

CHEROKEE NATION ENVIRONMENTAL PROTECTION COMMISSION
Cherokee Nation Environmental Programs Office
208 E. Allen Road, Tahlequah, Oklahoma
September 9, 2014 – 9:00 AM

PRESENT:

Commissioner: Ed Fite
Commissioner: Dr. Lynna Carson
Commissioner: J. Blake Fletcher
Commissioner: Jack Spears

APPROVED
DATE 10-7-14

ABSENT:

Commissioner: Dr. Marty Matlock

STAFF AND GUESTS:

Tom Elkins, CNEP
Jackie Woodward, CNEP
Nancy John, CNEP
Shaun West, CNEP
Debra Wilson, CNGC
Chris Barnhart, CNNR
Dwayne Fain, Risk/Emer. Mgmt.
Joseph Washum, CNB
Shaun Shepherd, CNWM
Jamie Clinton, CNWM
Laura Adair, CNEP

1. Meeting called to order by Vice-Chairman Commissioner Fite.
2. Commissioner Fite acknowledged and placed into record the Record of Public Notice and Agenda with a correction made on the date of posting, on August 29th.
3. Commissioner Carson made a Motion to approve the minutes from the August 5, 2014 meeting, seconded by Commissioner Fletcher, roll call vote, Commissioner Spears abstained, three (3) yeas, minutes approved.
4. Public Comments – Commissioner Fletcher stated that the CN Holiday Fishing Derby was a great success.
5. Reports
 - A. EPC & Environmental Programs & NEPA projects for Realty, IHS, NAHASDA, Roads – Mr. Elkins gave a brief overview of the children’s fishing event at the CN Holiday and recognized Jason Christie for attending and providing fishing poles for the children and the volunteers. Attended and participated in the Self-Governance conference. Provided information regarding the AAB survey and process. Received FY15 funding to begin the process of updating the CN Environmental Code via a Request for Proposal. Commissioner Fite stated that they look at eliminating redundancy. Commissioner Fite inquired on when the landfill issues would be reviewed. Mr. Elkins stated that it would be one of the first items reviewed. Discussed ensued regarding existing statutes. Commissioner Fite stated that if Environmental Programs were going to be held accountable, the Commission needed to have a say in the process. Discussions regarding underground storage tanks at Outpost I will be discussed later in the meeting.
 - B. Administration Support – Mr. Gwin was not in attendance.
 - C. Cherokee Nation Businesses –
 - i. Provided a short narrative on of activities at Blue Ribbon Downs.

- ii. A letter was received from the EPA regarding the underground storage tanks at Outpost I requested a meeting regarding the plans for the site. The meeting is scheduled on September 16th at the Hard Rock. Lack of communication has been the biggest issue on this site. A site survey has been completed and has been submitted to a design planner. The building will be torn down and the storage tanks removed. A new building will be erected and the tanks will be replaced. The actual plan will be delivered tomorrow and if approved the plan will be given to an architect to develop the design and timeline and remediation plans will also be developed.
 - D. Emergency Management – Mr. Fain reported that CNEM hosted the All Hazard Incident Management Team training and provided a short overview. Through the Homeland Security grant, 2,300 radios were received and dispersed in the tribal jurisdiction including schools and all employees. Tribal council members will distribute some radios in their district. This grant has been funded for the next two years.
 - E. Natural Resources Department – Mr. Barnhart did not have any additional information to report. Commissioners informed Mr. Barnhart that they did not receive a report from CN Natural Resources. Mr. Barnhart provided a short overview of the status of the buffalo acquisition project.
- 6. Report/Compliance Issues Cherokee Nation Sanitary Landfill
 - A. Report – Mr. Shepherd stated for the first time in 15 months, without depreciation, the landfill shows a \$4,500 profit and provided a short financial overview of the landfill and current customer activity.
 - B. Compliance Issues – Mr. Elkins reported that NOV was written this past month regarding leachate which is one of the items on the compliance schedule. There was also an issue with the installation of the fail safe on the sumps, which was not installed due to cost. If the relays do not work, leachate will overflow, which did happen. The sump is turned off in the evenings and weekends and the head is pumped off the liner on a daily basis. The liner is designed for not over 12 inches of leachate and there is no mechanism to measure the amount on the liner at any given time. Mr. Clinton stated that the valve was installed when the liner was put in and it was not correct when it was installed. The actuator that goes on top is non waterproof. The cost to install a valve and actuator correctly is \$10,000. The leachate overflow was cleaned up in approximately two hours. Commissioner Fite asked if leachate was measured on a monthly basis. Mr. Clinton stated, it was, but the amount of rainfall received in a month varied on a monthly basis. Mr. Woodward provided additional information regarding the liner, amount of leachate and sump pump. Reference was made to photographs. Mr. Elkins addressed the amount of gas being released. Mr. Clinton also addressed the sump installation issues because it is severely undersized. Discussions ensued regarding these issues including the installation of a new valve and design issues. Mr. Shepherd asked if there had been prior leaks and Mr. Woodward stated that it had. Mr. Shepherd asked how many NOVs had been previously written and Mr. Woodward stated there had been one, possibly two. Commissioner Fite asked if members had any questions on the compliance issues. Mr. Elkins stated that the agenda included a vote to amend, approve or table the proposed compliance schedule and Mr. Clinton had provided information regarding this topic prior to the meeting. Mr. Elkins stated that the first 3 items are similar or already in place. The fail safe installation has been changed from 60 days to 90 days. There is no time listed on the unstable slopes. There is nothing to approve or disapprove on the proposed response from landfill management. Commissioner Fite stated that the two board need to be brought together to review the EPC's compliance schedule and further stated that Chairman Matlock wants compliance, the Board is not responsible for the operation of the landfill, we are responsible for the environmental regulations as they appear and apply to the landfill. Mr. Elkins stated he would have preferred to discuss the proposed response prior to the meeting today but it was received this morning. Commissioner Fite stated he wanted CNEP and the landfill to come together before the next meeting to discuss and propose solutions to have compliance to regulations. Commissioner Carson stated that there are deadlines for

compliance and due to the status of the landfill, when this board took over, they need more time due to the financial status and pre-existing conditions. I understand their position and I also understand the position of the EPC. The bottom line is that it must be fixed in a period of time that is agreeable that does not damage the environment. Mr. Shepherd stated that the board did review the draft compliance order and discussed the timeframes and drafted the Board's proposed compliance schedule. Commissioner Fite stated that there are three parties to this discussion, the CNWM board, the EPC, and politics due to the Secretary of State being listed in several locations. Chairman Matlock can't present what those discussions are, so I am hesitant to take any action today until Chairman Matlock and/or the Secretary of State on the status. Mr. Elkins stated that, in his opinion, if the CNWM board stated that four (4) years were needed on some of the items then the EPA would state they landfill needed to be closed down. If four (4) years are needed to obtain a NPDES permit, a Title V permit and fix the methane issue then you do not need to be operating. Commissioner Fite state that his recommendation to the Board, is that this was just given to us, it needs to be reviewed and compared to the existing compliance schedule that has been discussed by the Board and a meeting set to discuss the landfill issues. Mr. Elkins provided Mr. Shepherd with some historical information regarding the landfill status compliance/non-compliance and discussions with the current administration and the results of the overview provided by a third party. Commissioner Fite stated that there needs to be a clear understanding of the EPC as to what the landfill needs, according to law and regulations so that the EPC can make a decision because the Commission is held accountable. Commissioner Carson stated that the Cherokee Nation needs to finance the needs of the landfill and as business increases; the Cherokee Nation could be paid back. Commissioner Fite stated that Chairman Matlock and Mrs. Robinson have been meeting with the Secretary of State, at this time we do not know the discussions that have been held but someone needs to be accountable for where we are. Mr. Elkins needs to make a recommendation to the Commission. Mr. Clinton stated that there were things that we did not understand so a 48-month time period because we were being pressured to come up with a timeline. Commissioner Fite stated that Mr. Elkins be allowed to work through this with his team on the proposed compliance schedule from the CNWM board. For the record, a proposed compliance schedule from the CNWM board has been submitted. No action will be taken today, the EPC board directs the Administrator, with his team of experts, evaluate the schedule, and provide a status report, to the Commission, at the next meeting. Mr. Shepherd stated that that if the proposed timeline is not realistic then CN can provide the funding needed, or close the landfill. Additional discussions ensued regarding deficiencies, timelines, goals, etc. Mr. Elkins stated that there is a community meeting on September 11, 2014 at 6:00 PM at CC Camp, which would be a great place for the Commission to encourage community members to talk to the administration. Commissioner Carson stated it is up to the EPC to get it done. Commissioner Fite stated that the Chief and Tribal Council appointed the Commissioners to the EPC and it is our responsibility, not the people around the landfill we should take care of them. Mr. Shepherd invited everyone to attend the meeting on September 11 to talk to residents that live in the area and get their opinion on the landfill. Commissioner Fite stated that Mr. Elkins and his team is responsible for the environment in the Cherokee Nation, they should have his phone number for information that can be disseminated the CNEP departments to respond. Mr. Shepherd stated that it sounded like a good idea for the CNWM board, EPC, Mr. Elkins, Secretary of State and Mr. Clinton to discuss timelines and expectations. Commissioner Fite stated that we do not have a choice, EPA will come in and give us a compliance schedule and if not complied with, there will be severe consequences. Mr. Woodward addressed the need for a new cell, it is a necessity. Commissioner Fletcher asked about the status of the survey in regard to the original acreage within the boundary of the landfill. Mr. Elkins said when the permit was drawn up, it references the drawings of the Terracon plan, and the legal description includes all the Cherokee Nation land in that area. The comparison reflects that the leachate pond is outside of what is called the Terracon plan. Going west would be the best for a new cell not the location of the leachate pond because it is not within the permit. Commissioner Fletcher stated that the original legal permit description will have to be amended to include the land to run the operation correctly. Mr. Shepherd stated that a survey is being done to determine the exterior perimeter property and everything within is considered landfill, change the permit, we can expand. Once

completed the leachate pond will be inside of those boundaries. This will be the new permitted area. Discussions ensued regarding land boundaries. Commissioner Fite asked if a comparative analysis of both compliance schedules, Mr. Elkins replied in the affirmative. Mr. Shepherd stated that the CNWM board meeting will be held at the landfill on September 11th. Mr. Elkins stated he will be attending the meeting at the CC Camp along with Mr. Woodward. Commissioner Fite requested that the compliance schedule be an agenda item at next month's meeting. Commissioner Fletcher made a motion to table, Commissioner Carson seconded the motion, roll call vote, motion carried.

7. Attorney General Issues

A. Water Plan Update/Discussion & Opportunity for Comment Assistant Attorney General Hill was not present. Mr. Elkins stated work is continuing on the water quality standards and requests assistance from the Commission.

8. New Business – none at this time.

9. September 25th is the date of the Illinois River Watershed Research Symposium at the Siloam Springs Cherokee Casino. October 22-23 in OKC is the Annual Governor's Water Conference, tribal interests will be represented. October 2-3 the Illinois River Watershed Partnership will have a water quality/issues conference that involves Kansas, Missouri, Oklahoma and Arkansas at Crystal Bridges Museum in Bentonville. October 30th is the Arkansas-Oklahoma Compact Commission meeting at Rogers, AR at Embassy Suites. The next EPC meeting will be held October 7, 2014 at 9:00 A.M.

10. Meeting adjourned.