



**NATURAL RESOURCES COMMITTEE
REGULAR MEETING - TRIBAL CHAMBERS
No. 05-02-DSB
JANUARY 25, 2005**

The meeting was called to order by Chairman Daylon Spotted Bear at 10:20 a.m.

Roll Call: Daylon Spotted Bear, Chairman; Frank White Calfe, Member; Malcolm Wolf, Member. Quorum present.

Others present: Paul Danks, NRD Administrator; Annette Young Bird, Tribal Realty Officer; Noreen Two Crow, Adm. Assistant; J. Jack Rabbithead, Realty Specialist; Lorry Little Swallow, Realty Specialist; Edward Fox, Realty Specialist

3. Approval of Minutes

Councilman White Calfe moved to approved minutes of January 11, 2005. Councilman Wolf seconded the motion. No discussion.

Vote: Unanimous. Motion passed.

4. Agenda Approval

Paul Danks requested to have Mary Fredericks, BIA Range Conservationist, added to the agenda.

Councilman White Calfe moved to approve agenda with the inclusion of Mary Fredericks under "Other." Councilman Wolf seconded the motion.

Vote: Unanimous. Motion passed.

5. Judy Young Bear Lot Exchange - CLOSED SESSION

Ms. Young Bear asked for a closed session. She stated that she did not mind that Natural Resources staff remains, but asked if others would leave. The closed session was granted by Chairman Spotted Bear.

6. Philip Brown - Corps of Engineers

Mr. Brown was not available; this item was deferred.

7. Ken Danks/Kyle Baker - Gravel Reimbursement

Mr. Baker stated that TEK Industries operated by Ken Danks paid \$6,000 for gravel at \$6 per ton for a total of 1,000 tons. EMD operated by Ed Danks used 316 tons. However, the gravel was too dirty to use on Ken Danks' project. Therefore, he never used the remaining 684 tons. Ken Danks is requesting reimbursement of \$4,104 (1,000

tons x \$6 = \$6,000) (- 316 tons used x \$6 = \$1,896) (\$6,000 - \$1896 = \$4,104). Mr. Baker also stated the gravel was sold to other companies for their use.

Motion made by Councilman White Calfe to reimburse Ken Danks AKA TEK Industries \$4,104 for the gravel that was not used. Second was made by Councilman Wolf.

Discussion: Mr. Baker stated TEK could not use the rest of the gravel because it did not meet "specs."

Vote: Unanimous. Motion passed.

8. Ed Fox: Right-of-way for Eleanor Crows Heart

It was explained this right-of-way/easement was previously approved (01/11/05 meeting). However, there were some things that could be done to cut down on the cost of easement.

Motion made by Councilman White Calfe to approve any additions that may cut down on cost of the easement for Eleanor Crows Heart.

Discussion: Councilman White Calfe stated we will approve the easement and any additions and Annette can go through it. If she has any concerns about it, she can bring it back to the committee. Motion was amended to read: to approve the easement and any additions; should Annette (Young Bird) have any concerns, she will bring it back to the Committee.

Vote: Unanimous. Motion passed.

9. Annette Young Bird - McKenzie Electric ROW

Ms. Young Bird stated McKenzie Electric is requesting a right-of-way for the Blue Buttes Substation to put in underground lines for electricity. She stated this will eliminate problems with icing of overhead lines and other potential problems that may arise.

Motion made by Councilman White Calfe to approve the right-of-way/easement request of McKenzie Electric with the stipulation that McKenzie Electric put the line in outside the road right-of-way like the State of North Dakota requires and if McKenzie Electric does not, McKenzie Electric is responsible to move any lines should the road be reconstructed.

Vote: Unanimous. Motion passed. (Following is discussion prior to vote)

Discussion: It was brought out that roads have been constructed and power lines had to be moved because the lines were inside the road rights-of way. The State of North Dakota requires electric lines to be outside the rights-of-way. It was stated that one of the programs had to pay an additional \$60,000 to have electric lines moved because the lines were in the rights-of-way. Councilman Wolf asked why we give them free access, why doesn't the REC pay for the access. He stated REC gets free access then charges us to provide the services. He stated this does not seem right.

Councilman Wolf said we are looking at an electric plant for ourselves. He said the tribe has the right to utilize the lines because they are going across land and not paying for the use of the land. He said some of these issues need to be clarified. He said he did not think it was right that they could cross your land, make money and make you pay for it at the same time. He said in using the lines, he plans to move on that and wants to know how much time can we have on lines, one hour. 24 hours? Or what? He stated that a meeting should be held and discuss this.

Mr. Ted Danks addressed the Chairman and said the State taxes the revenues and the Counties receive a portion of the taxes for their use which includes revenues from the reservation. He stated that as far as the transportation side of it, there was a resolution passed. Those entities who were building where to come to the tribe first and we would put them outside any future construction, etc. In the instance of moving lines, yes, the BIA was not aware of where the tribe was building and the tribe did end up paying for the moving of the lines.

Mr. Paul Danks stated that in or around 1996 the tribes were given the option of consolidating power or telephone service, we could do that. Some companies came in and actually started doing bids for telephone service. The tribe could do MOAs. He also stated that elders, schools and certain businesses get a discount under an MOU with WAPA. He said at one time Mountrail-Williams planned to bring natural gas to New Town, but got blocked by Cenex. Natural gas is pretty easy to bring into New Town and cheaper.

10. Lorry Little Swallow/Jack Rabbithead - Farm Pasture Renewals

Farm/pasture renewals were presented for the following:

1. **Gerald Good Bird:** Allots. 1665/1666 & TA grassland within W2SW4 of 36-148N-93W for 79.33 acres @ \$3.50/acre for total of \$277.65 per year
2. **Greta White Calfe:** Allot. T476A described as N2NW4,SW4NW4,W2W2SE4NW4,NW4SW4,E2SW4SW4 of 11-147N-87W for 190 acres @\$3.50/acre for total of \$665.00 per year
3. **Jerry Pennington:** Allot. T437A-A described as Lots 3&4 in 4-150N-93W for 79 acres @ \$24/acre for total of \$1,896 per year (**Note: lease to begin 01/01/06**)
4. **Verlee White Calfe-Saylor:** Allot. TA#2 described as E2S4,S2SE4,NE4 of 8-147N-87W for 85 acres @ \$3.50/acre for total of \$297.50 per year
5. **Austin Gillette:** Allot. TA within Sections 3,4,9,10,&11-147N-89W for 446 acres @\$3.50/acre for total of \$1,561.00 per year

Paul Danks the NRD Administrator is recommending one year renewals for farm/pasture leases so any renewals will expire on 12/31/05. This is being done so thorough compliance checks can be made on those farm/pasture leases and possible

Motion made by Councilman White Calfe to renew for one year (beginning January 1st through December 31, 2005) the farm/pasture leases for Gerald Good Bird, Greta White Calfe, Verlee White Calfe-Saylor and Austin Gillette so compliance checks can be made to determine whether these should be in range units. NRD will do compliance check and bring it back one year for recommendation, Second was made by Councilman Wolf.

Discussion: It was stated that shoreline in a certain farm/pasture contract in the past was in Range Unit 34. Should the lessee ever lose the range unit, the farm/pasture lease could be leveraged because there is no water in range unit 34. It was stated the shoreline should be put back into the range unit. It was stated by Councilman Wolf that we have regulations that people should abide by such as owning so many percent of the cattle. Mr. Paul Danks said Ms. Mary Fredericks will give a report on range units and there is a one year extension on the units. Mr. Wolf said we need to explain to the people what we are doing. It was stated by a member of the audience that there was a loophole in the previous regulations and anyone could go to the bank and say they would buy cattle. Mr. Casey Fredericks stated that all you have to do is follow the law. He said he has chased their cows out of his unit and fixed their fences. He said you try to get grazing land for your cows and someone else gets an allocation and subleases. He there is no enforcement. He said there should have been enforcement the last five years. He said those who are subleasing are making \$50-60,000 per year. He said there are cows over there from Idaho, Montana, South Dakota, and Dodge and Halliday. Mr. Fredericks said the landowners are upset and so are the legitimate cattle operators.

Councilman White Calfe said everyone should be sent a letter of warning that we are going to enforce what our resolutions say. He said some of them may have subleased to graze a few cattle; however, we basically tell them you are going to have to find some cattle. Those people should have advance notice that it is coming.

Mr. Ted Danks suggested the Committee make a motion to the effect they will enforce what tribal resolutions say, get their house in order and at some point in the future the tribe will be playing strictly by the rules.

Mr. Tom Breuer said that during compliance checks make sure the cows have brands and are not just "paper brands" and don't count "paper cows."

Mr. Casey Fredericks said there are people who are upset at this subleasing. He said that is the BIA's fault. The bottom line is these people who are landowners are upset. He said the strategy for subleasing is to get as much as you can in one year. He said this creates overgrazing, weeds and they don't fence. He said not just the ranchers alone but the landowners are mad. He said the legitimate ranchers are going to pay the cost (overgrazing, etc).

Councilman White Calfe stated the sublease's make more than the landowners.

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Vote: Unanimous. Motion passed.

11. Mary Fredericks- BIA

Ms. Mary Fredericks asked about the BIA's ten year plan. She asked if it had been approved and requested a signed copy.

Ms. Fredericks stated there are monies for new fifteen positions within the Great Plains Region. She requested the Committee's support in asked for five positions at the Fort Berthold Agency; this would be two Range & Soil Conservationists and three Realty Specialist positions. It was stated the Committee should forward this on to the Tribal Business Council for action by Tribal Resolution.

Motion: Councilman White Calfe moved to take a Resolution to the Executive Committee Meeting on the second of February to specifically request two (2) Range & Soil Conservationist positions and three (3) Realty Specialist positions; that this request came through the Natural Resources Committee and the Resolution is following the recommendations of the Committee. Second by Councilman Wolf.

Vote: Unanimous. Motion carried.

Compliance issues were discussed. Ms. Fredericks stated all but four owners have been contacted for counting cows and compliance checks. She stated the tribal grazing resolution is the law and supercedes the CFR. She is asking for recommendations and clarification on language contained in the grazing resolution from the Natural Resources Committee. The grazing resolution has been extended for one year so the requirement of eighty percent (80%) ownership is required. Twenty percent (20%) can be subleased but they need a pasturing authorization. BIA needs to know when these cows are coming on and must be present to count them. The brands must also be certified. They must also have health permits. So the bottom line is only twenty percent (20%) can be outside cattle on any range unit. If they don't have a pasturing authorization signed by the BIA and the Tribe, the cattle will be trespassed off the range unit.

It was stated there are no requirements that landowners get a share of the subleased monies. Ms. Fredericks stated that grazing regulations have never applied to farm/pasture leases (in answer to a question).

Mr. Casey Fredericks stated that none of the underlying factors that executed decisions made here were mailed. There was a decision made in her by the full Council; this was to enforce the resolution if allocatees were out of compliance. If anyone was found to be out of compliance, the range unit would be taken back and I would get some grass. This had the full support of the Council. Committee Chairman Spotted Bear suggested that the Committee send a letter to the Superintendent to explain Casey's situation and ask why he has not received any more grass.

Ms. Fredericks responded by stating that next year (2006) is the year to allocate range units. Ms. Fredericks asked for clarification on the grazing resolution; does the BIA send out the cancellation letters or does the Tribe. The Committee stated the BIA does the enforcement and sends out the cancellation letters. Any appeals are made to the Tribe. Ms. Fredericks stated that letters of cancellation will go out next week to those lessees out of compliance. Councilman White Calfe stated that everyone should be informed of what is going on; letters should be sent to the permittees informing them.

Motion: Motion by Councilman White Calfe to have Superintendent send letters to all lessees regarding the 80 percent rule; if out of compliance, cancellation will be made. Seconded by Councilman Wolf

Vote: Unanimous. Motion passed.

Mr. Casey Fredericks stated that Northern Cheyenne has a good example of a grazing resolution. It was agreed that a copy of the Northern Cheyenne grazing resolution would be obtained and looked at for ideas. Casey Fredericks will make the copy available.

It was agreed by the Committee that Fish and Game would do compliance when outside cattle are allowed to come in. Many times trucks come in the middle of the night and cattle are not counted. (Was this done by motion??)

Next meeting will be at 10:00 am February 8, 2005 in the tribal council chambers.

Motion: Councilman White Calfe made the motion to adjourn. Seconded by Councilman Wolf.

Vote: Unanimous. Motion passed.

Meeting adjourned at 12:10 pm

CERTIFICATION

Dated this 26th day of April, 2005.

ATTEST:


Britnee J. Fox/Committee Secretary


Daylon Spotted Bear-Chairman of Natural
Resource Committee