

CHEROKEE NATION ENVIRONMENTAL PROTECTION COMMISSION

MINUTES

MEETING July 22, 2004, 9:00 A.M.

CN Landfill South of Stillwell, OK

PRESENT:

COMMISSIONERS FITE, HENSHAW AND COHENOUR

STAFF AND GUESTS:

Jeannine Hale, Asst Gen Counsel

Tom Elkins, CN OEP

Pat Gwin, CN Nat Resources

Dwayne Beavers, CN Environmental Programs

Doug Bane, CN Landfill Manager

Teddy Ross, CN Landfill

Flossie Girty, Tribal Resources

Billy Hix, CN Environmental Health

Sharon Swepston, CN Office of Finance

Norma Eli

Sherry Greathouse

1. Chairman Fite called the meeting to order at 9:25 a.m.
2. Chairman Fite noted for the record the Meeting Notice and the revised agenda.
3. Guests were introduced.
4. Commissioner Henshaw moved to make corrections of the minutes of the prior meeting and Commissioner Cohenour seconded. Changes include: Deleted "Mr." and a sentence fragment, clarified motion language on vote to approve, #6 was changed to read "either the chair or all commissioners may sign a resolution", #9 changed to "there was an open discussion about how the landfill was overseen and operated and a decision was made to hold the next meeting at the landfill". Commissioner Henshaw then moved to approve the minutes as amended and Commissioner Cohenour seconded. The motion passed unanimously.
5. Agenda item 4- nomination and vote to elect officers- Vice Chair and Secretary. Discussion ensued as to the need for a secretary and statutory language. The statutes direct the Commissioners to elect a chairman from among themselves, and that substantive actions be approved by at least 2 commissioners, recorded in writing and signed. Commissioner Henshaw nominated Commissioner Cohenour as Vice-chair and Chairman Fite seconded. The vote was unanimous to elect Commissioner Cohenour as Vice-chair. Commissioner Cohenour nominated Commissioner Henshaw to serve as Secretary and Chairman Fite seconded. The vote was unanimous to elect Commissioner Henshaw as Secretary.

Chairman Mr. Fite recommended that officers be elected in August since that is when terms expire. It was noted that Chairman Fite's term expires next years, that Commissioner Henshaw was recently reappointed for a three-year term and that Commissioner Cohenour would serve a three-year term. The statutes specify terms of 4 years but the terms were staggered. No action was taken regarding terms of officers.

6. Agenda item 5 –
 - a. Tom Elkins reported on a HUD conference, a contract with the Delaware tribe, plans to go to a sustainability conference, the tribe's planning efforts and data sharing.
 - b. Ms. Hale reported on behalf of Nancy John/OES regarding on a GAP application, approval of pesticide grant application, the CWA 104b grant application not approved, idea of establishing a tribal water monitoring council, meeting with EPA water officials, database developed by Clint Carroll as summer intern on cultural uses of plants associated with aquatic resources.
 - c. Pat Gwin reported he attended training on the National Historic Preservation Act, the IRMP is now rolled into the strategic land planning effort, reforestation project in CMS 57 (Oak Ridge area) put on hold by USFWS until draft biological assessment of impacts on Ozark Big-eared Bat.
 - d. Billy Hix reported the landfill monitoring wells had a few hits on arsenic. The Commissioners questioned whether there was a need to collect samples farther upstream on Jenkins Creek. Mr. Hix reported that no samples are taken in Candy Mink upstream of where it receives runoff.
 - e. Doug Bane and Dwayne will be a part of discussion later in the meeting. Doug reported general operations improvements on grading, took care of cell lip, daily cover.
 - f. Ms. Hale indicated that Mr. Buzzard was unable to attend but provided the report in the EPC packet. Commissioner Henshaw inquired about the cedar crest bridge project. Ms. Hale reported that Roads is contracting out NEPA work for the remainder of FY2004. Commissioner Henshaw suggested a need for information from roads about the NEPA process, report before/when things are being done. Ms. Hale will discuss with Mr. Buzzard.
 - g. Mr. Hix reported on an IHS funded community work project with a church in Delaware County, cavefish and archaeological concerns that are being addressed.
7. Agenda item 6 – solid waste fill activities behind the complex. Pat Gwin provided handouts, including an aerial photo of the old lagoon proposed to be filled, and described the proposal. The wetland to be filled is about 3.3 acres. Issues include what materials will be allowed, sequence of fill and revegetation, buffer zone/visual barrier for walking path, length of time filling will take, whether to excavate and landscape or let it go natural, whether to leave a permanent waterbody, what mitigation should be required. The Commission was shown about 40-45 acres (this would include a buffer of 200 ft from the water's edge) of possible mitigation wetlands on Zeb and Parkhill quad maps east of the powwow grounds that are very high quality forested wetlands and would be considered an adequate exchange. Protection might be achieved by resolution of the EPC, executive order of the Chief, placing it in the land planning document and/or tribal council resolution. Re-vegetation using culturally appropriate plants was suggested. After discussion and answering some questions, the Commission requested that Mr. Gwin come back at the next meeting and present the proposal in written format.
8. Agenda item 7. Ms. Hale discussed landfill requirements and recommended that the CN EPC consider a permit application from the landfill and determine a schedule to correct any deficiencies such as waste off the liner. Doug Bane and others provided comments on the status of the landfill: A&M gave Doug a capacity estimate at 700 tons a day of 160 days for the existing cell, vertical expansion an additional 125 days, and the stage 3 tie-in another 900 days. Phase II will include moving 1000 cubic yards of existing waste. The vertical expansion requires a liner on the south slope and the tie in requires a liner. A new cell

would be 15 acres or so. Until tonnage went up in May (new customer is Roloff), had plenty of time to develop a new cell.

Dwayne Beavers presented a detailed historical timeline of significant events and correspondence related to the landfill, based upon his review of records. Chairman Fite suggested problems include waste off liner and a stormwater runoff issue, and asked what needs to be done to come into compliance. Commissioner Cohenour suggested a need to know deficiencies. Dwayne suggests a quality management plan, stormwater management plan, standard operating procedures, review of staffing, etc. Doug says have necessary heavy equipment. There is no radiation monitor but one may be required. Sharon points out some documents have been removed, some misplaced by others, some may be in storage boxes. There are no staff qualified to perform statistical analyses on monitoring data. Commissioner Cohenour questioned continued use of A&M Engineering but not any better off with regard to compliance. There is no comprehensive management plan yet. There needs to be a decision about what requirements we wish to meet – state, federal or other. Once over 2.5 million cubic yards of trash, a landfill is considered a major source and needs to apply for a groundwater permit.

- *the Commission recessed for a tour of the landfill* -

The Chairman reconvened the meeting after the tour. Commissioner Cohenour expressed concern and suggested hire an independent engineer that has experience in landfills that has not done work at this landfill recently to assess landfill management and design (not environmental assessment). Vertical expansion to next bench creates leachate pond capacity issues. Doug reports they have kept up with leachate despite record rainfall events (possibly 100 year events), but may have to check into having some pumped in September. The use of guns and other methods for evaporation were discussed.

Doug introduced the landfill crew to the Commission: Gary Holmes, Dave Holmes, Rob Gonzales, Robbie Crocker, Bill Dreadfulwater, and Tim Muskrat.

Discussion resumed about independent evaluation of the landfill by a 3rd party engineering firm. Have had A&M since '95 or so. Got off the liner in 1999. One issue is the cost. An independent evaluation could assist making decisions about how much money to spend and how to cure deficiencies, close the landfill, or other alternatives. Right now \$2 million will not close the landfill- Sharon says meet requirement for financial assurance but Doug says this is not enough to cover this situation right now. Another issue discussed in general terms was the possibility that another entity would take over the landfill pursuant to a contract. The size of the trust land unit where the landfill is situated is 240 acres – the new entity estimates a 40 year life (at their specified tonnage rates of 700-1000 tons/day).

Commissioner Cohenour made a motion to recommend the hiring of an independent third part engineering firm with experience in landfill design and management to evaluate the CNSL. Commissioner Henshaw seconded the motion. The vote to approve the recommendation was unanimous.

The meeting was adjourned.