

**Landfill used by Fayetteville fined \$1 million for multiple violations**

BY ADAM WALLWORTH Northwest Arkansas Times - Posted on Sunday, September 9, 2007

The company contracted by Fayetteville to handle the city's garbage was fined more than \$1 million for various violations, prompting city officials to wait and see.

" Hopefully they'll be able to work through their issues, " said Gary Dumas, director of operations for the city.

Dumas said he is in contact with Indian Country Investments LLC, which was fined by the Cherokee Nation Environmental Protection Commission for several violations.

The company runs the landfill, which is owned by the Cherokee Nation, with which the city contracted in April to run the city's transfer station and transport the solid waste to a landfill in Oklahoma. Cherokee Nation of Oklahoma, (CNO) was the only group to submit a bid.

Dumas said the city has no liability for the waste once it is delivered to the company. He said the city can void the contract if the company is doing something illegal, but he said he won't make any recommendations until he knows more about the situation.

The company has 15 days from the issuance of the order to request a hearing in the matter. The owner of the site has 30 days to make his company's case as to why it should not be held jointly liable and why penalties shouldn't be assessed.

Dumas said he doesn't expect any action will be taken until the company has a chance to respond. There are always environmental inspections on landfills, and often times there are issues that need to be addressed, he said.

Jeannine Hale, administrator of environmental programs for the Cherokee Nation, commented that the problems appear to only have been on site.

" There is no evidence that any property beyond the landfill was adversely affected, " Hale said. " Also, there are groundwater monitoring wells at the landfill that are monitored regularly and they are not showing any problems. "

The company was fined for the following violations, which were taken from the order issued by the commission:

- For allowing the leachate pond to overflow on multiple occasions, the company was fined a total of \$30, 000, which was the maximum allowable.
- For not adequately covering the site on certain occasions, the company was penalized \$125, 000. The maximum allowable was \$250, 000.
- Violations regarding the concentration of methane gas resulted in a fine of \$710, 000, which was the maximum allowable.
- For the use of a nonauthorized, unlined stormwater detention basin, the company was fined \$200, 000.

The company also faces \$910, 000 in fines for accepting industrial waste other than that produced in construction and demolition. The site has accepted such waste from companies including Roll-Off, Tyson Foods and Mrs. Smith.

The commission issued a compliance schedule and requested an update from the company at the group's next meeting.

Calls made to the local office of Indian Country Investments, (ICI) were not answered Friday.

Something to say about this topic? Submit a Letter to the Editor online at <http://nwanews.com/nwat/News/56979/letter/>

**Editor Note:** As of the printing of this Observer in November, none of the fines have been paid, the landfill has been closed and ICI has moved all of their equipment off of any property belonging to the Cherokee Nation. Because none of the ICI owners were Cherokee citizens the question remains if CNO has any authority to actually collect any of the fines from or enforce any ruling by a tribal entity on non-tribal members. Since the closure of the CNO landfill the tribe has been subsidizing the refuge from Fayetteville to be hauled to the Tontitown, AR landfill at an approximate additional cost to the tribe of \$2,500 daily. Although it was discovered by Council that the contract between the tribe and Fayetteville had been signed by Doug Baine, the manager of the landfill, who did not have any contract authority, the tribe has continued to honor the contract. Should the tribe breach their side the only specified damages within the contract is the forfeiture of a \$100,000 ICI bond and the companies trucking equipment. In a recent Cherokee Council meeting, Councilors questioned why the tribe would continue footing the bill on an invalid contract with such extreme daily losses if breach only affected ICI who had in effect filled up the \$3 million cell while not building a new one as agreed making it impossible for the tribe to complete the six year contract? Brad Carson, CEO of Cherokee Nation Businesses said, "We want to be good neighbors."



**Letter from Keetoowah Chief, George Wickliffe**

As Chief of the U n i t e d Keetoowah Band of Cherokee Indians in Oklahoma , I am submitting the following information to clarify the importance and relevant issues of H.R. 2824. Despite what the Cherokee Nation is trying to say about House Bill 2824, at no point does this bill mention "termination". If the word termination was mentioned it would have devastating effect on all tribes and could not be supported. The United Keetoowah Band (UKB) is a federally- recognized tribe, receiving such status under the Oklahoma Indian Welfare Act (OIWA) by Congressional Act August 10, 1949 (60 Stat. 976). Our tribal membership consists of Cherokees ¼ degree blood or more, of whom 98% reside in our 14-county service area. This service area is consistent with the boundaries set out by the Treaty of 1833, with modifications by subsequent treaties. For tribal government and service purposes, this 14-county area is divided up into 9 districts, which were part of the Cherokee Nation of Oklahoma prior to its termination in 1906. The information backing the Status of the Freedmen is well-documented through the Treaty of 1866, subsequent amendments to the Cherokee Nation of Oklahoma Constitution, and tribal Allotment. In addition, it is specifically stated in Bureau of Indian Affairs' policy that one of the stipulations presented in the Bellmon Act (commonly known as the Principal Chief's Act) is that the Cherokee Nation of Oklahoma's voter qualifications 'must be broad enough to include the enrolled freedman citizens of the respective nations, together with the descendants of such enrollees.' Due to the extensive clarity and documentation of these Federal Government agreements and policies, they will not be further dwelt upon in this information. The other issues listed in the House Bill are far more unfamiliar to those unattached from the issue, and are very complex. For that reason, this concise supporting information is made available. In a December 19, 2006 ruling in Vann v Kempthorne, the United States District Court of Columbia denied the Cherokee Nation of Oklahoma's Motion to Dismiss. Cherokee Nation of Oklahoma used its own 'Supreme Court' to overturn this outcome. This was accomplished by the Supreme Court justices ruling in a 3-2 decision that the Cherokee Nation of Oklahoma could hold a vote on the tribal status of the Cherokee Freedmen. The subsequent vote was held in

March, 2007 and less than 4% of the Cherokee Nation of Oklahoma voters ratified the decision that tribal citizens must be of Indian descent. It should be noted here that the Cherokee Nation of Oklahoma 's "Supreme Court" is a new entity, authorized by the 1999/2003 Cherokee Nation Constitution, which has not been approved by the Secretary of the Interior, and the Cherokee Nation of Oklahoma has removed its request for approval. That will be covered later in this information. The above "Supreme Court" decision, therefore, was mandated by a Court which only exists under authority of a Constitution which has not been approved by the Secretary of the Interior, and is therefore, illegal. In addition, the election (vote) deciding the tribal status of the Cherokee Freedmen was also held under an unapproved, illegal Constitution, as well as denied the vote of the Cherokee Freedmen, mandated by the policy supporting the Principal Chief's Act. The language of the Bill does not elaborate on the so-called 're-instatement' of the Cherokee Freedmen for purposes of voting in the June, 2007 election. In this quasi-re-instatement, not only are the Freedmen's rights severely restricted, but the injunction allowing them this right specifies "temporarily." Therefore, even though the move appears to be beneficial and positive for the Cherokee Freedmen, the issue is clearly not resolved. Another issue is of grave concern. While the recent (June 23, 2007) election held two days after the introduction of H.R. 2824 is clearly illegal based on it being held under an illegal and unapproved Constitution, the election ballot contained a referendum 'affirming a Constitutional amendment.' The question on the ballot read, "Shall the Cherokee people affirm the removal of the requirement of federal approval for the Constitution of amendments to the Constitution, by enactment of the following: "A Constitution of amendment shall not require approval of the United States of America ?" Campaign and promotional material proclaimed the Cherokee Nation of Oklahoma "voluntarily" placed this approval process on its 1975 Constitution, and called it 'self-imposed.' Historic information begs to differ. Cherokee Nation of Oklahoma government was terminated in the years immediately preceding Oklahoma Statehood. The final Act, (March 1, 1901, Fifty-sixth Congress, Session II, Chap 675, "An Act to Ratify and Confirm an Agreement with nations, an Act of Congress is the only legal measure which can accomplish the changes Cherokee Nation of Oklahoma has illegally moved to

do, which include, but are not limited to: 1. Prohibit Cherokee Freedmen from tribal citizenship, voting and other rights; 2. Operate under a Constitution; 3. Amend A Constitution; 4. Hold an election (except under a valid Constitution); 5. Remove Federal Approval from the Constitution; 6. Denying service to federally-recognized Native Americans within their service area using Federal funds, who are not members of the Cherokee Nation; and, 7. Having jurisdiction of Trust Lands which are held in trust for a "Cherokee Tribe organized under the Oklahoma Indian Welfare Act (OIWA)," which the Cherokee Nation is not. It should also be noted that the Bill calls for severe further scrutiny and monitoring ensuring that Cherokee Nation of Oklahoma is not only in compliance with its treaty obligations, but all Federal Statutes which 'govern its relations with the United States Government.' This stipulation is beneficial to the United States , as well as other Native American and Federally-recognized tribes which have been denied their rights due to Cherokee Nation of Oklahoma illegally excluding them from benefits and services by law. H.R. 2824 states in the last paragraph under "GAO Report on Expenditure of Federal Funds" that, "The report shall include an analysis of Federal funds allocated by the Cherokee Nation of Oklahoma 's leadership for its member benefits and services and for administrative and other purposes. The report shall determine whether or not the Cherokee Nation of Oklahoma is in full compliance with all Federal regulations and laws regarding the management and disbursement of Federal funds." It is hoped this will allow the thousands of members of the federally-recognized United Keetoowah Band of Cherokee Indians, who are not members of the Cherokee Nation of Oklahoma receive services through their own tribal government, which has the same jurisdictional area Cherokee Nation of Oklahoma claims. Until this point, Cherokee Nation of Oklahoma has successful and illegally blocked funding to the United Keetoowah Band, and OIWA-organized tribe, with an erroneous claim of dual-enrollment and doubleservicing. It is hoped this information imparts a deeper understanding of the claim made on page 8 of H.R. 2824, that "The manner in which the Cherokee Nation of Oklahoma is conducting the relationship between the United States and the tribal entity is not in the best interest of the United States Government, citizens of the Cherokee Nation of Oklahoma, and violates existing treaties and laws governing the relationship between the United States

Government and the Cherokee Nation of Oklahoma." You will note that in addition, it is not in the best interest of citizens of the United Keetoowah Band (over 10,000 residents of Northeastern Oklahoma ), as well. Most importantly, it is hoped that the distinguished members of Congress will find the audacity of Cherokee Nation of Oklahoma to assume it can supersede Congress no less then astonishing. While the Cherokee Nation of Oklahoma exists today only legally capable of administering the assets of the original Cherokee Nation of Oklahoma, and to service the original Dawes Enrollees, the United Keetoowah Band is Congressionally recognized under the OIWA, as are other Oklahoma tribes. The Treaty of 1866 was negotiated to ensure the Indian tribes, originally from the Southeastern area of the United States , were consistent with the civil rights of black people enjoyed through the United States Constitution. The so-called "Five Civilized Tribes" were the signers of this treaty, and the mandates of the document do not affect the United Keetoowah Band of Cherokee Indians in Oklahoma , nor other tribes in the United States other than the 'five.' Certainly, tribal governments have the legal right to determine their own citizenship requirements, IF these are not in conflict with treaties signed between the United States and the tribes. If a tribe is in conflict, there is no court in the land which can abrogate the treaty. Only Congress can do so.

**Group opposes Cherokee termination measure**  
Muskogee Phoenix

Cherokee Nation Principal Chief Chad Smith praised the National Congress of American Indians for unanimously passing a resolution opposing H.R. 2824, a U.S. House bill that retaliates against the Cherokee people for voting to limit citizenship to those with ancestors on the Dawes Rolls, the 1906 federal census list of the Cherokee people. The March 2007 tribal measure, which passed by 77 percent, disenrolled about 2,800 Freedmen descendants who had been citizens in the tribe for about a year due to a Cherokee Nation Supreme Court ruling that allowed citizenship for descendants of people listed on the Dawes Rolls as non-Indians.

The bill would sever U.S.-Cherokee relations and cut nearly \$300 million in federal funding for the tribe. Litigation over Freedmen citizenship issues continues in federal and tribal courts. Until all litigation is resolved, the approximately 2,800 Freedmen descendants have been reinstated to citizenship in the Nation with full social services and the right to vote.