

CHEROKEE NATION ENVIRONMENTAL PROTECTION COMMISSION
Cherokee Nation Environmental Protection Office
206 E. Allen Road, Tahlequah, OK
March 6, 2008

PRESENT:

Commissioners: Ed Fite & Marty Matlock

STAFF AND GUESTS:

Harold Langdon, CNE

Roger Fields, CNE

Nathan Moton, Concerned Citizen of Adair County

Jack Crittenden, Concerned Citizen of Adair County

Jodie Fishinghawk, Tribal Council Member District #2

Jamie Cole, CN Finance

S. Joe Crittenden, Tribal Council Member, District #2

Pat Gwin, CN Natural Resources Department

Angela Drewes, CN Natural Resources Department

Doug Bane, CN Landfill

Dena Geib, CNB

Becky M. Johnson, EPC Attorney

Tom Elkins, CN Environmental Programs

Nancy John, CN Environmental Programs

Shaun West, CN Environmental Programs

Wayne Isaacs, CN Environmental Programs

Amber Armstrong, CN Environmental Programs

1. Commissioner Fite called the meeting to order at 9:40 a.m.
2. Commissioner Fite acknowledged and placed into the record the Record of Public Notice and meeting agenda.

Commissioner Fite recognized Tom Elkins, CNEP Administrator. Tom Elkins requested that the commissioners amend the agenda to include:

- A. The format of the EPC meetings
 - B. Environmental statutes and rules
 - C. Application relating to the landfill
 - D. Waiver of Possible Attorney Conflict
3. Commissioner Fite made a motion to approve the minutes from the February 7, 2008 meeting. Commissioner Matlock seconded the motion. The minutes were approved unanimously.
 4. Reports
 - A. Natural Resources Department – Pat Gwin reported that the Shagbark releases are now completed as are the establishment of 3 groves of Osage orange. The establishment of river cane patch was accomplished and recognition to the estate of Julian Fite for allowing access to his property. On March 28th the Natural Resources Department, in celebration of Arbor Day, will be giving away pecan, green ash, red bud, bald cypress, American plum and Loblollies pine trees at the Cherokee Nation Complex between 1:00 – 4:00 pm. The event is open to the public. There is a new organization being formed called the Spavinaw Water Shed Assessment Team and the

tribe has been invited to participate in a meeting scheduled in April. Cherokee Nation will work towards getting a representative appointed to that team.

- B. Environmental Programs – Nancy John reported that the EPA Brownfields Program has set aside \$50,000 dollars for potential Brownfields inventory development or site assessments. In reference to the 2005 Highway National Highway Transportation Bill, the TAS rider affecting Tribes in Oklahoma required an agreement with the State before seeking TAS status. Currently, there is one Tribe within the state pursuing TAS status through this process. The Regional Tribal Operations Committee will be discussing this topic. EPA is requesting input from Tribes to develop the process or structure for notification and providing a public hearing under the provisions of the Rider.
- C. Cherokee Nation Enterprises – Roger Fields reported CNE had no environmental incidents for the month of February. Then new smoke shop in West Siloam Springs opened last month as announced.
- D. NEPA projects for Realty, IHS, NAHASDA, and Roads – Wayne Isaacs reported that an application to do an environmental assessment on the upgrade of sewer lines of 109 units located at Sportsman’s Acres. It is a low rent housing addition that the tribe has.
- E. Tribally funded construction projects – Todd Enlow or designee. Angela Drewes reported that there was no report from Todd but offered to take questions back to Todd. There were on questions.
- F. EPC Administrator – Tom Elkins discussed the format and scheduling of the EPC meetings. He discussed the frequency of the EPC meetings, possibly quarterly meetings unless enforcement items need to be brought before the Commission. A disconnect exists between statutes and rules and there is a need for continued development and revision if the EPC is to be effective. Mr. Elkins recommended that the number of EPC members increase from three to five.

Commissioner Fite stated the he would like to schedule a half day where the EPC can come in and meet with staff.

5. Cherokee Nation Landfill

- A. Regular report by landfill – Doug Bane reported they are in the process of getting equipment repairs done that were badly needed. The Nation has purchased two tanker trailers that should be delivered within the week to haul from the leachate pond. We are getting assistance from the Natural Resources Department with a couple of semi tractors.
- B. Compliance Issues
 - (1) NOV issued to ICI by Administrator
 - a. Brief summary by Tom Elkins – No new issues to report.

Shaun West reported the leachate pond is relatively full but it is not actually over the liner. It is up to the top of the measuring device but so far we haven’t had any breaching of the leachate pond. The unauthorized pond is being pumped over to the storm water pond. They had some issues on some of the equipment at the landfill and they are trying to get that taken care of so they can work more on the grading of the cover of the older cells. They had some issues with the terracing and run off of the older cells. The days that we were out there; there was no pumping being done and no sludge from Stillwell being brought out.

b. Discussion by the Commission – Moved to new business.

6. New Business

Commissioner Matlock made the motion that the discussion of the Waiver of Possible Attorney Conflict be added to the agenda. Commissioner Fite seconded the motion. The motion to add the discussion of the Waiver of Possible Attorney Conflict to the agenda was approved unanimously.

Becky Johnson provided an explanation for the need of a Waiver of Possible Conflicts of Interest. She is involved in various litigations and needs to be able to represent the Cherokee Nation on these cases. There are currently three law suits with ICI dealing with contract issues not the environmental issues. The Attorney General has asked Ms. Johnson to assist with these cases. There is still a compliance order to address which is separate from the other three. Based on professional responsibility purposes, Ms. Johnson requested the EPC to consider waiving any possible conflicts.

Commissioner Matlock made the motion to approve the Waiver of Possible Attorney Conflict. Commissioner Fite seconded the motion. Roll call was taken and the motion approved.

Tom Elkins introduced Dena Geib with Cherokee Nation Businesses.

Dena Geib informed the Commission that they have a proposed plan for the landfill. CNB requests a special meeting before the next regularly scheduled EPC meeting. CNB would like to present plan and discuss options.

Commissioner Matlock made the motion to have a special meeting. Commissioner Fite seconded the motion. Roll was called and the motion approved.

Commissioner Fite stated that this is an application to assume and modify the current permit for the Cherokee Nation Municipal Solid Waste Landfill located on Cherokee Nation tribal trust land in Adair County, Oklahoma. Cherokee Nation Businesses, LLC has good cause to request the permit modification in order to provide continued waste management services to customers in and around Indian Country.

Becky Johnson stated this is a modification of the existing permit. Basically the cells are full except for being able accept the sludge. It is my understanding that once cell will be added because you have to at least add one cell no matter what you do because of the slope issue and then to change the name because ICI is still on the existing permit. We need the new operator to be on the permit regardless of who it is. CNB is accepting that responsibility to operate it so they need to be on the permit and ICI needs to be removed.

Commissioner Fite requested that he be placed on the agenda at the next Council meeting to provide a briefing on the status of the landfill and the application from CNB. Commissioner Fite stated that he wants to ensure there is full disclosure on what is going on so that everyone is informed and knows what is going on related to the application and the landfill.

Commissioner Matlock questioned whether a public review period is mandated under ordinance.

Becky Johnson stated that if the Commission wants to order that the public review be required then it needs to be determined now because it is not required by the statutes and the rules.

Commissioner Matlock asked what vehicle would he utilize as a citizen of the Cherokee Nation to review these actions and to comment on these actions prior to their implementations.

Becky Johnson responded by stating that citizens can look at copies or ask questions and then come to this Commissions meeting and ask questions.

Commissioner Fite requested that a public comment period be placed on all future agendas where anyone in the audience can present up to three minutes discussion about any item that is on that agenda. Commissioners can not take action on those comments but we will allow constitutes three minutes at the beginning of each meeting.

7. The next meeting will be held March 25th at 1:30 p.m.
8. Commissioner Matlock moved to adjourn the meeting. Commissioner Fite seconded. The meeting was adjourned at 11:29 a.m.