

**CHEROKEE NATION ENVIRONMENTAL PROTECTION COMMISSION**  
**Cherokee Nation Environmental Protection Office**  
**206 E. Allen Road, Tahlequah, OK**  
**February 3, 2005 at 9:15 am**

**MINUTES**

**PRESENT:**

Commissioners: Ed Fite and Cheryl Cohenour

**STAFF AND GUESTS:**

Cara Cowan, Cherokee Nation Tribal Councilwoman  
Jeannine Hale, Acting Administrator Environmental Programs  
Tom Elkins, Director Office of Environmental Protection (OEP)  
Nancy John, Director, Office of Environmental Services (OES)  
John Parris, Asst. General Counsel  
Michael Lynn, Community Services/Roads  
Doug Bane, Tribal Resources/CN Landfill Operations  
Randy Gee, OES  
Billy Hix, Community Services/Environmental Health  
Richard Keck, OES  
Jerrid Diffie, OES  
Evelyn Ridenhour, OES  
Robert Largent, OES  
Lisa Hicks, Phoenix Newspaper  
Travis Snell, Phoenix Newspaper  
Michael Stephens, Community Services/Engineer  
Earl Hatley, LEAD Agency  
Jason White, OES  
Phillip Moershel, Ok. Water Resources Board Water Quality Standards Section  
Harold Langdon, Cherokee Nation Enterprises  
Pat Gwin, Natural Resources  
Angela Drewes, Acting Director, Natural Resources

1. Chairman Fite called the meeting to order at 9:15 am, then noted and placed into the record the Record of Public Notice and the meeting agenda sent out January 24, 2005.
2. Minutes - Commissioner Cohenour made a motion to approve the minutes from the January 6, 2005 meeting. Chairman Fite seconded the motion. The vote to approve the minutes was unanimous.
3. Reports
  - A) Environmental Protection - Tom Elkins reported that OEP is working on a cooperative training effort with Oklahoma University to begin late spring or early summer. They will be working on a NEPA training to be held in the

Tulsa area. Commissioner Cohenour requested a more detailed report describing OEP activities.

- B) Environmental Services – Nancy John reported the OES staff are assisting the CN GeoData Center with an Intertribal GIS Conference being held at Catoosa, Ok on March 8-11, 2005. She also noted the following highlights:
- Three OES staff members have been invited by EPA Region 6 to give a presentation on the CRUST (Cumulative Risk Underground Storage Tanks) to see how the CRUST/GIS applications can be applied to other programs.
  - In-house phosphorous analysis on Flint Creek will begin before the end of the month.
  - An Asthma Grant application has been developed in coordination with CN Health Services and Headstart. The proposal is to study of ambient air monitoring data and its relationship to incidents of childhood asthma in a CN Headstart center.
- C) Natural Resources – Pat Gwin reported that on February 2, his office received an inquiry from Environmental Programs about land application of wastewater from Cherry Tree lagoons on tribal lands. They are checking regulatory requirements.

Cherry Tree Lagoon discussion followed:

- Michael Stephens reported on two temporary alternatives to addressing the Cherry Tree lagoon issue are:
    - 1) Using hand-applied Bentonite clay may assist with absorption and sealing of the leaks.
    - 2) A drilling company could be contracted to drill a series of cast-in-place piles 20 feet deep with an application of grout or equivalent.
  - ODEQ has asked that no land application take place because of runoff issues.
  - Mr. Stephens reported there is no schedule for land application in place. Mr. Stephens agreed to assist with the development of a schedule for land application throughout the year to avoid runoff.
  - Mr. Stephens stated that with EPC's approval he will approach Judge Fourkiller and see if they have funds to provide the clay, if not, other funding sources will be explored. Ms. Hale stated an interim report will be provided to EPC and CN staff will look for funds.
  - Cherry Tree lagoon issues will be placed on the March agenda.
- D) Community Services - Sanitation Facilities Construction - Billy Hix reported environmental reviews for Jackson Mountain waterline in Adair County were being conducted.
- Roads - Michael Lynn reported:
- Regarding the Fairview/Eucha Road in Delaware County, an archeological survey has been requested and environmental assessments are in draft stage.
  - Saline Creek Bridge in Delaware County: Solicitation letters have been issued and environmental assessments are underway for the Saline Creek Bridge in Delaware County. A 404 permit will be required and it should be

completed within the month. Ms. Hale pointed out that CN statutes require a dredge & fill permit from the EPC.

- Activities on the Cedar Crest Bridge in Mayes County are waiting on a legal opinion from the Tribe and the Mayes County District Attorney to see if the Oklahoma's "Right of Entry" Statute 69-702 applies to the Cherokee Nation. The question is that the 69-702 statutes apply to ODOT and agents, are we one of those agents? There is a homeowner who will not allow CN on his private property to do soil samples and bores.
- The EA for the Maxwell Mountain project in Adair County was approved in January so it is ready for construction.

#### 4. Cherokee Nation Landfill Status Reports

- A) Operations - Doug Bane reported the landfill is receiving 700-750 tons per day. Negotiations are underway with a contractor/operator to do remediation and undertake corrective actions previously discussed by the EPC. They may request that EPC consider entering a consent decree with the applicant. Commissioner Cohenour inquired about the proposal submitted to CN. John Parris suggested that the Commission could enter into a decree that states the actions to be taken and what studies are needed. Mr. Parris commented the contractor/operator has the expertise to operate the landfill, but the Cherokee Nation will continue being in charge of the oversight of the operation. Mr. Bane stated CN would be the permit holder. Ms. Hale suggested that two permits might be issued. Commissioner Fite stated that a special meeting may be needed to consider landfill issues.
- B) Monitoring -Billy Hix reported he completed inspections on December 9<sup>th</sup> and copies of his report were available. He has changed the reporting form to a format comparable to the Indian Health Service forms. There was only one operational issue noted and it has been addressed by Pat Gwin and Doug Bane. A drainage located on the north east side of the old cell had filled in and could no longer carry the runoff. Groundwater monitoring was completed on December 31<sup>st</sup> and copies of that report are available. A few constituents were above the detection limit but not above EPA action levels under the Safe Drinking Water Act. .
- C) Trust Perspective - Pat Gwin reported Natural Resources has been involved in the pre-negotiations regarding the contractor/operator for the landfill. He commented that CN receives an annual an audit from DOI, and that audit has to show the landfill is in compliance with all pertinent regulations. He stated the proposed contractor/operator does seem to have a plan developed.
- D) Landfill Team -Jeannine Hale reminded the Commission that last month the team recommended that specific engineering work be done, that the landfill was in charge of that and she did not know if it had been done. The team met at the landfill with representatives of Indian Country Investment and saw a power point presentation. One issue that needs to be addressed is whether new points of discharge can be allowed and how to measure loading so CN can comply with

the “no increased loading” requirement of water quality standards. Commissioner Cohenour asked if ICI had access to the landfill and information so they could prepare a proposal and Mr. Bane said yes. Councilwoman Cara Cowan commented she understands that it is difficult to deal with regulatory issues she appreciates the teamwork and it is very important to continue in order to get issues resolved.

5. Statutory Revision for Underground and Aboveground Storage Tanks

Ms. Hale provided a draft of the legislation. Robert Largent of OES has been assisting with this legislation. It has been distributed for comments both internally and to the Oklahoma Corporation Commission. Some cleanup of the draft legislation is needed and it will be placed on next month’s EPC agenda for vote.

6. Status report – complaints, enforcement, litigation and/or legal issues

- A) Cherry Tree Lagoon – covered earlier.
- B) Treatment as State and Tribal Water Quality Standards – Randy Gee provided a summary of issues from the Tribal Water Meeting held at the University of Oklahoma, January 2, 2005. Ms. Hale has volunteered to work on an initial set of model standards for Oklahoma tribes. CN law already provides that we can enforce standards identical to the State and we may start with those and modify them as needed. Phillip Moershel of the OWRB said all of the calculations and the justification for the criteria in the standards is in public records and the OWRB will be glad to share information and assist in any way they can.
- C) Tar Creek – Jason White reported there were three main projects he wanted to mention: 1) Lead – he handed out a copy of the TEAL lead level screening that was done in 2000. We will receive a full report of how many CN children it could effect in March. 2) OWRB has contracted with GRDA to do sediment samples for Grand Lake and Lake Hudson. They will be testing for heavy metals. 3) Harvard Studies – They are working on four projects right now; the one we are working on is the “Exposure Assessment”. Cherokee Nation is participating on the University’s Tribal Subcommittee to make sure they include tribal values and tribal issues in their studies. This project will take about four years and we will be able to use the data. Ms. Hale commented the Chief has signed the MOU for CN to be on the Trustee Council. The Tar Creek Trustee Council is expected to vote soon to modify the MOU to include Cherokee Nation.
- D) Sequoyah Fuels - Commissioner Cohenour inquired about the Sequoyah Fuel settlement. Ms. Hale reported that NRC is still looking at that settlement agreement and have not had any objections to it. The judge issued the order we requested dismissing the hearing. SFC has received NRC approval to de-water raffinate sludge to reduce the weight and ultimately ship off site. The parties are in discussions on how to handle an EPA administrative consent order.

7. Administrator’s Report

Jeannine Hale reported she attended a Group Leaders Retreat and there was a presentation at the retreat about “Branding”. Environmental Programs is working

on a project in association with Natural Resources' Arbor Day tree give-away on March 23<sup>rd</sup>. The project will involve CN employees planting trees that day around the pond and the stream that leads to the pond, environmental education and a recycling display.

8. New Business – none.
9. Miscellaneous discussion – General discussion by Commission and guests, but no official action taken.
  - Jerrid Diffie reported on a Solid Waste grant we received this year to do five clean-up sites. We are working with the Water & Sanitation group and Natural Resources department. One site has been completely finished; another one is ready to start; there is a “right to entry” contract needed for the Bunch dump; and there are two sites to clean up in the Kenwood area.
  - There is still a vacancy on the EPC. The nominees should be tribal members and interested in environment issues.
  - John Parris mentioned a meeting tonight in Tulsa at 7:00 pm. It will be a panel discussion about the City of Tulsa vs. Tyson case.
10. Adjournment – Commissioner Cohenour made a motion to adjourn the meeting. Chairman Fite seconded the motion. The vote was unanimous in favor of adjournment. The meeting was adjourned at 11:45 am.