

**CHEROKEE NATION ENVIRONMENTAL PROTECTION COMMISSION**  
**Cherokee Nation Environmental Protection Office**  
**208 E. Allen Road, Tahlequah, OK**  
**SPECIAL MEETING**  
**May 17, 2011**

**PRESENT:**

Commissioner: Marty Matlock

Commissioner: Ed Fite

**APPROVED**

**DATE 6-7-11**

**STAFF AND GUESTS:**

Shaun West, CNEP

Laura Adair, CNEP

Tom Elkins, CNEP

Ryan Callison, CNEP

Doug Bane, CNWM

Roger Fields, CNB

Dwayne Fain, CNEM

Sara Hill, CN Office of AG

Debra Wilson, CNGC

Chris Sams, CN-SFC

Cason Leblanc, CN-SFC

Billy Hix, CN-SFC

J. Scott Neel, Neel, Harvell & Assocs.

1. Meeting called to order by Commissioner Matlock at 11:07 AM.
2. Commissioner Matlock acknowledged and placed into the record the Record of Public Notice. Introductions by all meeting attendees.
3. Public Comment – no public comment.
4. Discussion and action on proposed Consent Order to Kenwood Water District – Mr. Elkins stated that Cherokee Nation has worked with Kenwood Water District for some time providing equipment for work because it is on trust land and most of the customers are Tribal citizens. Cherokee Nation has worked to acquire funding to fix some issues. EPA wants to issue a Consent Order which was reviewed, and it was suggested that our regulatory body issue this Order. It requires them to come in compliance within 18 months, there is no penalty issued. If they don't, we may request some type of penalty. Commissioner Matlock asked if there was a compelling public health concern at this moment. Mr. Elkins stated that not an immediate one, there are issues with filtration and have been issues for years and they need to be fixed. Commissioner Fite asked why we are giving them 18 months. Mr. Elkins stated it came from the draft EPA Consent Order. Ms. Hill stated that the draft is based on the one that EPA sent and wanted to issue. This is what the EPA wanted issued. They have misconceptions about who owned Kenwood and trust land versus ownership. Discussion was held with EPA, but they still don't understand the concept of regulation on Indian country, but their Order was used as basis based upon their superior knowledge of federal regulations but I don't feel comfortable with them performing the actual regulating. Commissioner Fite asked if the recent rain event were there any issues with the system with overflow. Community Services staff answered not the best of their knowledge. Commissioner Fite asked why we would give them 18 months such as secure the pit less adapter, the well cap, which would be cosmetic and easy to do. Mr. Elkins responded that they would contract to have this done at one time. Commissioner Fite stated that he is worried about the immediate conveyances that can bring something into the system. Commissioner Matlock asked if we can, in an informal way, see that it is done. Can we have a commitment from responsible parties that it will be done in thirty days or do we need to make that

formal requirement. Community Services staff responded that a road project is adjacent to the water wells. There is a project to move the water treatment plant site due to a road that comes within 90 feet in the area of the water treatment plan. That may be where the 18 month timeframe comes from because we do have plans in place to move that plant. Commissioner Matlock asked if the well is going to be moved. Community Services staff responded yes. Commissioner Matlock said so the well be abandoned and cleaned. Community Services staff stated that they are looking at possibly of using as a secondary source. Commissioner Matlock said this relevant, if you are going to retain the system, it has to be secured promptly. How long would it take for your crew to secure this site? Mr. Elkins asked for a preliminary cost to secure the site. Community Services staff stated that the site does have a fence around it and the well heads are secure. Commissioner Matlock asked why those things are specific in the Consent Order. Community Services staff stated that the well head still needs to be raised up. Commissioner Matlock asked so they elements are associated with raising it, rather than subsequent security issues. Community Services staff stated that there is a secure fence around the plant plus there are metal cages that set over the well heads. Commissioner Matlock stated that the issue is well head protection from a height perspective and the concern is implementing a revision is if it is taken out of production then it is an unnecessary expense. What is the timeline for making the decision? Community Services stated that the project funding is in place with Indian Health Service, two test wells have been drilled north of the current plant. Water samples are still out on those two test sites. Commissioner Fite asked the depth of the wells. Community Services staff responded 75 feet and 85 feet. Commissioner Fite stated his concerns are C4 and D4, secure the pit less adapter well cap and install a properly fitting sanitary seal. Community Services staff stated that one of the wells had an issue with the sanitary seal, which can be addressed immediately. Commissioner Matlock asked if funding is available to build the system to secure water for the community after the relocation. Mr. Hicks stated that a revised cost estimate is being developed and a better understanding if adequate funding is available will be known. Commissioner Matlock stated that if the well is kept in production then we have to comply with these criteria. Do we have a drinking well closure protocol to protect ground water? Mr. Elkins stated that we do. Commissioner Matlock asked who was responsible for that. Mr. Elkins stated that his office is responsible for that. Mr. Callison stated that he would check with Mr. Diffie. Commissioner Matlock stated that if the well is closed then the cost of closure has to be incorporated in the plan. If the well is retained, the Consent Order will require compliance and that cost must be included in plan. Commissioner Fite stated that this item can be moved to the June meeting and that will give Community Services three weeks to come up with a plan because of conflicting issues. At the June 7 meeting, bring photographs of the sites; provide a footprint plan where the road will be located. Mr. Hicks stated that the test results should be provided within three weeks. Commissioner Fite made a Motion for staff to bring a plan on what needs to be done to correct deficiencies and what the long term plan is going to be for supplying water. Commissioner Matlock seconded the Motion. Mr. Elkins asked Community Services if they could provide a power point presentation. Community Services answered in the affirmative. Roll call vote to set aside agenda item to the June 7, 2011 meeting. Roll call, Motion carried.

5. Announcement of upcoming meetings and events – The next EPC meeting date is June 7, 2011 at 9:30 AM.
6. Adjournment – Commissioner Fite made a Motion to adjourn, Commissioner Matlock seconded the Motion, meeting adjourned.