

**CHEROKEE NATION ENVIRONMENTAL PROTECTION COMMISSION**  
**Cherokee Nation Environmental Protection Office**  
**208 E. Allen Road, Tahlequah, OK**  
**August 10, 2010**

**PRESENT:**

Commissioner: Mark Green  
Commissioner: Marty Matlock via phone

**APPROVED**  
**DATE** 10-5-10

**STAFF AND GUESTS:**

Harold Langdon, CNE  
Jami Skimbo, CNE  
Pat Gwin, CNNR  
J.B., LaFarge  
Doug Bane, CNWM  
Bill Lay, CNWM  
Dwayne Fain, CN Risk Mgmt  
Debra Wilson, CNGC  
Shawn West, CNEP  
Tom Elkins, CNEP  
John Freise, CNEP  
Wayne Isaacs, CNEP  
Laura Adair, CNEP

1. Meeting called to order by Commissioner Green at 9:32 A.M.
2. Commissioner Green acknowledged and placed into the record the Record of Public Notice.
3. Commissioner Green made a Motion to approve the minutes from the June 1, 2010 meeting. Commissioner Matlock seconded the Motion, roll call vote, minutes approved.
4. Public Comment – Mr. Isaacs informed the Commissioners that Legislation has been drafted and submitted for approval regarding Commission voting. The purpose of the legislation is to enable business to be conducted by the EPC due in part to the passage of LA 04-10, changing the quorum to consist of a majority of those Commissioners duly appointed and confirmed. This proposed Act changes the affirmative votes required for substantive action from affirmative votes of at least three commissioners to affirmative votes of the majority of the duly appointed and confirmed Commissioners.
5. Reports:
  - B. Natural Resources Department – Pat Gwin – NR is having an issue with the BIA on a salvage cut of approximately 20 acres of timber to be bulldozed to make way for a construction project. As of now, the Bureau is going to mandate us to push that into piles and burn it. They will not allow Natural Resources (CNNR) to sell it and CNNR, is appealing that decision. CNNR will have another heirloom seed giveaway next Spring. The garden did very well and a lot of seed is being harvested. The CNNR has a programmatic agreement in principal with the U.S. Fish & Wildlife Service for the American Burying Beetle. CNNR is going to set aside approximately 900 acres of Tribal/Trust properties that is already zoned for conservation use that will have a non-developmental clause on the tract. The goal is to keep CNNR from having to do any further presence/absence testing for the American Burying Beetle. At this time the Chief is reviewing it and then it will move forward with a Council Resolution. Commissioner Matlock asked why the BIA has jurisdiction over Cherokee Lands. Mr. Gwin responded that it is the Bureau's stance that they own all the trees on Cherokee Nation lands. Commissioner Matlock stated that this stance is antiquated and based upon a pre 1920s understanding of BIA's rule. Mr. Matlock

- asked Mr. Gwin what he could do to extirpate them of that understanding. Mr. Gwin stated that they have tried every year and we are trying again this year. This topic is listed at the Government Relations Retreat. Efforts are underway to have the public law rescinded, or at least amended. There are several Indian tribes that are exempted from the Public Law. It would take a Congressional Act to get Tribal exemption. Commissioner Matlock asked the estimated value of the timber. Mr. Gwin responded that it is about 20 acres of improved loblolly pine and it's probably worth between \$600-\$800 per acre. The seed giveaway will be advertised in February. We have anywhere from 3,000 to 6,000 packages available per year.
- C. Cherokee Nation Enterprises – Jamie Skimbo – Reported 1 incident at the Roland Travel Plaza. A small amount of oil was spilled and cleaned up. She also brought data on the recycling project. CNE has acquired a bulb crusher and those efforts will be reported next month.
  - D. Environmental Programs & NEPA projects for Realty, IHS, NAHASDA, Roads – Wayne Isaacs – Burying Beetle surveys have been completed for the year. There were no beetles at any of the sites. If the MOA is received with Fish & Wildlife, we can forego these in the future which will be helpful to our projects due to the small window of time in which surveys can be conducted.
  - E. Emergency Management – Dwayne Fain – A report has been submitted and there is nothing to add at this time.
6. Muskogee Port Authority Industrial Development Project
- A. Request for EPC review and comment – Mr. Isaacs stated that the Arkansas Riverbed Committee had commented on this project previously. Their letter (contained in the packet) refers to the EPC and asks if this body would like to comment as well. Mr. West has drafted a letter if the Commission agrees with the comments and has no issues of concern. Mr. West read the response letter to the Commissioners. Neither Commissioner had any issues with the proposal. The letter was signed and mailed to the Muskogee Port Authority.
7. Cherokee Nation Sanitary Landfill
- A. Report – CNWM – Mr. Bane stated the report and pictures are included in the packet. It is a standard report. Less leachate was hauled during this reporting period due to problems with equipment. Item #5 – CNWM is in negotiations with Montauk Energy for a landfill gas collection system. It is a state of the art system. Excavation has begun for the completion of Cell 4 with our own crew. The excavation is part of the permitted operation.
  - B. Compliance Issue – No compliance issues at this time.
  - C. Minor Permit Modification for Consideration – Mr. Lay stated that hydrocarbon soil is part of the current Permit. The landfill is allowed to take hydrocarbon soils by the current permit. The permit modification is asking to use hydrocarbon soil as daily cover. Mr. Elkins stated that we could not support contaminated soils as daily cover. That is not a decision that has been made by the EPC. This is not an action that needs to be taken at this time and it was tabled.
8. U.S. DOI/Bureau of Land Management reclamation project
- A. Project Summary & Waiver Request for Tribal Permits for Consideration - Pat Gwin – In Sequoyah County adjacent to Tribal/Trust property, there is a large set of strip pit mines being reclaimed by the Bureau of Land Management. For about 2 years CNNR has asked BLM to include the Tribal lands in that reclamation project and BLM has continually said that they have no money for Indian lands. That policy has been changed and BLM is in the process of performing the preliminary environmental work, NEPA work, and some of the permitting work to reclaim the 40 acres of strip pits that are Tribal/Trust property at Sallisaw Creek Park. BLM is doing the NEPA without CN assistance and they are also going to go the EPA for their storm water permitting. After a quick review of the EPC laws by CNNR, it is obvious that the EPC does have the authority to issue permits for this type of work but there are no promulgating regulations under these laws. Mr. Gwin's request is that we are allowed to do the project, without the EPC permitting process since we don't really have a paved road or system in place and we are going to get all the necessary permits through the EPA. The only permit the EPC requires is the storm water permit. Commissioner Green and Commissioner Matlock do not

have a problem with this permit. Commissioner Matlock asked Mr. Gwin to work with Mr. Elkins to make sure that CN goes ahead and gets in place promulgated rules for permitting. Commissioner Matlock suggested that a formal action be done regarding the storm water permit. Commissioner Green made a Motion to support. Commissioner Matlock seconded the Motion. Roll was called and the motion was unanimously approved.

9. New Business

A. Mr. Gwin passed out a permit that was issued by the EPC to the Cherokee Nation to do a fill issue behind the complex. That permit expired on 11/23/09. Additional fill is available to finish this project and CNNR requests that the Permit be extended for two years. The waste is asphalt from the tennis courts, and asphalt is one of the permitted items in the original permit. Mr. Elkins supports the extension of this Permit. Commissioner Matlock made a Motion to extend the Permit. Commissioner Green seconded. Roll call. Motion unanimously approved.

10. Announcement of upcoming meetings and events. The next EPC meeting is scheduled on October 5, 2010 at 9:30 AM.

11. Commissioner Green made a Motion to adjourn, Commissioner Matlock seconded the Motion, meeting adjourned.