

CHEROKEE NATION ENVIRONMENTAL PROTECTION COMMISSION
Cherokee Nation Environmental Protection Office
208 E. Allen Road, Tahlequah, OK
June 4, 2013

PRESENT:

Commissioner: Ed Fite
Commissioner: J. Blake Fletcher
Commissioner: Dr. Marty Matlock, Chairman

APPROVED
DATE *July 2, 2013*

STAFF AND GUESTS:

Tom Elkins, CNEP
Shaun West, CNEP
Jackie Woodward, CNEP
Pat Gwin, CN Admin. Support
Bob Short, CNEP
Nancy John, CNEP
Belinda Sinor, CNE
Samantha Hendricks, CNE
Stephanie Rainwater, URS Corp, Tulsa
Dwayne Fain, CNEM & Risk Mgmt
Jamie Clinton, CNWM
Fan Robinson, CNWM Board
Laura Adair, CNEP, Recorder

1. Meeting called to order by Chairman Matlock at 9:35 AM.
2. Chairman Matlock acknowledged and placed into the record the Record of Public Notice.
3. Commissioner Fite made a Motion to approve the minutes from the May 14, 2013 meeting. Commissioner Fletcher seconded the Motion. A roll call vote was taken, minutes were approved.
4. Public Comment - none
5. Reports
 - A. EPC & Environmental Programs & NEPA projects for Realty, IHS, NAHASDA, Roads – Mr. Elkins stated that the beetle surveys (American Burying Beetle) are underway.
 - B. Administration Support – Mr. Gwin stated that the US Fish & Wildlife Service is re-writing their Native American Policy and the Cherokee Nation has a representative on the team. The first meeting is in Denver next month. The first eagle nest on tribal trust land is doing well but the chicks are two weeks behind leaving the nest, may be due to being first time nesters. AAB survey will be completed next week at Sallisaw Creek Park due to construction reclamation of the strip pits at the park. Chairman Matlock stated that the University of Arkansas is labeling all their native trees using common names, Latin names, Cherokee names and Spanish names, which were inspired by Mr. Gwin. CNWM Chairman Robinson asked why in Spanish. Chairman Matlock stated that they were looking backwards, in the past, Cherokee language, current language English, future language Spanish, which is reality, demographics are our destiny and we will probably be 40% Hispanic in the next 20 years. We embrace our past and we embrace our future.
 - C. Cherokee Nation Businesses – Ms. Hendricks stated that there was one spill on April 11 at Outpost 1 which consisted of 3 gallons of diesel which was cleaned up using spill kit material that is kept at the location. Three different expansions were done at Hard Rock Tulsa, Ramona

and Fort Gibson and staff are still performing inspections. Commissioner Fite asked if the fluorescent bulb crusher was still being utilized, a short discussion ensued.

- D. Emergency Management – Mr. Fain provided the Commission with an update of Emergency Management’s efforts to assist, in conjunction with local businesses and organizations, with the recent tornadoes in the Oklahoma City area, at the Absentee Shawnee tribe and at the Citizen Potawatomie tribe. There was some damage locally and that information was forwarded to the Housing Rehabilitation program. In regards to tornado damage, Mr. Elkins asked if he had authority to issue burn permits and the Commission agreed that Mr. Elkins did have that authority. Chairman asked if the Cherokee Nation had designated shelters in their buildings, Mr. Fain explained there were some shelters and other buildings had designated evacuation plans with “safer” areas designated on those plans.
- E. Natural Resources Department – No report submitted and no representation from Natural Resources to provide an oral report. Mr. Davis did send word with Mr. Fain that both he and Mr. Gulager had another meeting scheduled this morning.

6. Cherokee Nation Sanitary Landfill

- A. Report – Mr. Clinton apologized for not submitting a written report; one will be submitted for the next meeting. Mr. Clinton provided an oral report covering March 25 to June 1. The Landfill has received 6395 tons of municipal solid waste, 454 tons of special waste but 14 1/8” of rainfall has also been received during that time. The freeboard on leachate pond is 28” as of today. Water is being pumped and hauled. Some re-grading has been done to keep additional storm water out of the leachate pond. Daily cover is not an issue at this time. The west slope where cells 4 and 3 tie in had erosion that has been corrected. Commissioner Fite asked about equipment. Ms. Robinson asked if she could respond to that question and provided the Commission with recent events regarding a change in management staff. Mr. Clinton is stationed at the landfill on a daily basis to oversee operations and has been able to work with existing equipment. Ms. Robinson has met with the Natural Resources Committee and the Tribal Council and has requested additional funding. The balance of funding upon the management change was approximately \$600,000; bills that had been pending have been paid to CNE and others and currently the balance is approximately \$200,000 for operations. The Council needs to make a decision quickly or the Board will need to close the landfill. During a presentation the Board recommended to the Committee that we go in to a controlled closure. It is now up to the Council and the Chief to make a decision. The Board has given them three options and is waiting on a Special Meeting that the Council wanted to call, hopefully at that meeting or shortly after they will give us a decision. Ms. Robinson stated that she has been very impressed with Mr. Clinton’s accomplishments. She had heard the excuses before the former CEO resigned because and on her first visit the conditions of the landfill were unacceptable and she informed the CEO. An NDPEs permit is needed which will be requested from the Commission, a Clean Air Act permit is needed and will also be requested from the Commission. All of the requests will be based upon the decision the Council makes. Ms. Robinson stated that enough can’t be said about Mr. Clinton’s accomplishments, he went through a lot when he was there before. He was arrested for no reason, handcuffed for no reason, the secretary was interrogated by the Marshals for no reason, and he was made to leave, all that was unfounded, there is documentation to that effect, so we have brought him back to run the landfill. The employees were not happy during the past years under different reins out there, and I know this since I’ve been there as part of the Board. Ms. Robinson said that the landfill board meetings are now held at the landfill and the former board met in Tahlequah. The staff at the landfill did not have a bathroom at the scale house that they could use so one is being installed and the trailer that they work out of is being remodeled by natural resources crews. She stated that the landfill been in disarray, per say, as far as paperwork and finding out about the financials. CNE has been wonderful to help us out with our financials and assisting with HR help. Ms. Hendricks has been great, if we didn’t have these people getting in there and helping us we don’t know where we would be. Pat helped with the presentation and he knows the history of the landfill. We have two copies of the current landfill report; we can leave them with Tom to give you all copies. Ms.

Robinson asked Tom why we needed written reports when you've been given reports for a number of months and apparently it wasn't doing any good. She stated to the commission that maybe he was giving them information that he thought they wanted to hear. She next stated that she was wondering why there was not a more hammering on the previous CEO, based on the fact that Jackie was talking to him on a daily basis telling him he should do this, he should do that and hearing excuses like I was hearing. Why, why, did the Commission not try to do something more with the landfill, it's tribal trust land, it's precious, it's been desecrated, if it were not Indian land there would have been months of talks of a process, there has never been a process, there has never been a comprehensive site plan, there are tribal members all around that landfill that we, you and I, everyone should be protecting. So, we're wondering why the Commission didn't come down on the landfill folks, we're wondering why our permit was just conditional. She then stated that she has not had a chance to fully look at it in detail; since she just got it last week. Chairman Matlock responded thank you for your service and thank you for your passion about this. I don't think you'll find an iota of a difference between your perspective and ours and our frustration over this issue has been at the boiling point for many, many, years, to the point, that you may recall, closed the landfill and issued a significant fine, four or five years ago and ousted the contracting company. The Commission didn't do it but the Nation ousted the contractor. Ms. Robinson asked if he was referring to ICI. Chairman Matlock responded, yes, so we have a long history being engaged in this. Chairman Matlock stated that the reason we have a conditional permit is because we don't have those foundational documents you are referring to and we will not issue a full permit until we do. So we have been as frustrated or more than you have articulated. We have common cause. But we have limited resources to act, we do surgery with a chainsaw, if you want us to act it's basically issue notices of violation and penalty. That is the extent of what we can do. We've done that and we've shown a clear willingness to do it again. Ms. Robinson asked if that was the case with the former CEO. Chairman Matlock responded, absolutely, absolutely. Ms. Robinson asked, what was the fine? Chairman Matlock responded, we haven't issued those recently, but we show a willingness to do so, what we have is a procedure that is well established for that threshold. What we have done is bumped up against that threshold and then came back. Ms. Robinson asked, why just bumping? Chairman Matlock responded because the criteria for non-compliance has, as Jackie has reported to us, not exceeded that threshold routinely. We don't penalize people every day that there's a problem, there's a process that our program has implemented so that we're not out there with a camera every time there's a problem and a fine levied. That's not an appropriate way to solve the problem. When is the problem systemic, when are the solutions not being implemented. That's one of the reasons we have escalated this, we've heard excuses too and we found them to be unsatisfactory, that's why we have escalated the discussion over the last six months for our concerns. The lack of equipment is not satisfactory to us, we can't get into your business, we're a voluntary oversight commission, we serve a particular role, to enforce the laws and regulations of the Cherokee Nation. We enforce, we don't support, we can't, it's not our role. If a policeman pulls you over to give you a ticket, if you're doing 45 in a 40, you may get a ticket or not, if you're doing 45 in a 20, you're going to get a ticket. That's what bumping up against issue can mean. It's the threshold and how far over the line are you when we determine if it's actionable. He asked Tom, how many notices of violation have we had in the last year? Tom replied, in the last year, probably one, since ICI, two or three. Chairman Matlock responded, a notice of violation is significant, a notice of violation means it's actionable and there will be adjudication at some level. We're engaged and this is a passionate issue for us too. The welfare of the land and the land owners and the neighbors is paramount to us. Again we share your passion and we support you in this issue. Commissioner Fite stated that more has been reported to them this morning than I've heard and I'm the longest serving member. Ms. Robinson responded that is what the Council told me, Chuck Hoskin Jr stated, I'm shocked, I said good, cause I want to shock you. Mr. Matlock is talking about systemic after ICI, it's been systemic, notice of violation, yeah, but what does that mean. I think it got to the point where it didn't mean a whole lot to those people. So, fine them, do something else. Commissioner Fite responded, what got to the level of the Commission was that Doug and Jamie, whoever was running the landfill, didn't

have equipment, didn't have resources, didn't have money, every meeting there was some excuse and I will tell you what we have been trying to do. We've been trying to engage the past administration and the present administration, instead of levying a fine, to try to take the issue to the Council. He stated that he has never had the opportunity to visit with the past or present administration about the landfill. If you go back and review the minutes of this Commission's meetings, I have raised the issues so many times, I don't even know how many I can count. I've always said the landfill and this Board, members that have circled around during my tenure, have echoed the same thoughts and some have resigned in frustration that the Cherokee Nation Landfill should be better by 1% than any other landfill in the State of Oklahoma, bar none. That has been our over arching goal but it's not our role, we have tried to find ways to bring all the parties together because it seems like when we levy a fine, all the talking stops. Nobody tries to coordinate at the point. They try to figure out a way to get around the fine. I'm interested in the landfill being what it was designed to be, environmentally sound, and be something the Cherokee people can be proud to operate. What I've seen in the last months goes back to Jamie and his team's efforts and certainly your guidance. In the last two years, it is my understanding, that there was a different Board, they were relatively new members, and we were trying to give them latitude, because we understood they were also trying to meet with the Council and Administration to determine what the fiduciary climate was going to be around the landfill. What has been circling in and out of here is that we were going to close it, or are we going to run it, or are we going to do something in between. It has had us scratching our heads, environmentally from a regulatory standpoint. We could have said this is the way it is then all the talking stops but we didn't want to do that. Ms. Robinson stated I have heard that as well, but I was hearing it from the CEO. When we got Jamie on board, he was told to be there every day and give leadership to make this landfill look like it is supposed to look and to do the things you are supposed to do, for a subtitle D landfill. We heard the excuses from companies that they don't want to contact with you because we're hearing you are going to close anytime. Commissioner Fite stated that is what we were hearing. Ms. Robinson continued, without Jamie trying, we're getting phone calls from people wanting to bring their trash there, so that's makes me think that some of that could not have been true. We are not even trying and we're getting customers. Commissioner Fite asked, are you taking them, are you contracting with them? Ms. Robinson responded, we are looking at one in Springdale that could possibly bring in 300-400 ton a day (Deffenbaugh). We have suspending the roll-off service that the CEO started because it was not working to our advantage, I saw that quickly. We didn't have the manpower to send a man in a truck to take a roll-off somewhere or go get it that's 3 or 4 hours away. That doesn't make sense. So we have suspended that work. There were lots of things going on that I'm finding out that were not true. Commissioner Fite stated, personally, before I act on the landfill, I'm interested in continuing my discussion with you and the other members to figure out where you're going. What's been a frustration the last several months to us is that we knew there was an evaluation going on, but nobody was sharing that information with us. Ms. Robinson stated that Charles Head, was heading that up. He was passionate about the landfill as well, but, that report only says what the engineers want it to say, like a lot of reports. It says, yeah, this is a great thing, Cherokee Nation has a Subtitle D landfill, and you should be making money off of it. To me, in the seat I'm sitting in today, if the Cherokee Nation doesn't get their act together as the largest tribe in this United States, they don't need to be operating that landfill. Amen from Commissioner Fite. Ms. Robinson continued, if the Council wants to spend millions of dollars, the three options that we gave them, it's going to cost millions of dollars for all three, whether they go into closure, whether they stay open, what is the other option? Uh, anyway, no matter what they pick. Commissioner Fletcher asked, give it to a third party, was that the third option? Ms. Robinson stated, no, because that has not worked, done that 2 or 3 times. Mr. Elkins stated, that was the option of that report but that's been discussed certainly. Unknown speaker, give to an outside source, a third party that was the third option. Ms. Robinson asked, as per whose report? Commissioner Fite stated our discussions. Ms. Robinson stated, not for us, not the options we gave to the Council. That's been tried and hasn't worked. Chairman Matlock stated that we lost millions. Ms. Robinson stated, we lost millions, how smart was that for us as a tribe.

That's not very smart. I say what I want to say because what can they do, fire me. Somebody needs to speak up and say these things about the landfill, it has gone on far too long and I cannot believe you as a Commission, and I heard what you say, did not put the hammer on those people (the previous CEO). Commissioner Fite stated, no one wants to listen to me, we have the same passion, I'm in the same spot you're in, you're spot on today Fan, I can't find fault in anything you've said, not one thing. Ms. Robinson stated that I would encourage you all to come to our meetings at the landfill. Chairman Matlock stated we had a joint meeting last December and we would love to do that at least a couple of times a year, it would be very reasonable to have a joint meeting. Ms. Robinson asked how did the landfill look in December. Commissioner Matlock asked when was it that we were there. Mr. Elkins responded, I don't remember if it was December. Chairman Matlock stated maybe not December but it was back in the fall. At the time, it was a landfill, it wasn't spruced up but there were no open, they were working one cell, it was Saturday meeting so the activity was relatively low, but it was not objectionable. It looked like a working landfill at the time, I didn't see open cover, didn't see deep erosion, I didn't see major problems. Ms. Robinson asked no erosion? Chairman Matlock replied, not deep erosion, they're steep hillsides; they were erosions, not gully erosions, no exposed cells. Ms. Robinson stated they knew you were coming. Chairman Matlock replied, of course, it was a scheduled meeting. It doesn't really serve us to criticize the past folks, doesn't serve us at all. Ms. Robinson stated that we have to do that to get to our point with needing money and to deal with the Council and to deal with you, we have to do this, that's why I'm here today. We want to move forward but we can't until we hear from the Council, to see what they want to do, they tried to put the monkey on our back as a Board, uh huh, it's on their back and we need to know what steps do we take to get a NDPES permit, what steps do we take to get that Clean Air Act permit. Chairman Matlock stated now that's our responsibility, that falls well into the Environmental Protection Commission's role, and we have struggled with the fact that we don't have a process. Mr. Clinton commented that we are getting a controlled drainage on everything that we can, cause I worked a landfill that is not tribal, and you control runoff, we're about 75% completed on that, that's helped immensely. Commissioner Fite asked are you eliminating the discharge points. Mr. Clinton answered yes. Ms. Robinson replied not all of them. Fourteen and something inches of rainfall. But we've got to figure out something with NDPES. Chairman Matlock asked Mr. Elkins what are you going to do about that. Mr. Elkins, what am I going to do, they're landfill, but. Chairman Matlock clarified our permitting process. Mr. Elkins responded, certainly, we have discussed, Jackie and I, he has talked to Jamie on daily basis about, what are the priority regulatory issues. The first thing is the cover, it was getting really bad. If you visit any landfill there's going to be a little trash exposed, not at the working base but somewhere else, not a good thing, but it's not earth shattering either. It kept getting worse and now Jamie is fixing it. Is it completely there, no, and they are covering it with shale, shale works good to cover but it's not going to stay there, when it rains it's going to erode, there's no way around. Chairman Matlock stated that it will need a clay cap. Mr. Elkins responded, exactly, but today the trash is covered. Next two issues, these are in relative order of necessity, the leachate collection system. Right now does it fit regulation, it does, we can't tell them, you're not going to run your business this way, you're going to run it this way, even if they both meet regulations. The leachate collection system, we had problems with it when it was designed but their engineer said this will work and put his engineering stamp on it. It doesn't work. Commissioner Matlock stated that my position is that is actionable. Mr. Elkins responded, I think it is too but that is their deal, we can't do that for them, that is theirs. It's not a good system, they have to manually go out and mess with it, that just leaves problems, you're going to have problems and that is what they have, problems. We've went from 36 or 39 inches of free board on that leachate and now we're at 27, we have an agreement with the landfill, certainly before the tenure of these people, but at two foot we take action. They have three inches and we're in the rainy season. So, there's an issue, they will have to do something with that and Jamie is really good about hauling leachate and getting it out of there, we talked before about getting rid of that leachate pond like we did before with the previous management, that's going to take time and money. All of these things, the Title 5 permit or working with the gas system,

that all has to be done with the NDPES and the slopes. All of those are regulatory concerns, they all take money. Which is the most pressing, before it was the trash cleanup because that was the most visible, it was the biggest issue. Are there things out there that are ready to explode, no, they are all regulatory issues and they all need addressed. You can't tell address them today, the Board, the Council, the Administration, whoever is going to make that decision, and I would imagine under our system of government, it would be the Chief's decision with the Council agreeing with him that they will fund this. Fan is exactly right, if you stop it tomorrow, close the landfill, you're probably looking at 8 to 10 million dollars to close that landfill. Commissioner Matlock stated that's my estimate also. Mr. Elkins continued, if you run it, although he is doing well with the equipment he has, you're going to need better equipment and you're probably look at 10 to 12 million dollars of equipment, maybe more than that by the time you build a new cell, because right now he's putting trash here in places, just because there no one good open cell to start doing that. If that's planned on being opened up fully, you probably take a year, 6 to 8 months minimum, to plan for the cell and construct that cell while you continue taking trash and putting in the places you still have available, thinking in the back of your mind these slopes need knocked down and that trash has to go somewhere, so you're looking at one extreme of shutting it down tomorrow, the other extreme of creating it and saying we want this as an ongoing business, if it's going to be shut down at some point, the most practical way is to have an engineering firm come in and say we can accept this much waste, a small amount of waste, for this many years and do a controlled closure of the thing and then walk out. You're looking at those three, yes, having another group come in and run the landfill is possible, but with the whole ICI stigma, I don't see the Nation doing that, would it work, certainly, if you had a great contract for it and there was good faith on both sides to do that, but as well all know there's a lot of political movement in something like this, not just a science of how it can be done. Ms. Robinson replied, going back to my question, how do we get a NDPES permit, how do we get a Clean Air permit, because, you shouldn't worry about the money, Tom shouldn't be worried about the money, that's not our concern, our concern is how that landfill is being operated, if it's good or not, and what the Council is going to say. We still need those permits, whether we close today, whether we close in 10 years, we need those permits. How do we get those permits? Mr. Elkins replied, they are different depending on what you plan to do, they're different, there's no way around it, I've complained since I took this position, that our rules do not fit well with our statutes, they just don't. Can we make it work with the AG's office, probably? Chairman Matlock stated that we can adjust our rules; we just can't adjust our statutes. Commissioner Fite replied, so we need to have a de-wronging of the rules. We need to simplify them, make them concise, and user friendly. Is that what I'm hearing you say? Mr. Elkins replied, certainly. Commissioner Fite stated then that's something we need to get on and Chairman Matlock agreed. There are attorneys out there that I know outside Cherokee Nation, if you have that ability that can come in, I went through that exercise with my agency, reduced seven chapters, 120 rules, to five chapters and less than 50 rules, it didn't take very long, but I had to go through the Administrative Procedures Act for the state. I had to go through all the hearings and legislative approval. I got that done for about \$12,000 and you can get that done for \$12,000. I know a guy that will do it and do it right. Mr. Elkins replied but I can't hire that guy. I can't hire and say I'm going to take that person; we have acquisition regulations that won't allow that. Ms. Robinson asked, is he Indian Ed? Commissioner Fite replied no but he happened to work for the state health department in DEQ and retired from there, his name is Bob Kellogg. He's no nonsense; basically, let's get the crap off the rules. Do we need to change the statutes to accommodate her answers? Mr. Elkins stated probably. Chairman Matlock asked, do we have statutory authority to administer an NDPES program. Mr. Elkins responded, no. Chairman Matlock stated that if we don't have statutory authority from the Council, then, you're telling me we do not have the authority. Mr. Elkins responded, we don't have for Title V either. Chairman Matlock stated, let's be clear here, statutory authority from the Council, based upon tribal regulations, which say we will manage and protect resources... Mr. Elkins stated, to the level the feds would. Chairman Matlock asked, so that can't be interpreted to say that we could then implement under our rules, why can't that be interpreted. Mr. Elkins replied, we can do that,

what does that mean, so the Cherokee Nation issues of Title V or something like a Title V...inaudible.....Commissioner Fite stated I thought we had treatment of state. Mr. Elkins replied, for certain parts, not for permitting. Chairman Matlock stated we don't have treatment of state for water, I know that. Mr. Elkins replied, we do for certain parts, but not for permitting NDPEs. Ms. Robinson asked, Tom, are you referring to not being able to permit because of EPA. Mr. Elkins replied, yes and no, the Tribe can permit anything it wishes, we can do that, on the other hand, will the feds recognize that permit, clean air, clean water, there are mechanisms, as you know, treatment of state for tribes to gain that authorization. We're never going to get that right now because of that midnight rider. We have certain parts of it but we're not going to get it in this political climate. Ms. Robinson asked, as a sovereign nation, with what Mr. Matlock just stated, the protection of, our Council, our Tribe, can do that on their own. Mr. Elkins affirmed. Ms. Robinson continued, and it's the right thing to do. Chairman Matlock stated, the Cherokee Nation...inaudible...discharge elimination systems permitting process that is completely compatible with feds but doesn't acknowledge the jurisdiction of the federal government process is consistence with our tribal ethic and it allows us to have equivalent protection of our resources but we're not encumbered with the oversight of EPA. Mr. Elkins stated right, and for the most part I think EPA would be OK with that. Ms. Robinson stated they would love it. Chairman Matlock commented that they are not going to challenge it. Mr. Elkins said we cannot get federal authorization to run our landfill but we take it, we already have it, we do it ourselves, not because they allow it, but because we want to. Chairman Matlock stated then we could do the same thing with NDPEs, we could do the same thing with air. Mr. Elkins replied yes we can. Ms. Robinson stated it should be done a long time ago. Mr. Elkins said the statutes and rules were put in place a while back by an attorney. They don't work real well and I've been going on about that for a while, if Ms. Sara Hill was here, I would ask what kind of timeframe are we looking at to do something like that, I don't know. Commissioner Fite stated that our rules should mesh with the statutes and we should eliminate redundancy, make them concise, and make them as plain spoken as they can be. Mr. Elkins and Chairman Matlock agreed. Chairman Matlock stated that programmatic implementation, our regulations should understandable by a competent layman and at first read, but the process should be linear and traceable. We have a member of the Cherokee Nation, a colleague and administrative volunteer asking for support, so we need to get the process underway to provide that kind of support. They are asking for regulatory framework for compliance, we need to provide the regulatory framework for compliance. It's a fairly simple request we need to respond to. I know I'm throwing a heap of load stuff on your desk. Mr. Elkins stated is that doable in the timeframe they want, I don't see it. Chairman Matlock asked if it was doable at all. Mr. Elkins replied, it has to be doable. Chairman Matlock stated then let's do it, let's start. Ms. Robinson stated that we didn't give a timeframe and is this my request for those two permits, this meeting, do we need to do it in writing. Mr. Elkins responded that we would give you the regulatory overall framework for that and you would put that request together. Chairman Matlock stated that this is valuable for us, I understand the challenges, in some ways I don't want to force the question with the Council, in many ways the Council isn't aware of the challenges we face because they don't understand the tedious difficulty of a permitting process. This is a way to elevate that issue to the Council. If there are objections within the Council for us engaging in this process, here's a way to have a mechanism to have a conversation with Council. We're implementing, to the best of our abilities, Council's wishes through legislation, Cherokee ordinances that have been passed by Council. We're trying to implement their will. Is that reasonable? Mr. Elkins stated it is. Chairman Matlock stated we don't need to take a vote on it because it's not Motion level, but I think it would be reasonable for you to come to us at the next meeting, or by August, with a plan of how to implement, then we could take action on that. Is that reasonable to do Commissioners? Commissioner Fite stated I think it is but I think we still need to have that meeting with the Administration; we've got to have their buy in. Mr. Elkins stated that Dr. Matlock met with the Administration and Secretary of State Charles Head. Chairman Matlock replied that we had a very good meeting about these issues, it was a very positive meeting, in the meeting we talked about the landfill and the role we should we play, and the role we agreed to

play was one of diligent watchdog but not aggressive attack dog. See the difference. Ms. Robinson stated, yeah, that's too bad. Chairman Matlock stated there was a reason, they were in transition, in the midst of trying to figure it out, they needed to figure out what to change, it wasn't to stay away, it was give us time to figure this out because I have a fairly high certainty based on the outcome of that meeting, that discussion is all public record, if we were to move forward with notice of violation on every minor violation, it would precipitate into a simple closing. We've been very clear from the very beginning that we're not here to close the landfill, whether the landfill is open or closed, from our administrative role is not particularly relevant, compliance is what is relevant. As Cherokee Nation citizens we've been on the record as saying we support the mission of the landfill. The mission of the landfill is to serve the citizens of the Cherokee Nation in finding a safe and secure way of disposing solid waste. We've been very supportive of that mission as individuals. Ms. Robinson replied that our Board can shut down the landfill and we almost did that until resignations happened and we brought this man on board. Understood, per Chairman Matlock. Ms. Robinson wants to publically state that Jackie has been a tremendous help and when we go before the Council in this Special Meeting that is coming up, I'm going to ask that he be present because he has answers to questions that he has seen himself, on a daily basis, for a long time. He has pictures to that effect. We need his help. Commissioner Fite asked if there was a special meeting coming up. Ms. Robinson answered in the affirmative but does not have a date and hopes she'll find out today. I've been given tentative dates of June 27th or July 15th, and, yes, I would welcome you all to be there. Commissioner Matlock stated that the problem with all of us being there, it's a public meeting and we have to go through the process. Can we designate a representative from us? Ms. Robinson stated you can all be there, it's an informational meeting, it's not a commission meeting, it's a not a board meeting, it's a meeting of the Council, it's information. Commissioner Matlock replied, it gets tricky but you're probably right, I don't doubt that, but it does get tricky, we can't sit together. I would be very comfortable Commissioner, if you and maybe a couple of others were there to represent our interest and have our blessing at representing our position. Commissioner Fite stated he would be there, one of my frustrations is that I remember the old wildcat dumps, and I remember the efforts expended in the 80s and 90s to clean those up, and move all that material to the landfill to properly dispose of it. We've had these paramount points in time where we've said the landfill is getting better, and then we lose that momentum, I don't know how it happens, but we lose it. It's not just this administration, it's the previous administration also hasn't been able to capitalize on some of the gains. Ms. Robinson stated that is why it is so frustrating for me as tribal member to say, my tribe is the largest tribe in this country, why can't we do something right, I know it is. Commissioner Fite stated you sound like me. Chairman Matlock said you would be very comfortable on this side of the table; we've ranted and raved to no affect. We need a strategy for effectiveness. Ms. Robinson stated it was a good point Jamie wanted to make and I'm going to make it for him. We want you to come down us, if we need it, we want you to and we'll go to battle with the Council and the Administration as a Board. Chairman Matlock stated that we'll certainly be that wall that you get pressed up against if you have to be so you can go forward. We'll certainly help push you forward; we have no fear of that. There are 1000 rules you can violate on any given day, some of them matter, some not so much. We want to make sure you have a very aggressive on the ground representative of the Environmental programs working with you to understand your system who can be the eyes and ears of this Commission. Ms. Robinson stated that he needs to be given a big stick from this office. Jackie, we love him, he does a great job, sometimes he almost too nice about it. Chairman Matlock stated that he had full confidence in his ability; he has a spine of steel. Ms. Robinson asked, do you need a board member at these meetings every month or just Jamie. Chairman Matlock stated that you're welcome anytime but that's up to you, we need Jamie here, we need a report from the landfill. Commissioner Fite stated that we have Jackie that tells us what's going on at the landfill, but it helps to have someone that is responsible for the landfill to be here for both sides of the issues so we can fairly weigh them. Ms. Robinson stated that she wants Jamie very positive about what's going on out there, but I want him to also say the negative along with Jackie because they see it every day.

Commissioner Fite stated that what has been reported to us the last year is that there hasn't been equipment, that's been the over arching message that has come to us and we can't get the dollars to fix it. Ms. Robinson stated that we're working with what we have and he's doing a great job. Commissioner Fite continued in saying that we are not taking contracts from outside parties so we're trying to downsize the way we run the operation. Mr. Clinton stated that one of the issues he's working on now is looking at the mulch they are looking at taking, in price negotiations; I'm not going to take it for free because I don't have to. It's going to be very beneficial to us, but I want to get paid for it. This office has already looked at this mulch and says it's good. The supplier is north of Stilwell. Ms. Robinson thanked the Commission for the opportunity today. The Commission thanked Ms. Robinson for her service and information provided.

- B. Compliance Issues – Mr. Elkins stated that the compliance issues have already been discussed, I don't know what will come first on this since we will be writing up NOV's for everything there are issues with, I guess, once we have the regulatory framework or make it known, these are the issues out there, the leachate issue, the landfill gas, NDPES, and the slopes, these are all regulatory issues. They are not, from a risk standpoint, they are not something that will be a problem today or tomorrow but they need fixed. They would address these I imagine if and when they decide, certainly they need fixed, they need fixed today, but they would change how they address those if they are going to stay open or close, it's a different manner of doing it. The commission has allowed them the latitude to do that, on the other hand, if they wish to be regulated to that extent, I assume that needs to be written up and put before you. Chairman Matlock responded, certainly that would precipitate a decision of the Council or Administration, because then it forces a decision, and I think we've been at this discussion for four, five, six months. I think it's time to go ahead if you see violations of the rules or regulations. Commissioner Fite stated that we have another wealth of expertise that has observed that landfill for years and that's Pat Gwin. Pat you've listened to us banter this around today, do you have any input that would be beneficial to the Nation on this issue or anything you would warn us about. Mr. Gwin responded that the one thing he would like to mention is what I just heard, was that wood waste was being delivered to the landfill and I would urge if that is definitely going to increase the BODs and CODs of our discharges and we make an extra effort to make sure, particularly that south and east storm water pond, make sure the discharge on that does not have an extremely high discharge of BODs and CODs, the last thing that this tribe needs is a public fish kill or some type of biological issues down that creek. Commissioner Fite explained that BOD is a biological oxygen demand, when you introduce a substance into the water it robs the oxygen and makes it plummet and that's what causes the fish kills. Mr. Gwin added that we're coming into that time of the year we might have some issues, I just ask and make sure they cover that. Ms. Robinson stated that if we are hit with NOV's or the NDPES and Title V, I want it to be noted that we have requested process from the Environmental Protection Office and have none to date. Chairman Matlock stated that you will not get a Notice of Violations for something that we don't have a regulation for, that won't happen. Tom has articulated the 3 areas of concern; once again we're not just here just to write tickets. Commissioner Fite asked Mr. Elkins does Oklahoma and Arkansas have a primacy of water quality standards, would that potential state issue that would come up in lieu of EPA. Ms. Robinson stated it was a possibility. Mr. Elkins stated he would like to have the AG's input on that. Chairman Matlock asked on what, the Oklahoma Attorney General's office is very clear. Commissioner Fite stated Mr. Elkins was referring to the Cherokee Nation.

7. Cherokee Nation Water Plan

- A. Discussion – Mr. Elkins stated that Ms. Hill was out today, work has continued, meeting on June 18th with the contractor, the Council did fund the rest of this year for the water plan, a request has been put in for next fiscal year. At the next meeting an update on the water plan may be available.
- B. Comments - none

8. New Business – Commissioner Fite stated that URS was in attendance and interested in the wind farm. Mr. Elkins stated that the last meeting he attended was at the end of the last calendar year. Commissioner Matlock stated that once again this goes to a regulatory process that we do not have in place. It's hard to enforce regulations that we don't have. The State of Oklahoma gets to run roughshod over us and that's what's happening in this issue. Chairman Matlock stated that when he first started Jeanine was revising the rules, we went through them with a fine tooth comb then and there were a lot of things we wanted to do that we were not allowed to do back then. Commissioner Fite asked if someone can legally retain the services of a Bob Kellogg that is a Cherokee Nation vendor to do this review for us. Mr. Elkins replied that Cherokee Nation takes TERO vendors first, if there is a TERO vendor that has the ability to do what we want we contact with that person, that's anything under \$5000. Over \$5000 is put out for a proposal or a bid, depending on the amount of the contract, is how much of a percentage and then a non Cherokee Indian would have in preference for that bid. If the bid amount is X high, they've got this much preference, if it is going to be this high, they only have that much. Sole source can only be done if there is no other source for that. The URS representative stated that they had read in the paper that the wind farm was ready to be built. Chairman Matlock stated that we saw no applications, we have no jurisdiction, at this time, of the procedures which we see as problematic. It is a large facility without any interaction with us. Mr. Gwin stated that if the agreement that was signed remains unchanged from a similar agreement previously, they are not going to construct a wind farm, all they have agreed to is we have signed over the rights to build a wind farm to a third party. I'm not sure there are plans to break ground. Discussion ensued regarding wind farm specifics, Mr. Gwin stated that Ms. Carol Wyatt may be contacted for specifics.
9. Announcement of upcoming meetings and events – At 6:30 in Fort Smith is a meeting for the Arkansas Water Plan Update at the Convention Center downtown. The next EPC meeting will be held on July 2, 2013 at the regularly scheduled time and location.
10. Commissioner Fletcher made a Motion to adjourn, Commissioner Fite seconded the Motion, meeting adjourned.