made by Commissioner Matlock, seconded by Commissioner Fite. Roll call vote:

Commissioner Green – Yes
Commissioner Matlock – Yes
Commissioner Fite – Aye

Motion passed.

7. New Business

Commissioner Green stated that one item of new business is a request for burn permits to burn ice storm debris. Site location are Cherokee Nation properties; Markoma property, Pow-Wow Grounds, and the Heritage Center. Mr Fain with CN Emergency Management stated that a meeting was held and FEMA recommended that they burn permits on these locations. The CN Complex location is also added to the list of properties for approval. Mr. Elkins confirmed that the request is only for ice storm debris, limbs and no trash. Mr. Elkins requested that the request be approved and will amend the Burn Permit to include the Cherokee Nation Tribal Complex location. Mr. Fain also informed the Commission that CNEM has been working with the Tribal fire personnel and they will examine the burn locations prior to burning the debris. Motion to approve made by Commissioner Fite, seconded by Commissioner Matlock. Roll call vote,

Commissioner Green – Yes
Commissioner Matlock – Aye
Commissioner Fite – Aye

Motion passed.

Commissioner Fite inquired if Commissioner Matlock's request for information related to the tie-in of the liner at the Landfill had been received. Commissioner Matlock stated that he has not received any information to date. Mr. Elkins stated that he was under the impression that the Engineer would be at the meeting today. Ms. Geib stated that the Engineer did make contact but he could not remember the issue that needed to be answered. Commissioner Fite stated that all were concerned that a certified engineer had stamped an approval of plans that the liner had been tied together and welded. Commissioner Fite's recollection was that Commissioner Matlock wanted this discussed at this meeting. The item will put on the next agenda. Ms. Geib did contact the liner subcontractor to obtain information on this tie-in and what instructions they were given by their engineer. This information will be provided at the next meeting. Commissioner Matlock added that he wants the engineer of record to be present, if possible. If not, I request the landfill engineer to be present to discuss consequences.

8. Announcements.

Special Meeting scheduled for Monday, April 20, 2009 at 9:30 A.M., Cherokee Nation Environmental Program Office Conference Room located at 206 E. Allen Road, Tahlequah, OK.

Agenda Items; Discussion of tie-in cell and alternative sources of water.

Regular Meeting scheduled for June 2, 2009 at 9:30 A.M., Cherokee Nation Environmental Program Office located at 206 E. Allen Road, Tahlequah, OK.

April 20, 2009 - CNEP & Natural Resources are coordinating with City of Tahlequah and students at SHS to clean up the Town Branch Creek for Earth Day Week.

April 22, 2009 – Earth Day – Health Fair at SHS Play Where They Play, Tahlequah, OK.

9. Motion to adjourn made by Commissioner Fite, seconded by Commissioner Matlock, meeting adjourned at 10:34 am.