

Cherokee Nation Environmental Protection Commission

Minutes of the June 2, 2005 Meeting 206 E. Allen Road, Tahlequah OK 74464

Present for the Commission:

Ed Fite, Chairman
Cheryl Cohenour, Commissioner

Staff and Guest

Jeannine Hale, Administrator, Environmental Programs
Tom Elkins, Director of Environmental Protection
Harold Langdon, CNE, Director of Non-Gaming Operations
Angela Drewes, CN Natural Resources
Pat Gwin, CN Natural Resources
Nancy John, Director of Environmental Services
Michael Lynn, CN Road Program
Randy Gee, OES
Doug Bane, CN Solid Waste Landfill
Sharon Swepston, CN Financial Resources
Mitch Fram, OSU Extension Services
Richard Keck, OES
Evelyn Ridenhour, OES

Agenda Items:

1. Chairman Fite called the meeting to order at 9:00 am on June 2, 2005.
2. Chairman Fite acknowledged the meeting notice and distribution list as indicated in the Record of Public Notice, and placed the Record of Public Notice and Agenda for the June meeting into the official record.
3. Commissioner Cohenour made a motion to approve the minutes from the May 5, 2005 meeting. Chairman Fite seconded the motion. The vote was:
Chairman Fite - yes
Commissioner Cohenour - yes
4. Reports
 - A. Office of Environmental Protection - Director Tom Elkins provided a written report that was placed into the record.
 - B. Environmental Services - Director Nancy John provided a written report that was placed into the record.

- Ms. John mentioned that the 2006 budgets have been completed and the total dollar amount was around 3.5 million dollars.
- The 10th annual ITEC Conference will be held on June 28th and 29th in Catoosa. Ms. John requested that Chairman Fite speak at the conference regarding the Cherokee Nation Environmental Protection Commission. Chairman Fite agreed to speak.

C. Natural Resources Department - Pat Gwin provided a written report that was placed into the record.

- Mr. Gwin commented that it appeared the U.S. Fish and Wildlife Service and Nature Conservancy are not going to help with the cost of the conservation easement to protect the endangered bats. Mr. Gwin has approached the Office of the General Counsel to assist with the problem.
- Mr. Gwin made one correction and one addition to his report:
 - Construction started 6/1/05 re-routing a storm water ditch on the complex wetland
 - The Oklahoma Scenic Rivers Commission donated several hundred trees which will be planted temporarily until next year and the appropriate planting season
- Commissioner Cohenour had a question regarding the bird of prey rescue. The abuse occurred on tribal land. Mr. Gwin has successfully nursed the bird back to good health and the bird has been set free.

D. Water, sewer and roads NEPA activities - Michael Lynn provided a written report which has been placed into the record.

E. Cherokee Nation Enterprises - Harold Langdon provided an oral report highlighting the following issues.

- All facilities now require persons to be 21 years of age or older to enter into the gambling rooms and bars. Alcohol has been approved for all facilities and the state's ABLE commission performs periodic checks on all tribal properties.
- The Outpost south of town is doing well. There was a report that gas might be contaminated that was unconfirmed. There were not any environmental problems or any contaminated fuel. Richard Keck is doing a written report which will be submitted to Ms. Hale. Commissioner Cohenour asked how old the storage tanks are. Mr. Langdon said that two are 39 years old, one is 19 years old, and one is 8 years old.
- Commissioner Cohenour questioned how complaints are processed. Ms. Hale stated that we have a complaint form located on our website. There is not a 1-800 call-in number.

However, Ms. John's group has applied for a grant to create a database system to log and record all complaints.

- Mr. Langdon commented regarding the complaint process although there seems to be lacking a formal process all the groups involved act quickly and in concert with one another to resolve the issues and take care of any physical problems. Ms. Drewes commented that the Natural Resources Department logs in all complaints and incidents.
- Mr. Langdon made comments regarding the fishing pond, and wants to restock the pond for the Cherokee Nation Holiday. He requested that the pond be stocked in the near future, instead of just days before the holiday. Mr. Gwin will submit a request to the Pow-Wow committee requesting they stock the pond earlier this year.
- Mr. Langdon has agreed to be placed on the agenda every month.

E. Mitch Fram of the OSU Extension was added to the agenda. Mr. Fram reported that the riparian restoration tour at Kenwood was a huge success. He thanked the Cherokee Nation Natural Resources Department and Pat Gwin for his help. He is hoping to make this an annual affair.

F. Tom Elkins reported for Billy Hix that the Environmental Protection program will be receiving money from NAHASDA and will be doing more sewer and sanitation projects. They are also doing environmental assessments.

5. Water Quality Standards and related issues:

A. Update on Pawnee litigation and tribal issues - Jeannine Hale

- Ms. Hale had the following to report: She has obtained name and phone number of the Pawnee Nation's attorney. Ms. Hale mentioned that we may write an amicus brief but has not discussed this issue with the General Counsel.
- Tribal Water Quality Issues: Ms. Hale reported that tribes have had two successful working meetings. Tribes have come up with a list of issues related to the state standards.

B. Discussion by Commission and opportunity for comments.

- Chairman Fite made the following comments that his frustrations with the Water Quality Standards of the State are not the standards themselves but, the enforcement and implementation. The agency is only as good as what they can enforce. He would also like to see the tribes and state work together on implementation and enforcement of Water Quality Standards.
- Commissioner Cohenour asked are there any other tribes that have adopted or developed Water Quality Standards. Ms. Hale the Quapaw's hired a consultant to develop some standards. Ms. Hale

states that there is a need to have water quality standards for Indian County regardless of whether a tribe applies for treatment of state.

- Chairman Fite has two comments 1) The Continuing Planning Process (CPP), Use Support Assessment Protocols (USAPs) and water quality standards are very hard for most people to interpret because the meaning is not always clear. 2) According to the U.S. Geological Survey we are headed for a drought cycle. If this is true then water issues are going to become predominate on the horizon.

6. Cherokee Nation Landfill

A. Report by Staff -

- Ms. Hale presented the sampling reports that were done in response to the requested variance. The samples were taken from the storm water pond, storm water sediment, surface area where leachate was leaking, and ground water monitoring well.
- Commissioner Cohenour requested a special meeting for the permit issue. A special Environmental Protection Commission meeting was set for June 16, 2005 at 9:00 a.m. in the Environmental Programs Conference Room.
- It was requested that Notice of the Special Meeting be sent to EPA, DEQ, Adair Commissioners, Landowners, Oklahoma Farm Bureau, and anyone else that might be interested should be invited to this meeting,. Notice should also be published in local newspapers.
- Sharon Swepston commented that this permit must be made a priority.
- Ms. Hale reported she had been told last week that as soon as the contract is signed with ICI, ICI would take over landfill operations. This was somewhat irregular and the Commission realizes there are issues that need to be ironed out before ICI is allowed to take over the landfill operations.
- Ms. Hale reported she had made changes in the draft Interim Conditional Permit requested by the Commission plus made some additional changes to insure that we have proper monitoring, reporting, recordkeeping and a compliance schedule. In 30 to 60 days we are going to implement BMPs for stormwater.
- Mr. Bane commented that he had worked with Ms. Hale on a compliance schedule – that they had more than one version of it, one detailed and one brief version. In the detailed compliance schedule everything starts with a topographical survey.
- Chairman Fite commented that there are entities such as One Nation, Oklahoma Farm Bureau, Oklahoma Independent Petroleum and others who have been opposing tribes on sovereignty issues. The permit should be provided to Dr. Hook at EPA, then as a courtesy provide it to Steve Thompson at DEQ even though they do not have jurisdiction. There has been a question regarding the state permit by

the Health Department that predated the DEQ. We need to let other agencies know that we Cherokee's know what we are doing. So, let's be squeaky clean about our intentions and what we are doing. This will help with relations, give us an extra level of protection and confirm our competency skills. This will also give other agencies an opportunity to comment on the permit.

- Mr. Bane responded that he does not have a problem with DEQ or EPA commenting on the permit. My concern is that these other agencies need to know what they are looking at. This interim permit is a vehicle to get the landfill in compliance and implement a plan to get to a master plan.
- Commissioner Cohenour explained that she did not want to delay the permit but she did not want to be rushed into something. She had inadequate time to review the permit and related documents before the meeting.

7. Complaints, Enforcement and Issues Update:

A. Update on Cherry Tree Lagoon - Tom Elkins and Michael Stephens report the following: The rest of the benonite has arrived and can be applied to the lagoon. However, Water and Sanitation wants some dozer work to be done to the pond before applying the benonite. Natural Resources will assist with equipment to do the work and Environmental Programs will finish the project.

B. Kenwood/Saline Creek - Jeannine Hale reported that she visited the site on three times and has videotape. Ms. Hale has met with Harley Buzzard to find out under what authority the Rural Water Districts are operating Cherry Tree and Kenwood lagoon systems but no one seems to know for certain how responsibilities are divided. Kenwood has a new director and we hope for better communication in the future. The Cherokee Nation may seek funds or change existing monitoring in order to address stream water quality issues.

8. Administrator's Report - Jeannine Hale

Ms. Hale reports that Mark Green has been approved by the Rules Committee of the Tribal Council. Mr. Green's appointment will be on the agenda at the forthcoming Tribal Council Meeting on June the 13th, 2005. Ms. Hale should invite Mr. Green to the special meeting on June 16th.

9. New Business: none

10. Miscellaneous Discussion – the following upcoming events were noted:

- The ITEC Conference is June 28-29, 2005
- The Environmental Law Section of the Oklahoma Bar Association will hold their annual meeting in Catoosa on June 3, 2005

- The Environmental Federation of Oklahoma is hosting a conference in Oklahoma City on June 24, 2005

11. The meeting was adjourned at 11:05 a.m.