

ENVIRONMENTAL PROTECTION COMMISSION

MINUTES

REGULAR MEETING DECEMBER 11, 2003

1. Chairman Fite called the meeting to order and welcomed guests. Present at the meeting were the following:
 - a. Commissioners Henshaw and Fite . Commissioner Hummingbird telephoned to let the others know he had been unavoidably detained and was unable to make it to the meeting.
 - b. Staff members: Tom Elkins; Kent Curtis; Dwayne Beavers; Jeannine Hale, Nancy John, Billy Hix, Doug Bane, Bob Short, Pat Gwin, Sharon Swepton
 - c. Guests: Jim McSpadden, Harold Langdon and Patricia Young
2. Chairman Fite noted the Record of Notice regarding the posting and distribution of the agenda to the regular mailing list of persons requesting the same and other interested persons, organizations and media
3. Commissioner Henshaw made a motion to approve the minutes and Chairman Fite seconded. The Commissioners voted unanimously to approve the minutes of the November meeting.
4. Reports by Cherokee Nation Program staff were provided to the Commission:
 - a. Tom Elkins, Director of the Office of Environmental Protection supplemented his report with information about a Complaint received recently from the Oklahoma Dept of Environmental Quality concerning a CN roads project. Mr. Elkins also pointed out that a more formal Complaints process was being developed, that using a 1-800 number is a possibility and that feedback would be provided to the complainant if possible.
 - b. Dwayne Beavers informed the EPC that programs wish to send a letter to EPA concerning an application for Treatment as State (TAS) for CWA Section 319 nonpoint source funding and for Section 303 of the CWA. Chairman Fite suggested that staff contact Mike Thralls, Secretary of Environment Miles Tolbert and other appropriate state officials to coordinate with them on water-related activities.
 - c. Nancy John gave the report for the Office of Environmental Services. The second week of March there will be training for tribes with DOE on data quality objectives. Ms. Hale reported on a conference call with the Council of Energy Resource Tribes (CERT) about a tentative meeting in Oklahoma to be held sometime in May.
 - d. Doug Bane gave the report for Natural Resources. Mr. Bane noted that the landfill activities were proceeding smoothly. Pat Gwin reported that EPA visited recently and wants us to consider a possible pilot project with the leachate and to get a permit package ready for them. Billy Hix provided a report on a recent inspection that went well with few problems. Commissioner Henshaw inquired about the status of a permit application. Mr. Gwin pointed out that CN had tried

to get a permit since 1994, that now EPA wants us to proceed with an engineering master plan.

- e. Mr. Gwin also reported on 1) a SHS proposal to build a gym that is going through the NEPA process, 2) that NR is assisting with two CNE projects that are in preliminary phases, 3) there is a proposal to gravel mine in Dry Creek that will go through the NEPA process, 4) a prescribed burn plan.
 - f. Mr. Buzzard was not available and had not sent a report. Tom reported that environmental reviews for water and sewer will be done by OEP, possibly starting end of this month. The person who does the environmental reviews for roads (Cindy McClellan) is apparently able to handle them. Most problems are with contractors but the contract will be revised soon to include a provision adding penalties.
5. Ms. Hale presented proposed revisions to the Environmental Code, Title 63 CNCA Article 2 (Delegation of Authority) and Article 4 (Policy). Additions included language regarding authority to issue permits and for emergency response. Language relating to a veto by the Chief was removed. Commissioner Henshaw had some minor corrections and would provide these to staff later. Ms. Hale suggested that the Commission could vote to recommend the language subject to changes by General Counsel and subject to grammatical corrections by Commissioner Henshaw.

Commissioner Henshaw moved to approve the proposed statutory language with corrections by Commissioner Henshaw and subject to any changes that the Office of General Counsel may have. Commissioner Fite seconded the motion. The motion passed unanimously.

6. Ms. Hale provided a revised schedule of statutory revisions for the Commission to consider in order to get through all of the statutes by October 2004, moving water quality and water issues to the next two meetings.
7. Water Quality Standards revisions proposed by the state Oklahoma Water Resources Board were discussed, with particular attention to issues relating to HQW status for the middle portion of the Illinois River, deletion of a provision for designating culturally sensitive waters and a provision concerning a USAP for determining if the standard for oil and grease is achieved for the use of fish and wildlife propagation. Commissioner Henshaw made a motion and Chairman Fite seconded, to the effect that: 1) no formal position should be taken on the deletion of the provision regarding culturally sensitive waters, 2) the CN EPC supports the protective provision for the middle Illinois River/Tenkiller, and 3) due to confusing language in the USAP regarding oil and grease, it should be clarified and the CN EPC opposes the language as currently written.
8. Ms. Hale reported that it would be appropriate to delay consideration of a proposed settlement agreement since CNE attorney Jim Wilcoxon was not available to represent his clients at this meeting and the Commission agreed it should be moved to the January meeting agenda. Bobby Short presented a report and recommended that CN EP request a closure letter from OCC and the EPA. Ms. Hale recounted an incident regarding a rain

event and an apparent spill around Outpost 1 pumps due to workers replacing hoses. Bobby reported that additional investigations with a push probe around the Outpost revealed only one area with contamination and that was in the area of the old pump island. Chairman Fite stated that he supported staff seeking a closure letter from both OCC and EPA.

A discussion ensued about Biosolve. Commissioner Henshaw expressed concern about the manufacturer of Biosolve's representations that it was not toxic and suggested that a letter should be written to them. Others were concerned that mention of overstocking in the final report was misleading and that the likely cause of the fish kill was Biosolve. Some suggested that Biosolve producers should be responsible for restocking the pond. After discussion, it was suggested that staff work to document their investigation about the use and probable role of Biosolve in the fish kill.

9. Ms. Hale presented a summary of grant opportunities, including the Watershed Initiative, ANA Environmental Enhancement projects and others. Chairman Fite agreed to look into whether a joint effort by CN and OSRC to work on the Illinois River would be an appropriate Watershed Initiative proposal. Ms. Hale reported that CN EP's community investment proposals were not approved. Commissioner Henshaw inquired about recycling and alternative energy sources proposals. Bobby reported that CNE had obtained the DOE grant for alternative energy last year but the OES proposal was not accepted. Ms. Hale agreed to collect and provide additional grant opportunity information in the future. A discussion between the Commission and staff ensued about ideas for future programs, planning and funding opportunities.
10. The Administrator's report included a handout of staff phone numbers and contacts.
11. There was no new business or miscellaneous discussion.
12. Chairman Fite adjourned the meeting.