

**MINUTES**

DEPARTMENT OF WATER SUPPLY  
COUNTY OF HAWAI'I  
WATER BOARD MEETING

June 15, 2010

Department of Water Supply, Operations Center Conference Room, Hilo

MEMBERS PRESENT: Mr. Dwayne Mukai, Chairperson  
Mr. Robert Meierdiercks, Vice-Chairperson  
Mr. David Greenwell  
Mr. Kenneth Kaneshiro  
Mr. Bryan Lindsey  
Mr. Delan Perry  
Mr. Joe Reynolds  
Mr. Art Taniguchi  
Mr. Milton Pavao, Manager, Department of Water Supply  
(ex-officio member)

ABSENT: Mr. George Harai, Water Board Member  
Ms. Bobby Jean Leithead-Todd, Director, Planning Department (ex-officio member)  
Mr. Warren Lee, Director, Department of Public Works (ex-officio member)

OTHERS PRESENT: Ms. Kathy Garson, Assistant Corporation Counsel  
Mr. Jerryl Mauhili  
Ms. Morag Miranda  
Mr. Don Nitsche  
Dr. Rell Woodward  
Mr. Jim Greenwell  
Ms. Michelle Galimba  
Mr. Tommy Goya  
Ms. Lorie Farrell

Department of Water Supply Staff

Mr. Quirino Antonio, Jr., Deputy Manager  
Mr. Kurt Inaba, Engineering Division Head  
Mr. Daryl Ikeda, Chief of Operations  
Ms. Candace Pua, Assistant Waterworks Controller  
Ms. Kanani Aton, Public Information and Education Specialist  
Ms. Julie Myhre, Energy Management Analyst  
Mr. Keith Okamoto, Engineering Division  
Mr. Larry Beck, Engineering Division  
Ms. Crestita Hudman, Customer Service Supervisor

CALL TO ORDER - Chairperson Mukai called the Meeting to order at 10:01 a.m.

STATEMENTS FROM THE PUBLIC:

Chairperson Mukai announced that public testimony would be limited to five minutes per testifier, with Vice-Chairperson Meierdiercks acting as timekeeper. Chairperson Mukai called upon the first testifier, Mr. Don Nitsche, representing Ocean View Community Development Corporation.

*(All testimony which follows is recorded here verbatim.)*

**MR. NITSCHKE:** I just have a very brief statement. As you're probably well aware, we're not very happy with the progress of our water source system in Ocean View. We've been working on it for many, many years. And I do not understand when, after three years, we are now told that there is not enough funds to finish the Ocean View water source project. The public always gets... This is kind of a general statement for different things. The public always gets the same answers as to why slow or no action on important, top-priority projects. Why did not the powers-that-be start action to begin necessary changes in the system to simplify and make it less obstructive? And that's all I have to say. I think you're all aware that we're rather unhappy with the progress, and we're anxious to get that source going. They've been working on it for many years, and the state funding has been available for many years to do the project. And we have a hard time just understanding why it has been so slow and standing still for so long. The well has been completed for about two years, and still there's no progress on the holding tank and the transmission line to bring it down to the loading area and loading (tank?) And there's a lot of other questions that I'm sure will follow. Thank you very much.

**CHAIRPERSON MUKAI:** Thank you, Mr. Nitsche. Next, Rell Woodward, in regard to the Ocean View project, representing the Ocean View Community Development Corporation.

**DR. WOODWARD:** Thank you, Mr. Chairman. I'm Rell Woodward. I'm a board member and I serve on the Water Committee of the Ocean View Community Development Corporation. And I'm a late-comer to this Ocean View project. I've only been involved with it for five years. Don Nitsche, who just spoke, and also our state Representative, Bob Herkes, have been carrying the torch on this project for over 15 years. And as you know, work has stalled recently on this project, and Representative Herkes has initiated an investigative committee with subpoena powers to determine the cause. And the project was originally scheduled to be completed at the end of 2009, and that statement is found in the Final Environmental Assessment, Section 1, Paragraph, Page 7. The fact the drilling of the well was completed December of 2008, 18 months ago. Water quantity and quality testing were completed a month later, January 2009. And in those 18 months, Mr. Pavao, in his response to the statement to the state investigative committee, actually admitted that even the initial design phase for the remainder of the project has not been completed. Not only that, but even after 18 months, no approvals or permits have been sought, much less issued. And as far as I'm concerned, all we've gotten so far is excuses, and there really is no excuse sufficient to justify these delays, except for gross mismanagement and failure of oversight. Mr. Pavao had claimed that we were notified early in the process that funds were inadequate. In fact, that's not the case. Don Nitsche, Loren Heck, who was on the Board at the time, and I attended the Water Board meeting in Waimea in the summer of 2008. At that time, plans included a 250,000-500,000-gallon tank and multiple truck fill sites. Mr. Pavao stated that funding would be adequate. We were first confronted with the issue of funding constraints in March 2009, when Mr. Pavao informed us that the down-sizing of the tank to a totally inadequate 100,000 gallons was required, as well as reducing the number of truck fill sites to just one. So we in fact did not demand any additions to the plan, but we certainly objected to this down-sizing, which would have essentially rendered the project useless to the needs of the community. And I'm sure you're going to hear another raft of excuses today for the delays, blaming everybody except the Department of Water Supply. And that's the same song and dance we've had now for a year and a half. And the fact is, there is no excuse sufficient. And the inescapable conclusion is that there's been gross mismanagement and failure of oversight. And the facts and the specifics will be forthcoming, once the state investigation is completed. But personally, I have no doubt that there's a serious problem with leadership at the Department of Water Supply. And we've played nice all the way along, and now we feel it's time for a change. And we're here today because I ask you to look carefully at the facts as they unfold, and make the decision about the current leadership of the Department of Water Supply. This is a semi-autonomous agency; you're the only group empowered to make such a change, and I hope that you will take that responsibility seriously. Thank you for allowing me to testify.

**CHAIRPERSON MUKAI:** Thank you very much. Next, we have Mr. Jim Greenwell, with regards to the water rates/ag use. He represents the Hawai‘i Cattlemen’s Council.

**MR. JIM GREENWELL:** Thank you, Mr. Chair and members of the Board. I won’t repeat testimony we previously submitted. I realize you have a couple of new members. I came today more as a resource, in case there were questions or issues to discuss with us, but basically we continue to support the ag rate in various scenarios, but something similar to what we now have, possibly with some increases. I know that was left under review after the last meeting. So I’ll stick around for your questions, and I’ll be happy to try to answer those further. Thank you.

**CHAIRPERSON MUKAI:** Thank you. Next, we have Michelle Galimba, with regards to the ag rates, and she also represents the Hawai‘i Cattlemen’s Association.

**MS. GALIMBA:** Hi, I’m Michelle Galimba. I’m the new president of the Hawai‘i Cattlemen’s Association, which is a little different from the Hawai‘i Cattlemen’s Council, but...

**CHAIRPERSON MUKAI:** Sorry.

**MS. GALIMBA:** That’s okay. No one can keep it straight. I believe basically the Association represents 60 ranchers on the Island of Hawai‘i, and we have testified previously and we have submitted a suggestion on ag rates. And I’m just here in support of that, representing the cattlemen. Thanks.

**CHAIRPERSON MUKAI:** Thank you. Next, we have Mr. Tommy Goya, representing himself with regards to the water rate increase.

**MR. GOYA:** Good morning, Milton. My name is Tommy Goya, and I’m here to again ask for your consideration on the deliberation of the proposed water use rate options and the increases that were proposed. Before I begin, I highly respect the testimony of those that had made the effort to testify in support, especially the Hawai‘i Cattlemen’s Association, Jimmy Greenwell and especially Monty Richards up there in North Kohala, suffering extreme drought conditions no one has ever imagined. I’m here to ask for your further consideration of my proposal in the deliberations for the proposed water use rate increases that are planned to take effect on July 1, 2010. It is my understanding that my proposal was briefly reviewed by the Board, and not recommended to be forwarded to your consultant for further analysis. As mentioned in my previous communication, a previous commitment kept me from attending your main Board meeting to answer questions you may have had about my proposal, my background, and interest in this very important matter. I will make myself available during your deliberations today. Again, my key points are, for the general use customers, a fixed use rate for the first block for the first five years, and increases in the second, third and fourth blocks, which is the majority of the consumption, to more strongly encourage conservation and sustainability. For the agricultural use customers, my recommendation is for no increase from its current level for the first two years, with a 15 percent increase for the next five years. My rationale for not increasing the agricultural use rates for the first two years is to give these customers an opportunity to make operational adjustments to take into account future use rate increases of 15 percent a year, and hopefully a return to more consistent annual rainfalls. Number three, the rationale for the seven-year planning period is to take into consideration the increasing cost of operations, the deferral of future consultant rate planning fees, and allowances for longer-term decision making and strategic planning by the Department, the Board and its customers. The revenue impact I’ve calculated provides for a slight increase in the first year, no increase in the second year, with increasing revenue as economic growth occurs in Years Three through Seven. As a previous member of the Water Board, I helped initiate the change to the Department’s motto from “Water Brings Progress” to “Water, Our Most Precious Resource.” The use of water has always been a part of my long-term interest in sustainability for this island. I’ve embraced it as my kuleana and my responsibility, as water truly is our most precious resource. Mahalo for your time and attention.

**CHAIRPERSON MUKAI:** Thank you, Tommy. Next, we have, I believe it's Lorie Farrell? She represents the Big Island Farm Bureau with regards to the water rates.

**MS. FARRELL:** Aloha, Board. I'm here this morning as a resource on behalf of the Big Island Farm Bureau. We represent 650 agricultural producers on the Island of Hawai'i. We're on record already in opposition to the original proposal of the water rate changes. We are in favor of the Cattlemen's Association's proposed changes. Basically, we're on record already, so we're here today as a resource. Thank you.

**CHAIRPERSON MUKAI:** Thanks, Lorie. She's with the Big Island Farm Bureau. Next, we have Morag Miranda, with regards to (her) water bill. Oh no, you're on the Agenda, okay. Okay, is there any further public testimony? Hearing none, we'll move on.

**ACTION TO MOVE AGENDA ITEMS:**

Chairperson Mukai, in order to expedite the proceedings and to accommodate the people in attendance today, moved Item 9(A), HAWAIIAN OCEAN VIEW ESTATES to follow Item 6(A), DISPUTED WATER BILL FOR TMK 4-4-003:029, LOT 15. He also moved up Item 10(G), WATER RATE STUDY, to follow Item 9(A), HAWAIIAN OCEAN VIEW ESTATES.

**APPROVAL OF MINUTES:**

Chairperson Mukai entertained a Motion to approve the Minutes of the regular meeting of the Water Board on May 25, 2010.

**MOTION:** Mr. Meierdiercks moved to approve; seconded by Mr. Lindsey.

Mr. Taniguchi requested a clarification on his comment at the bottom of Page 18 in the Minutes to read: "Mr. Taniguchi **asked whether** the letter to the editor that the Manager had written was accurate." He noted that the Manager responded positively. (The sentence had originally read: "Mr. Taniguchi confirmed that the letter to the editor that the Manager had written was accurate.")

**ACTION TO AMEND MINUTES:** Mr. Taniguchi moved to amend the Minutes to correct his comment; seconded by Mr. Meierdiercks, and carried unanimously by voice vote.

Mr. Reynolds asked for a correction to a quote on Page 19 of the Minutes to read: "We **should ask** him." (The sentence had originally read: "We asked him.")

**ACTION TO AMEND MINUTES:** Mr. Reynolds moved to amend the Minutes to correct his comment; seconded by Mr. Taniguchi, and carried unanimously by voice vote.

**ACTION TO APPROVE MINUTES AS AMENDED:** Chairperson Mukai called for a vote to approve the Minutes as amended. Minutes as amended approved unanimously by voice vote.

**APPROVAL OF ADDENDUM AND/OR SUPPLEMENTAL AGENDA:**

None.

**SOUTH HILO:**

A. **WATER AVAILABILITY FOR HAWAIIAN HOME LANDS:**

Honomū residents Mr. Jerryl Mauhili and Mr. Jason Mattos, Sr., gave public testimony at the April 27, 2010, Water Board meeting regarding water availability in Honomū, and requested that the item be agendized.

Mr. Mauhili noted that his request for water availability was in regard to the property at TMK 2-8-11-11 on Akaka Falls Road, which is on Hawaiian Homes land. He had submitted the request in a letter to the Board, which was enclosed in the Board's packets. Mr. Mauhili's original request for water availability was made to the Manager in March 2010, and the Manager had responded in a letter in April 2010, Mr. Mauhili said. According to Mr. Mauhili, the Manager's response was that water could not be granted at this time because of three specific issues:

- The water in question is untreated water;
- The psi (water pressure) was just 10-15, which was substandard vis a vis the normal psi of 40;
- The third issue was with regard to the fact that the water was being drawn from a surface well system and given to the state Forestry Division back in 1960.

Mr. Mauhili said there was a Clean Water Act ruling that right now is a result of the new well that was developed in Honomū, that is subsurface-drawn versus surface-drawn water availability. He said that the old system was on a surface well intake that comes from above the Akaka Falls intake, and goes down to Honomū Village. Mr. Mauhili heard that the old system was on standby because the new system was incorporated with a new well and a new tank. Mr. Mauhili said his request is to draw from that system above, which he said is considered a standby system. He referred to the Hawaiian Homes Commission Act of 1920, Section 221 (a) and (b), copies of which were distributed to the Board today. He noted that because of the legal ramifications involved, his request was being referred to Corporation Counsel. Mr. Mauhili said that he had an agricultural activity ongoing on Hawaiian Homes land in Honomū that was given back to Hawaiian Homes in 1993. That land sat idle from 1993 to 2005, and Mr. Mauhili started his operations there in 2007. Water is key to the success of his agricultural endeavor, he said. He noted that the Hāmākua region is seen as the breadbasket of the island of Hawai'i, if not the entire state. Without water, it is difficult to plan and ensure steady production of agricultural commodities, he said. Therefore, he is asking the Board to consider making water available to the property at TMK 2-8-11-11. Mr. Mauhili said he had asked the Manager where the existing pipes are running down the roadway, because Mr. Mauhili had equipment in the area and did not want to pull up any of DWS's pipes. The pipes' locations have been demarcated, with possible lateral sites that might come up into the land area, he said. He concluded by saying he believed that the possibility of having water available will be determined by the Board.

Chairperson Mukai noted that information that Mr. Mauhili brought in today was circulated to the Board, which was in addition to previous testimony. He asked Ms. Garson for comments, noting that Corporation Counsel is reviewing Mr. Mauhili's request.

Ms. Garson, noting that Mr. Mauhili had provided Section 221 (a) and (b) in a handout to the Board today, said that Mr. Mauhili is not prevented from getting his own source. She said that the handout is not a reference to being able to tap into a DWS line. Rather, it is a reference that means that Mr. Mauhili can go and get his own source, either a spring or surface water through the State of Hawai'i by going through the state regulatory process. Ms. Garson did not think that Section 221 obligates the Board to allow people to tap into the DWS system at a place where the water is not being treated. DWS provides potable water, which is subject to Department of Health (DOH) regulations. The entire system is considered the public water system and is therefore subject to DOH regulations. In order to grant a request such as Mr. Mauhili's, the Board would need to make a policy decision and adopt rules and regulations for the provision of irrigation water or untreated water. Currently, DWS does not have those rules and regulations. DWS's rules and regulations involve only potable water, Ms. Garson said. She said Mr. Mauhili had brought forward a very good issue, and the Board needs to consider, at a policy level, whether this is a direction in which the Board wants to go. If the Board so chooses, Ms. Garson can guide them through the process. It may mean having another system that is not connected to the public water system. Subject to whatever rules and regulations that the Department has, Mr. Mauhili can get potable water for his agricultural use. She believed the issue is tapping into the DWS system at a place where the water is untreated. It is for the Board's

consideration on a general policy level, but Ms. Garson said Mr. Mauhili's request cannot be granted at this time without further discussion or further rules.

The Manager noted that DWS is a potable water agency, which serves agricultural customers. The Department's agricultural customers are served according to DWS rules and regulations, whereby the water is treated and pressure conditions are met, along with other requirements. For DWS to change the regulations now and create non-potable water systems would jeopardize the Department's ability to maintain and obtain State Revolving Funds (SRF) that DWS uses to do improvements. One option for Mr. Mauhili is to apply to the State Commission on Water Resource Management to use water off of the spring. The Commission holds the entire waters of the State of Hawai'i in trust, and the Commission governs all waters within the State, he noted. The other option that DWS can offer, as the Department offers to some farmers in Ka'u, is to have Mr. Mauhili take the overflow from the cistern where the raw water goes down into the box before it goes into the tank. There is a cistern halfway between the spring and the tank. When the tank is full, the tank valve shuts off and the water overflows into the cistern.

Mr. Mauhili asked if that was the relay that was by the side of the road.

The Manager said yes, it is on the side of the road, and that overflow water is being wasted.

Mr. Mauhili said that on numerous occasions he had seen the water flowing right down the road.

The Manager said that water was coming from the spring, and the overflow was at the cistern. He said that Mr. Mauhili was welcome to that overflow, over which DWS has no jurisdiction. However, DWS cannot give Mr. Mauhili water off of the pipeline. Summing up, the Manager said Mr. Mauhili has two options: to apply to the Commission for a permit to take water from the spring, or to take the overflow from the cistern.

MOTION: Mr. Meierdiercks moved that DWS not authorize anything that the Department is allowed to offer anybody beyond the rules and regulations of DWS's program or the systems that DWS controls. Mr. Taniguchi seconded.

Mr. Perry asked Mr. Meierdiercks to explain his Motion.

Mr. Meierdiercks said that DWS has rules and regulations in place that monitor the systems that DWS controls, which is **potable** water. The issue at hand involves non-potable water, and the Department should not get out of its jurisdiction at this point, Mr. Meierdiercks said. He said that was his main concern in making this Motion. He did not want to give DWS authorization to grant somebody something that DWS does not have the right to give. If the Board wanted to set something up, it would be necessary to check into whether the Board even had the authority to do so.

The Manager said that Mr. Meierdiercks's Motion basically says that DWS should abide by its rules and regulations. At this point in time, DWS has no alternative other than to abide by its rules and regulations, he said. That means that DWS cannot grant Mr. Mauhili his request.

Mr. Reynolds asked about the Manager's comment that DWS could lose SRF funding if DWS were to do such a thing as allow tapping into untreated water.

The Manager said that if DWS does a rule change and considers that system an agricultural system, then it no longer falls within the purview of the State Revolving Fund program, because it is not a potable water system.

Regarding Ms. Garson's mention of the Department of Health, Mr. Reynolds said it seemed to him that if the SRF issue could be taken care of, that the DOH issue could be dealt with by some kind of agreement with the user of the non-potable water, to alleviate DOH's responsibility if anything

happened. That would be a way to consider, he said. He said he did not know if this kind of thing comes up frequently, but if it does occur frequently, the Board should perhaps look into such an arrangement.

Ms. Garson said she did not know if the Board can enter into a private agreement with an individual to *not* comply with DOH regulations. That would be something that she could look into, she said. However, process-wise, Ms. Garson was not sure that it would be permissible to have a customer agree to not be subject to DOH regulations.

Mr. Reynolds said he knew of places that are using brackish water.

The Manager said that was not from DWS's system.

Chairperson Mukai spoke in favor of the Motion, saying it was his understanding that it is not DWS's jurisdiction now, and that the Board would be venturing into a very gray area. The reason that he is speaking in favor of the Motion is because, given what the Board knows today, the Board cannot grant the request for water availability. There are litigation issues, health issues and funding issues, he said. This might be something that the Board can look at in the future, he said.

Mr. Meierdiercks said he was not against Mr. Mauhili using the water, but he wanted to protect DWS from any liability issues.

Mr. Okamoto said he wanted to clarify that the Akaka Falls spring source is not on standby. The spring source is actually being actively used in the system. DWS does have a new well there, but the new well is not the primary source feeding the system right now. Therefore, the Akaka Falls spring source is still *the* source for DWS's water system there.

Mr. Kaneshiro asked the Manager if the overflow water was treated water.

The Manager said no, it was not treated water. He explained that the way the system is, the spring is by the Akaka Falls park, on the side of the hill. DWS pipes the water down to the tank that is just above Honomū Village. Because the pressure is so great, DWS has to cistern the water to break the pressure. However, when the tank fills up, it shuts the valve, and the water backs up and overflows at that box. That is the overflow water, which is raw water. DWS treats the water at the tank. The cistern, which is halfway between the spring and the tank, acts as a pressure breaker. Mr. Mauhili can take the overflow water from the cistern, he said. The overflow water is currently being thrown away. Mr. Mauhili would have to capture the overflow and probably pump it up to his property, the Manager said.

Mr. Mauhili cited the Hawaiian Homes Commission Act, saying that everybody who becomes a water licensee has to be subject to its rules and regulations. He reiterated his pressing need for water, and asked that the matter be addressed as soon as possible. He noted that DWS's main system there is rather obsolete because if it is a surface intake, the Act refers to it as "surplus water." He said he understood his two options now, but he said he is in need of water at the top of the hill, not at the bottom. The property at TMK 2-8-11-11 is right up by Akaka Falls State Park, he said. Mr. Mauhili would not be able to take water from the relay portion (the cistern) because the water cannot be pumped back up. He noted that Akaka Falls park is taking non-potable water for its bathroom. Because of his need for water to allow his operations to succeed, Mr. Mauhili asked the Board to seriously look at what the water licensees are responsible for under the Hawaiian Homes Commission Act of 1920. He said that a water meter was supposedly grandfathered in to the park in 1960, prior to the Clean Water Act of 1974. The Hawaiian Homes Commission Act is very much a part of the Compact Agreement for statehood in 1959, and he would like to see this addressed as soon as possible, he said. He said he could take the water from the lower section and set up a holding tank and develop his own psi to bring the water out, but that would not work for him at the top.

Mr. Taniguchi asked Ms. Garson about the Section 221 that Mr. Mauhili was referring to.

Ms. Garson said with regard to the “surplus water” that Mr. Mauhili is referring to, there is no prohibition against Mr. Mauhili going to the source, or getting any surplus water that he can apply for. Mr. Mauhili can go to the source, but it is not necessarily surplus water that is coming out of the tank. Section 221 is talking about *source*, and that is all, she said.

Mr. Taniguchi asked about the obligations of the water licensee, which in this case is DWS. His understanding was that DWS is not obligated in this case.

Ms. Garson said that was correct. In line with Section 221, whatever DWS has a license for, if there is surplus water, Mr. Mauhili can apply for it. That does not mean that there is a right to something in DWS’s system. It is from the source, she added. Ms. Garson pointed out that Mr. Mauhili cannot just go and take the excess water; he might need to sign a waiver and he might need easements, etc. There are other legal considerations involved, so Mr. Mauhili cannot just start putting up a line there.

Mr. Mauhili said okay, he needed to understand what those requirements are. He wanted to conform to whatever is required, as evidenced by his inquiry as to where DWS’s pipes were -- to prevent his equipment from damaging the pipes. He reiterated that the system there, which is still drawing water from the surface, is outdated and not in compliance with the Clean Water Act of 1974. He said that if that is DWS’s main water source, DWS is not in compliance with the water rules of getting clean water through a surface intake.

Mr. Okamoto clarified that although the water appears at the surface, it is not considered a surface water source. It is still considered a ground water source; it is a spring that comes out of the ground. DWS encapsulates the water in a box that DOH has inspected and has shown that it is not surface water-influenced. In other words, rain water cannot get inside this box. So far as the DOH is concerned, it is still a ground water source, and so DWS is 100 percent in compliance.

Mr. Mauhili said he stood corrected on that assumption. Going back to taking the overflow water, he expressed willingness to sign the waivers, etc. in order to be able to use that water. He said that he did not want to be defiant; on the contrary, he wanted to be compliant, in order to get water for his specific needs. He said that without water, his crops and livestock could not survive.

The Manager said the bottom line was that Mr. Mauhili had two options:

- To get water from the top, he can apply to the Commission of Water Resource Management;
- To get the overflow water from the cistern.

If Mr. Mauhili decides to take the water from the overflow, he may sit down with DWS and together they can look at the situation and go through the right legal procedures so that Mr. Mauhili can get the overflow water. There is no way that Mr. Mauhili may tap into the DWS pipeline, under DWS’s current rules and regulations. DWS stands ready to work with Mr. Mauhili when he decides what he wants to do.

Mr. Perry asked for clarification on whether the Motion would influence Mr. Mauhili’s ability to get water from the cistern.

Mr. Meierdiercks said his Motion called for whatever is permissible under the Department’s rules and regulations. The Motion does not give DWS authority to go *outside* of the realm over which it has control, he said.

The Manager said he wanted to make clear that DWS has no jurisdiction over Mr. Mauhili’s taking water at the spring. That jurisdiction lies with the State, he said. On the subject of SRF funding, if it is a non-potable system, DWS would not be eligible for funding.

ACTION: Motion carried unanimously by voice vote.

Mr. Perry asked if it would be appropriate now to submit a Motion about exploring the possibility of setting rules and procedures for agricultural water, to address longer-term concerns.

Ms. Garson suggested that the topic be put on next month's Agenda as a broader issue for discussion. She noted that the above Agenda item was very specific to Mr. Mauhili's request.

HĀMĀKUA:

A. **DISPUTED WATER BILL FOR TMK 4-4-003-029, LOT 15:**

Honoka'a property owner Ms. Morag Miranda gave public testimony at the April 27, 2010, Water Board meeting, and requested that the water bill issue that she raised be agendized. The customer's water service account number is 69036800-11 located at Kalōpā lower road.

Ms. Garson said that before the meeting, she learned from Ms. Miranda that DWS sent Ms. Miranda a water shutoff notice because of failure to pay the disputed bill. Because of that, Ms. Garson suggested holding a contested case hearing. Ms. Miranda is appealing the shutoff notice through the Water Board. That was not clear in the communications that went back and forth, but Ms. Miranda can confirm if it was her intention to appeal the water shutoff notice.

Ms. Miranda said she was not clear on that, except that she had received a bill, disagreed with the bill and wanted to have some action taken on it. She was going through the procedure to appeal the bill, she said. Ms. Miranda disagreed with the bill; she was denied and received a letter from DWS saying she needed to pay the bill. When she called DWS to say she still disagreed with the bill, her next course of action was to come before the Board. In the process, she received another bill saying that she still needed to pay the bill or have her water shut off. Ms. Miranda said she has continued to pay the minimum amount that she has paid all these years anyway, because she is contesting that one huge bill. She said she did not know that she was contesting the shutoff; she was contesting the amount. She said she pays her bills as a good citizen. DWS can shut the water off but the bill still remains. She said she would never be able to get a water meter because she has an outstanding debt, and she wants to have that debt cleared, whatever the course of action may be. She reiterated that she contests the amount of the bill, and in the process, DWS is saying that they are going to shut off her meter.

Chairperson Mukai asked what the proper procedure is.

Ms. Garson said that there would be a shutoff notice, and then an appeal to the Board. There would be a contested case hearing, where Ms. Miranda would have the right to have an attorney present. At the hearing, Ms. Miranda would present her evidence, and then DWS would present their evidence. The Board would then make a determination with written findings, and after that, if Ms. Miranda is not satisfied with the findings, she can go to court. That would be the proper procedure for Ms. Miranda to fully present her case. The Board would need to set a hearing date and send Ms. Miranda a notice of the hearing date so that she can have a lawyer present and so that Ms. Miranda can present evidence. These are all Ms. Miranda's choices, Ms. Garson said. Contested case hearings are basically very informal, but the Board acts as judge and jury, and the Board makes the determination as to whether or not the water will be shut off if she does not pay the full amount.

Mr. Reynolds said it was his understanding that this is a huge bill, that DWS checked the meter and that the meter was found to be okay. DWS subsequently put in a new meter with no explanation to the user, he said. That is where matters stand now, and it appeared to Mr. Reynolds that the contested case hearing is Ms. Miranda's only opportunity because DWS has recommended that she pay the bill off in installments. His understanding was that there will not be any change to that by the Board, without a contested case hearing.

Chairperson Mukai observed that the contested case hearing is really informal and Ms. Miranda does not need to get an attorney, but she does have the right to have an attorney present. Everything is presented during the hearing, at which the Board focuses solely on Ms. Miranda's case.

Mr. Taniguchi asked whether, in the meantime, the Board could prevent a shutoff of Ms. Miranda's meter. He asked what the process was.

Ms. Miranda said DWS had not turned the water off yet.

The Manager said this was an ongoing case and because it has not been settled, DWS will not shut off the water. Until the dispute is resolved, DWS will not shut off the water.

Ms. Miranda said she had stated in all of her letters to DWS that she would continue to pay the normal amount as she receives the bills. She is just not paying the disputed bill, which she feels is wrong.

The Manager confirmed with Ms. Hudman, the customer service supervisor, that Ms. Miranda's meter would not be shut off until the dispute is resolved.

Ms. Garson asked the Board to set a hearing date. The Board may choose to have the hearing on the day of the July 27 meeting, or on a separate day.

Ms. Miranda said she would go along with whatever the Board chose for the date, because this was an important matter.

The Manager suggested holding the hearing in Waimea, which would be closer to where Ms. Miranda lives.

Mr. Taniguchi suggested holding the hearing in conjunction with the July 27 regular meeting.

Mr. Reynolds suggested holding the hearing at the close of the regular meeting, because it was unclear how long the hearing would last.

Chairperson Mukai said the July 27 meeting is scheduled for **Hilo**, and asked Ms. Miranda if that would be agreeable to her.

Ms. Miranda said it would be fine.

Ms. Garson said that the Department would make sure that Ms. Miranda gets the proper notice and set the contested case hearing for the July 27 meeting.

*(At this point, Chairperson Mukai called a 10-minute recess at 11:00 a.m. Meeting resumed at 11:11 a.m.)*

## KA'U:

### A. HAWAIIAN OCEAN VIEW ESTATES:

The Manager said he believed the Board had received the eight-page letter he had sent to Representative Calvin Say in response to the investigation. The letter had been prepared by the Manager and Engineering. He offered to answer any questions or concerns that the Board may have.

Mr. Reynolds asked about the design-build contract awarded to Bolton Construction, Inc. (Bolton) on May 16, 2008, according to the letter. He said he assumed that the Ocean View community did not have a copy of the design.

Mr. Nitsche said the design was changed from the original design all of a sudden, and the community had found out just recently. He said there was no notification of the change of the loading station.

The Manager explained how the design-build process works. The normal way that DWS does contracts is that the Department does the design independent of the construction contract, to ensure that DWS has total control of the design. Normally, DWS hires a consultant to do the design, and DWS meets with the consultant and tells the consultant exactly what DWS wants. The consultant does the design, and then DWS goes out to bid. DWS advertises for bids and the contractors look at the design DWS provides and then the contractors provide prices. DWS takes the low price and awards the contract. That is the normal procedure, he said. Ninety-nine percent of DWS's contracts are done that way, because it is the most efficient and best way to do it because DWS has control. However, in this particular case (the Hawaiian Ocean View Estates project), because the funding from the State had a two-year limitation, after two years the funding would lapse. There was no way that DWS could go with its conventional way of doing things – and meet the deadline. Therefore, DWS did the exploratory well the normal way, and had a design made that DWS had control over, and then DWS went out to bid. Concurrently with that, DWS hired a consultant to do a Request for Proposals (RFP). The RFP is what is required to set up a design-build project. The RFP invites people to bid on the design-build contract. The documents that DWS provides go up to a maximum of 30 percent of the design. In other words, with a design-build, all that people have when they bid is a maximum 30 percent of the design, and the contractor needs to design the rest. In the Ocean View case, when DWS went out for RFP, there were only two bidders: Bolton and someone else whose bid did not come within available funds. Bolton was chosen, and Bolton proceeded to do the design with a 30 percent conceptual design from DWS. The normal design for such a facility is to put up a well, put up a tank, transmission, a fill station, etc. If DWS were to have a consultant do such a design, it would probably take a year to get the design. A lot of work goes into doing such a design, he said. Bolton went ahead and did the design. The Manager noted that it is Bolton's responsibility to provide DWS with whatever he could within the available funds. The available funds at that time, according to Bolton's design, were to provide a 100,000-gallon tank. That was what the monies could buy. When the Ocean View residents found that out, they wanted a bigger tank, he said. Fortunately, a Council member asked the Mayor for additional monies. The Mayor surprisingly said okay, so \$400,000.00 was added to the pot of money to put up a bigger tank. However, since Bolton had already designed for a 100,000-gallon tank, that design had to be changed. This entailed changing the piping, the location and the footprint; it required a lot of time to do the redesign. In the meantime, Bolton met with the community, and what the contractor figured that he could provide within the available funds was not what the community wanted; the community wanted more fill stations (i.e., standpipes). The contractor made efforts to accommodate the community, and took it upon himself to redesign the fill station so that he could provide more trucks. However, by doing so, Bolton inadvertently was no longer in compliance with the Environmental Assessment (EA). DWS told the contractor that he could not do this; it was illegal. The contractor was told that he had to go back and stay within the parameters of the EA, which is what Bolton is doing right now. Bolton is redesigning his fill stations to stay within the realm of the EA. Because Bolton has to stay within that EA, the price naturally changed, the Manager said. Bolton is currently revising prices and trying to make it work within the monies available. That is where the project is now. Ninety-five percent of the design is finished; it was finished a long time ago, the Manager said. Minor things are taking time because of the revised design, much of which is being undertaken in an effort to please the community. The Manager stressed that there is a set amount of money available, and DWS must stay within those funds. The State allotted \$6 million for the total project. DWS had to do the exploratory well, had to buy land and hire consultants. After that, Bolton had \$3.4 million to work with, to buy a pump, a motor, the installation, the tank, the transmission and the fill station.

Mr. Reynolds asked whether the \$400,000.00 from the Mayor is still available, and asked whether the money has been encumbered.

The Manager said yes, and that is the reason that Bolton had to redesign from a 100,000-gallon tank to a 300,000-gallon tank. He noted that a 100,000-gallon tank has a footprint of 67 feet, while a 300,000-gallon tank has a footprint of 85-90 feet. This illustrates why the entire site had to be redesigned – because of the bigger footprint. With the bigger tank (and footprint), things will not work without a redesign. The piping will not work; the well will not work. Everything needed to be redesigned and yet DWS is being accused of slowing down the project, the Manager said. DWS most assuredly is not slowing down the project; on the contrary, it behooves DWS to get the project done quickly.

Mr. Reynolds asked when the redesign of the larger tank took place.

The Manager said there were **two** redesigns: one is currently underway, and the redesign of the tank site is already done. The redesign underway came after Bolton took it upon himself to accommodate the community, but wound up out of compliance with the EA. Therefore, Bolton had to go back and *redesign* the *redesign* that he made, the Manager said.

Mr. Reynolds asked how long Bolton has been redesigning.

The Manager said it was going on a month to a month and a half. According to the project engineer, Ms. Shari Komata, the redesign should be done in about three weeks. He confirmed that this would satisfy the EA.

Chairperson Mukai asked if the tank will be a 300,000-gallon tank.

The Manager said yes, it will be a reinforced concrete tank. He noted that the residents wanted DWS to accept a 300,000-gallon steel tank, which is not in accordance with Department standards. Steel tanks are not DWS standard because of maintenance and past experience. The \$400,000.00 (from the Mayor) affords DWS the capability to go from a 100,000-gallon tank to a 300,000-gallon tank – and stay with DWS standards, which calls for a reinforced concrete tank. The Manager addressed accusations that DWS was sitting on the project money and was making interest on it. He said that anybody who knows anything about State appropriations knows that the money does not go to the departments; the money stays with the State. If anybody is making interest, it is the State. The only way that the State releases money is upon bona fide invoices from the consultant or the contractor. If DWS were to go to the Department of Accounting and General Services (DAGS) and say “We want the \$6 million,” they would laugh at DWS, he said. In the absence of a bona fide invoice, DWS cannot touch the money. Therefore the accusation that DWS is misusing the money or making interest on the money is totally false, the Manager said. Anybody who knows anything about State appropriations would know that, and it was a shame that Representative Herkes did not know that. Representative Herkes made the accusation without knowing the facts, the Manager said.

Mr. Reynolds asked whether DWS ever uses anything other than reinforced concrete for its tanks.

The Manager said reinforced concrete has been the standard for a very long time. DWS inherited a lot of steel tanks from the State, but over the years, the Department has replaced them with reinforced concrete tanks. He cited the example of steel tanks near Kūlanī Prison, where the steel tanks corroded to the point of exploding, sending water cascading all over. The other issue is that many of DWS’s tanks are located in isolated areas where the elevation is conducive to provide pressure. Normally, the tanks are off the beaten path, where the stray bullet of a hunter has been known to take out a tank entirely. A bullet penetrates about an inch and a half or so into a reinforced concrete tank, but it is still in service.

Mr. Taniguchi asked about complaints from the community that they were not kept in the loop. He noted that Ms. Aton had told the Board that there were 11 or 12 public meetings in Ocean View, in addition to newsletters that went out.

Ms. Aton said it was not necessarily public meetings, but public information updates at the request of the Mayor and Councilman Guy Enriques.

Mr. Taniguchi noted that one of the Ocean View gentlemen present today mentioned that DWS had said there was more than enough money for the project early on. He asked if that was after DWS got the \$400,000.00.

The Manager said that was before. He explained that at the time that Bolton bid on the project, Bolton's price was within the monies available. Therefore, there was no reason to think the project could not go through.

Mr. Taniguchi asked if that bid was for a 100,000-gallon tank.

The Manager confirmed that Bolton's design was for a 100,000-gallon tank.

Mr. Taniguchi said that was where the disconnect was -- between the community saying they were not informed and DWS thinking they were informed.

The Manager said another thing was that after the award for the design-build, the design takes a long time to do. During that time that the contractor was doing his design, there was no information available. He reiterated the fact that under a design-build, the project moves faster, but the downside is that DWS does not have control, because the design is being done by the contractor instead of a consultant. Thanks to going with a design-build, DWS was able to encumber the funds within the allotted time. However, it was not good for DWS, because if the Department had full control over the design, the mistake that occurred recently about not conforming to the EA would not have happened, because DWS would have known to stay within the EA's parameters.

Chairperson Mukai asked when the County approved the \$400,000.00.

Dr. Woodward said the County Council's second reading of the appropriation was in October of 2009.

Chairperson Mukai asked when it would have been done if that additional money were not made available, and DWS just built a 100,000-gallon tank.

The Manager said the design would definitely have been finished.

Chairperson Mukai asked if there had been no request for more money for a larger tank, when the initial plan of the 100,000-gallon tank would have been completed.

The Manager said it would have been finished a long time ago. He said that the Board still needed to factor in the fact that there was *also* a mistake about the fill station, which stalled things as well. Bolton tried to accommodate the residents' request for additional stations, so instead of having the fill station on the property, he put it on the pole in the driveway to the property, in order to spread it out. However, that violated the EA, and thus it needed to be redesigned, and the redesign is going on now, he said.

Chairperson Mukai asked if DWS was aware that Bolton had conversations with the community about the additional fill stations.

The Manager said he did not think so.

Mr. Kaneshiro asked whether the request to change from the 100,000-gallon tank to the 300,000-gallon tank came from the community.

The Manager said this was correct. Initially, the community wanted DWS to take the same money allotted for the 100,000-gallon reinforced concrete tank, and instead use it for a 300,000-gallon steel tank. DWS said no, because steel tanks are not DWS standards.

Mr. Kaneshiro asked whether the community was aware, with this change, that it would take a longer time to get the project completed.

The Manager said that obviously, the community did not understand that it would take a longer time.

Ms. Aton said she attended a meeting aimed at looking for ways to get monies through Councilman Enriques's office and through the Mayor. At the meeting, the lengthy process of how to go about appropriating the funds through the County was explained.

The Manager said this is a good example of how the bureaucratic process works. The County Council can approve the appropriation in October, but DWS did not get word that the money was available until May. He said he agreed 100 percent with Mr. Nitsche's testimony; the laws and regulations need to be changed so that things can happen faster. People in the community do not know the maze of rules and regulations and policies that DWS must follow in order to get things done. The Manager noted that while the money was approved in October, DWS did not even get clearance for the money until May.

Dr. Woodward said that the community had its first meeting to discuss the specifics of the project at the Waimea Water Board meeting in the summer two years ago. At that time, the plan was for a 250- to 500,000-gallon tank and multiple fill sites for tanks at the fill station. He said that in fact, when the contractor bid the project, he had three different sizes of tanks: 100,000, 300,000 and 500,000. Dr. Woodward said the community was led to believe that the 250- to 500,000-gallon tank and multiple tank sites were going to be included, and that there was money for that. He said it was not until February 2009 that the Manager informed the community that there was a problem and the tank would be cut back to a 100,000-gallon tank and one truck fill site. Dr. Woodward said it was not the community that asked for more; DWS was the one that wanted to downsize it. He said that was what the community was objecting to. The community had to go find the additional money so they could get a 300,000-gallon tank. The community went to Councilman Enriques to request the funds.

The Manager said it goes back to the issue of losing control of the design when doing a design-build contract. When the contractor bid on the price and ran the numbers for the components of the system, he said that for the money available, DWS could only get a 100,000-gallon tank.

Chairperson Mukai said that although he does not favor design-build contracts, he remembers how happy DWS was to have been able to encumber the funds for the project. It had been really touch-and-go with time running out before the deadline, and it looked like DWS might actually lose the \$6 million. He remembered how elated everybody was to be able to encumber the funds through the design-build.

The Manager said DWS had actually asked the Legislature to extend the deadline, because DWS did not want to do a design-build, but the Legislature refused. Therefore, DWS was forced to go with the design-build as the only way the Department could do the project.

Mr. Perry asked how many fill sites (i.e., standpipes) are in the plan now.

The Manager said the initial EA called for three fill sites (i.e., standpipes).

Mr. Inaba said the plan now is for one fill site, which is within the scope of the EA. The community wanted more sites to allow more trucks to be on-site, but that called for a redesign, but the redesign was in a location that failed to comply with the original EA. That meant that DWS had to go back to the original EA. DWS can afford basically one fill site, Mr. Inaba said.

The Manager said DWS had the option of amending the EA, but to do so would stall the project by another 5-6 months. Therefore, DWS decided not to amend the EA.

Mr. Lindsey said it was his perception that the community is frustrated with the fact that it appeared that DWS was dragging its feet. To try to alleviate some of that perception, he asked what the construction timetable was.

The Manager said DWS is in the process of applying for a National Pollutant Discharge Elimination System (NPDES) permit, and when it comes through, the contractor can start the pipeline. The permit will take another three weeks, he said.

Mr. Lindsey said he anticipated that once the permits are obtained, the contractor would try to start construction immediately. He asked what time line DWS was looking at.

The Manager said that if the contractor works on the project there full-time, and the pumps and motor come in on time, the project could be finished in 10 months to a year. (He noted that pumps and motors, which come from the Mainland, never come in on time – even when the contractor orders them right away.)

Chairperson Mukai said he felt the community's frustration.

The Manager said he did, too.

Chairperson Mukai asked the Department to be sure to keep the community informed on even the minutest details, such as the permit process.

Ms. Aton said that she and the project engineer were in putting together an update for Councilman Enriques, who provides a monthly update for the community. She said she could prepare the update and send it to the wider community of Ocean View.

Chairperson Mukai said that besides relying on Councilman Enriques's office, Ms. Aton should send her updates directly to the Ocean View community association and the Water Board. She should send them everything, no matter how picayune, so that the community will be in the loop in all areas of the process.

An unidentified member of the public asked if the power supply on the project was ready to go.

The Manager said that it is being coordinated with HELCO.

Mr. Inaba said that according to HELCO, they should have their work in for the site by the end of the year.

Chairperson Mukai asked DWS to get Bolton to order the pump as soon as he can, to avoid delays.

The Manager said yes, that is standard procedure. He noted that DWS's contractors in the past have ordered pumps on time, and still the delivery of the pumps was delayed time after time.

Chairperson Mukai asked that DWS keep the community in the loop in any case. He thanked the Ocean View residents for coming to the meeting.

#### MISCELLANEOUS:

##### **G. WATER RATE STUDY:**

The Board discussed water rate options provided by RW Beck and testimony provided at public hearings on May 4-5, 2010. The new water rate schedule is effective July 1, 2010.

Chairperson Mukai noted that the Board had received the correspondence from RW Beck, which included the Cattlemen's Option proposed by the Hawai'i Cattlemen's Association, and the Modified Cattlemen's Option.

MOTION: Mr. Meirdiercks moved to approve the Modified Cattlemen's Option; seconded by Mr. Lindsey.

Mr. Reynolds asked what the Modified Cattlemen's Option was, for the purpose of the Minutes.

The Manager said that under the Modified Cattlemen's Option, everybody pays the same for the first two block rates, and the agricultural (ag) rate will kick in at the third block rate. The ag rate will receive the same increase as the general use rate, throughout the five-year study period. Therefore, basically, everyone sees the same increase, but the ag rate starts at the third block rate. Everybody pays the same for the first two block rates. The philosophy is that whether a person is a farmer or not, everybody needs the same amount of water to survive in one's residence, so therefore everybody should pay the same for the first two blocks. Agricultural usage is likely to go beyond the second block rate, which is where the ag user gets a subsidy. While DWS believes that nobody should be subsidizing someone else, if the Board wants to subsidize the farmers, then the Modified Cattlemen's proposal is probably the fairest way to do it.

Mr. Meierdiercks said that for the record, he was in agreement with the Manager. The subsidy has been going on so long; it has become something of a custom to pay different rates. He reiterated his support for the Modified Cattlemen's Option, although eventually he said he wanted to see everybody paying the same rates.

Mr. Perry asked what the projected rate was, and wondered how it related to the two cents in the rate schedule.

The Manager said that Mr. Perry could do a comparison because the two cents is on one schedule (the Cattlemen's Option), and the other rate is on the Modified Cattlemen's schedule.

Mr. Taniguchi asked who came up with the Modified Cattlemen's Option.

The Manager said it was suggested at the May Water Board meeting. He noted that the Cattlemen's Option was pretty much the same as the Modified Cattlemen's Option, except that the ag rate would only increase by two cents per year under the Cattlemen's Option. DWS felt that it was fair if everyone had the same increase. The Modified Cattlemen's Option was a suggestion from DWS, he said.

Mr. Taniguchi asked where the difference kicks in.

The Manager said from the third block.

Mr. Taniguchi said that he understood now that the first two blocks are the same for both options.

Ms. Garson said that if one ran the numbers for *the first year*, the amount that would have to be paid is greater than the amount that went out to Public Hearing (in May). In both the Cattlemen's Option and the Modified Cattlemen's Option for the first year, the amount is more than Option A, which went to Public Hearing. Therefore, she recommended that the Board not implement the Modified Cattlemen's Option for July 1, and recommended that the Board go to a Public Hearing before the next meeting (on July 27). After holding the Public Hearing, the Board could consider implementing it, she said.

Mr. Sumada clarified, saying that Ms. Garson was characterizing the Modified Cattlemen's Option as coming in higher than Option A. He said that the Cattlemen's Option could generate more ag revenue than Option A. However, in the total, that is not the case. For general use *and* ag use, the Cattlemen's

and the Modified Cattlemen's Options fall **between** Options A and B. It depends on whether one is looking at total revenues, or just ag revenues. If one looks at just next year or at the five-year period, the picture is different.

Mr. Taniguchi asked to confirm whether the Cattlemen's Option was in between Options A and B for ag.

The Manager said yes, strictly for ag.

Mr. Sumada said yes, over five years, it is true that it is in between Options A and B.

Mr. Taniguchi said then, it is not more.

Ms. Garson said in the long run, it is in between. Her concern was that for the first year (for July 2010 through June 2011), the bill for a small ag user would be more than under Option A.

The Manager said that it would not be as much as what it would be under Option B.

Mr. Taniguchi said that Option B means a zero increase.

The Manager said it was in between, because Option B is the higher rate.

Chairperson Mukai said that what Ms. Garson is saying is that the very small ag user, who has always gotten the ag rate, will see his bill go up in the first two blocks.

Mr. Taniguchi said no, it was going down, from 85 cents to 81 cents.

Ms. Garson said but then the rate goes up to \$1.67, and then it goes up to \$1.87.

Chairperson Mukai agreed that the very small ag user will probably see a rate increase on his small consumption.

Mr. Meierdiercks and Mr. Taniguchi simultaneously said it would increase on the second block.

Ms. Garson said that instead of under Option A where it was 92 cents, under Option B, it was 85 cents. Under the Cattlemen's Option, it was 81 cents, but the rate goes up to \$1.67 for both general and ag use.

Chairperson Mukai asked how DWS is affected financially if the Board has another Public Hearing, assuming the Board passes something. The Department is operating in the red, he noted.

Mr. Meierdiercks said there would be a one-month lag, from July 1 to August 1.

Mr. Sumada said he was not sure what the financial effect would be.

Chairperson Mukai asked if the lag would be detrimental to the Budget.

Mr. Sumada confirmed this.

Mr. Reynolds asked why a Public Hearing was needed.

Ms. Garson said that the Board went to the Public Hearings with two rate options (A and B). Her concern was that a small sector of the population would pay something greater than what the Board went with to the Public Hearings. She said what she is advocating is for a public and open process, to give the public an opportunity to make comment. She noted that the effect on the small ag user was for one year; over five years, things average out and therefore it is fine over the five-year span.

Mr. Taniguchi agreed that it should average out, and asked why the Board could not approve the rate based on five years. All of the plans proposed are for a five-year period, he noted. The Cattlemen's Option cannot be *that* detrimental to DWS, versus Option B, he said.

Mr. Meierdiercks said that if the Board approves rates today, they take effect on July 1. He asked when the billing goes out for that.

The Manager said it would be in September.

Mr. Meierdiercks said that the Board has some time yet with the time lag, but the Board still needs to approve new rates.

The Manager said that from July 1, customers will be assessed at the new rate. However, if new rates are not effective until after that, the Budget will not be balanced on what was anticipated, he said.

Mr. Taniguchi asked whether the difference between the Cattlemen's Option and the Modified Cattlemen's Option was that under the Modified Cattlemen's Option, everybody's rate would go up by the same percentage, versus more subsidy under the Cattlemen's Option.

The Manager said this was correct.

Chairperson Mukai called on Mr. Jim Greenwell, who had mentioned an increase of two percent in his testimony at the Kona Public Hearing.

Mr. Jim Greenwell said he used the term "cowboy math" during his testimony. The Cattlemen's Option that his organization proposed, and the Modified Cattlemen's Option, are pretty close to each other. He said he thought that in fact, the Modified Option was more generous than the Cattlemen's Option, which suggested going up by two cents. He said that following the percentage increase, the increase to ag users is going to be less than two cents. The Modified Option is more generous, and the cattlemen believed the concept was what was important. He said the Modified Cattlemen's Option was fine with the Hawai'i Cattlemen's Association.

Mr. Taniguchi asked whether the association was okay with the Modified Cattlemen's Option.

Mr. Jim Greenwell said absolutely.

The Manager said he had a suggestion that would accomplish what the Board needs to do, while satisfying legal counsel. He suggested that the Board vote for Option A today, hold a Public Hearing next month as requested by Corporation Counsel, and make a decision among the four options (Option A, Option B, Cattlemen's Option and Modified Cattlemen's Option) then. Option A for one month would mean no ag subsidy, he added.

Ms. Pua said that Finance Division had done a bill comparison for ag customers with a 5/8-inch meter and 20,000 gallons per month consumption. For Option A, an ag customer would see a \$5.10 increase from the current bill. This would be for fiscal 2011 (beginning July 1), she said.

Mr. Perry asked how many ag users there are.

Ms. Pua said there are a total of approximately 800 ag customers, versus 40,000 general use customers.

Ms. Pua said that for Option B, she used the same scenario of an ag user with a 5/8-inch meter and consumption of 20,000 gallons per month. Here, the ag customer would see his bill increase by about \$3.70. She noted that the standby charge would increase under Option B, but there would be no increase in the ag rate. Under both the Cattlemen's Option and the Modified Cattlemen's Option, the ag customer would see his bill increase by \$11.50. That would be in the first fiscal year of the five-

year study period, she said. From the second year through the end of the study period in 2015, under Option A, the ag customer under the same scenario would have a \$32.40 increase.

Mr. Taniguchi asked if that was compared to today.

The Manager confirmed this.

Mr. Taniguchi asked if Ms. Pua was counting the incremental.

Ms. Pua said no, this did not count the incremental. Under Option B, in the second year through the fifth year, the increase to the ag customer would be \$15.60. Under both the Cattlemen's Option and the Modified Cattlemen's Option, the ag customer would see his bill increase by \$24.20.

The Manager asked the ag people at the meeting whether it was correct to be using consumption of 20,000 gallons as a model of a very small farmer's usage.

Ms. Michelle Galimba, a rancher, said that was not exactly the kind of usage she was familiar with.

Ms. Pua gave as a comparison the far end of the consumption scale, the Natural Energy Laboratory of Hawai'i Authority (NELHA), whose usage is 23 **million** gallons.

Ms. Lorie Farrell of the Big Island Farm Bureau asked the Board to keep in mind that small ag users are likely to have more than one water meter, and a small rancher or family rancher is likely to have multiple TMKs (tax map key parcels). Each rate increase will decrease the ag user's bottom line. Ag users will be hit in several different directions, and the ag user needs affordable water to sustain operations. Each time a livestock producer goes out of business, the critical mass is lost, she said.

Chairperson Mukai, turning to Corporation Counsel's advice, asked if there was any way that the Board can approve any of the Options, and *not* have to go to Public Hearing.

Ms. Garson said the Board could approve Option A or B, for a given period of time. These two options had already gone to Public Hearing, she noted. However, if the Board increased rates, the Board is not committed to doing it for five years. Instead, the Board can do a rate increase for any period of time, she said.

The Manager said that was why he suggested that the Board approve something for a one-month period, during which time the Board would hold a Public Hearing that would enable the Board to approve the Cattlemen's (or Modified Cattlemen's) Option. Therefore, he suggests that the Board approve Option A for one month, and then approve whichever of the other options the Board wants. The key is to hold a Public Hearing, he said.

Mr. Taniguchi asked why the Board could not approve rates on a five-year basis, as Mr. Sumada said.

The Manager said that Corporation Counsel's concern is about the first year.

Ms. Garson said that the Board needed to go to Public Hearing on the Cattlemen's and Modified Cattlemen's Options. She said that her concern was that there is an increase in the first year that goes beyond Option A, which the Board went to Public Hearing with. She believed the public needed to have some input on the other options that have not yet gone to Public Hearing, adding that some people might not like the options because there is a big spike in rates.

Chairperson Mukai said that while the conversation now involved Option A, with a Public Hearing on the Cattlemen's and Modified Cattlemen's Options, he thought that the Board should actually consider Option B, which would still bring revenue to the Department. He wondered if that would be detrimental to the Department in the short term. The Board would then go to Public Hearing on the other options, he said.

Mr. Meierdiercks said that was what he was going to suggest.

Ms. Garson said either Option A or B could be approved today.

Chairperson Mukai said that the talk up to now was all about Option A, but Option B is now on the table as well.

Mr. Reynolds said the Board needed to defeat the Motion.

Chairperson Mukai said the discussion was still ongoing.

Mr. Inaba noted that looking at general use rates, with Options A, the Cattlemen's Option and Modified Cattlemen's Option, it would be the same. Only Option B is different with regard to general use rates, he said.

Mr. Kaneshiro said the Board should consider Option B, in light of all of the testimony at the Public Hearings. There was widespread support for Option B among the testifiers, and there was no discussion of the general use rates. The Board should go with Option B for a month or so, then go through the Public Hearing process on the other options.

Mr. Inaba noted that the Board will be changing the general use table, so for one month, everybody's rates will be the general use rate. When the Board changes the option, there will a different table, different rates, etc.

Chairperson Mukai observed that internally, it would entail a lot of work.

The Manager said no matter which option the Board goes with, it will mean the same amount of work.

Chairperson Mukai asked the secretary to read the Motion on the floor.

The secretary read: "Mr. Meirdiercks moved to approve the Modified Cattlemen's Option."

Mr. Taniguchi asked if the Board really had to go through the Public Hearing process. He asked why bother approving something for a month. He believed that if the Board agreed on an option, why approve something else for just one month -- only to go back and approve the option of choice.

Ms. Garson said that her approach was the most conservative, in the interests of avoiding any kind of trouble. That is why she advised the Board to go to Public Hearing before passing the Cattlemen's Option or the Modified Cattlemen's Option.

Chairperson Mukai said that it was Ms. Garson's job as Corporation Counsel to protect the Board. Not to adhere to her advice would have the Board venturing into gray areas, which the Board would not want to do. Noting that the Motion on the floor was to approve the Modified Cattlemen's Option, the Board could approve it, or rescind the Motion.

Ms. Garson said the Board could amend the Motion, to signal that the Board wants public input.

Mr. Reynolds suggested that the Motion on the floor be withdrawn.

Mr. Taniguchi said that another Motion needed to be made.

Chairperson Mukai said that if the Board does not approve a rate change, the Department will be in dire straits.

Mr. Reynolds said it would be better to withdraw the Motion on the floor, and do as the Manager suggested (approve Option A) and make a new Motion to that effect.

Chairperson Mukai summed up, saying if the Motion and the second were withdrawn, the Board could entertain a new Motion to approve either Option A or B now. Then, the Board would hold a Public Hearing for the Cattlemen's and the Modified Cattlemen's Options next month.

MOTION WITHDRAWN: Mr. Meierdiercks withdrew his Motion; Mr. Lindsey withdrew his second.

Chairperson Mukai entertained a new Motion.

MOTION: Mr. Kaneshiro moved to approve Option B for one month; Mr. Meierdiercks seconded.

Ms. Pua said she wanted to clarify that regarding general use rates, with Option A, and the Cattlemen's and the Modified Cattlemen's Options, the first and second blocks are the same. For Option B, the rates for general use customers increase in the third and fourth blocks.

Chairperson Mukai said that was correct; the ag rate would remain the same.

The Manager said Ms. Pua was basically saying that it was better to go with Option A, so that the general use rates, if the Board goes with the Cattlemen's Option, will not change. It would make the transition a lot easier, he said.

Mr. Taniguchi asked what would happen to the ag customers under Option A.

The Manager said that for the ag customers, for one month they would be paying 92 cents per 1,000 gallons, instead of 85 cents per 1,000 gallons.

Mr. Meierdiercks cautioned that if Option A were approved for one month, the meters would have to be read again.

Ms. Garson said the one month thing was bothering her, because it was not clear whether it is one month from today or, if it means July 1 to August 1.

The Manager said it would be from July 1 to August 1.

Ms. Garson noted that the next Water Board meeting is on July 27.

The Manager suggested having Option A for one billing cycle, which is two months.

Mr. Reynolds asked if the Motion was going to be in effect until the Board approves something new.

Mr. Perry asked that the new Motion be read.

The secretary read: "Mr. Kaneshiro moved that the Board accept Option B for one month, seconded by Mr. Meierdiercks."

Chairperson Mukai suggested amending the Motion to delete the one-month provision.

AMENDED MOTION: Mr. Reynolds moved to amend the Motion to delete the one-month provision; seconded by Mr. Perry.

Chairperson Mukai reiterated that the Motion would amend the original Motion, to delete the one-month provision.

Mr. Kaneshiro asked what the timeframe was.

Chairperson Mukai said that by deleting the one-month provision, Option B could possibly run for two billing cycles – or (as long as) five years.

ACTION: Amendment to the Main Motion, to delete the one-month provision, carried unanimously by voice vote.

ACTION: Main Motion as amended, approving Option B, carried unanimously by voice vote.

Mr. Meierdiercks asked if the Board would request a Public Hearing next month to consider Option A, Option B, the Cattlemen’s Option and the Modified Cattlemen’s Option, noting that all options are up for grabs.

Ms. Garson said all but Option B would be under consideration during the Hearing, because Option B is already in play.

Mr. Taniguchi asked what happens if the Board wants to keep Option B.

Ms. Garson said that to keep Option B, the Board would do nothing.

Mr. Meierdiercks said the Public Hearing would be for Option A, the Cattlemen’s Option and the Modified Cattlemen’s Option.

The Manager said, after conferring with Mr. Sumada, it would make life a lot easier if the Board revisits the options after one billing cycle, i.e., two months.

Chairperson Mukai said that the Board could do the Public Hearing next month.

Mr. Meierdiercks agreed, saying that the Board could do the Public Hearing next month, and make the change in option effective whenever the Board wants.

Chairperson Mukai said he did not want to delay.

The Manager suggested approving an option next month, but setting an effective date.

Mr. Meirdiercks asked if the Notice of the Public Hearing would announce the effective date of any changes.

Ms. Garson said the Notice of Public Hearing just needs to have the proposed rates and charges, and the timeframe does not necessarily have to be included in the Notice. She asked whether there was a formal Motion on that.

Chairperson Mukai said not yet. He called for a Motion.

ACTION: Mr. Meierdiercks moved to hold a Public Hearing on Option A, the Cattlemen’s Option and the Modified Cattlemen’s Option, or no change (i.e., to stay with Option B); seconded by Mr. Taniguchi. Motion carried unanimously by voice vote.

NORTH KOHALA:

**A. JOB NO. 2005-867, CONSTRUCTION OF THE HALA‘ULA WELL DEVELOPMENT – PHASE 1 (WELL NO. 7247-03):**

This project generally consists of the construction of an exploratory well for potential development as a potable water source.

Bids for this project were opened on June 3, 2010, at 2:00 p.m., and following are the bid results:

<b>Bidder</b>	<b>Bid Amount</b>
Derrick’s Well Drilling & Pump Service, LLC	\$802,025.80
Water Resources International, Inc.	\$987,250.00

Beylik Drilling & Pump Service, Inc.	NO BID
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Project Cost:

1) Low Bidder (Derrick’s Well Drilling & Pump Service, LLC)	\$ 802,025.80
2) Construction Contingency (10%)	<u>80,202.58</u>
<b>Total Construction Cost:</b>	<b>\$ 882,228.38</b>

Funding for the project will be from State Revolving Funds (SRF). The contractor will have 240 consecutive days to complete the project.

The Manager recommended that the Board award the contract for JOB NO. 2005-867, CONSTRUCTION OF THE HALA’ULA WELL DEVELOPMENT – PHASE 1 (WELL NO. 7247-03), to the lowest responsible bidder, Derrick’s Well Drilling & Pump Service, LLC, for their bid amount of \$802,025.80, plus \$80,202.58 in construction contingency for a total contract amount of \$882,228.38. It is further recommended that either the Chairperson or the Vice-Chairperson be authorized to sign the contract, subject to review as to form and legality of the contract by Corporation Counsel.

MOTION: Mr. Meierdiercks moved to approve; seconded by Mr. Kaneshiro.

The Manager explained that this well is above Hala’ula subdivision, and will provide water for smaller subdivisions that are not currently served by DWS. With this well, there will now be wells on both sides of the North Kohala area. The well will greatly enhance the reliability of DWS’s water service in the North Kohala area. It took DWS a long time to get the land, with talks beginning with Chalon International, the then owner, and now with the current owner. He noted that this phase is for the exploratory well. The next phase, for the development of the well, may be in a year and a half from now.

Mr. Meierdiercks asked if DWS owns the property now and has the easements, etc.

Mr. Beck said the owner agreed to sell the land provided the well proved productive.

The Manager confirmed this, saying DWS has an agreement with the owner that if the well proves productive, the land will become DWS’s property.

Mr. Perry asked the difference between an exploratory well and a production well.

The Manager explained that with an exploratory well, one is not certain what one will hit; the drilling is to find out what is there. Part of the process with an exploratory well is to put in a test pump and run it for 92 hours, as governed by the State.

Mr. Perry asked if the exploratory well and the production well are the same size.

The Manager said no. With an exploratory well, DWS puts in a test pump, and the test will show DWS what it can or cannot get from the well. With the development of the well, an appropriate size pump is put in, but it is also exploratory in a sense because it is unclear how much water can be gotten.

Mr. Perry asked if the difference between the two types of wells was the pump.

The Manager said yes, the exploratory well does not have a permanent pump.

Chairperson Mukai said he thought Mr. Perry’s question was with regards to the diameter of the shaft.

The Manager said it is the same.

ACTION: Motion carried unanimously by voice vote.

SOUTH KOHALA:

A. **JOB NO. 2007-043, CONSTRUCTION OF THE WAIKOLOA RESERVOIR NO. 2 EARTHQUAKE REPAIRS, COUNTY OF HAWAI'I, STATE OF HAWAI'I, FEMA-1644-DR-HI, FIPS NO. 001-UVKJ8-00, PW NO. 638:**

The contractor, Goodfellow Bros., Inc., has requested a 73 calendar-day time extension. This request consists of 63 calendar days to accomplish the work for Change Order No. 9 (additional investigation for voids behind the wall panels and subsequent grouting of the holes); and 10 calendar days for rain-outs and unworkable conditions from March 31, 2010 to April 30, 2010. The contractor did not submit this time request prior to the May Board Meeting Agenda, as the work for Change Order No. 9 was still ongoing and they did not have a revised schedule until this work was completed.

Staff has reviewed the request and finds that the 73 calendar days are justified.

This is the fifth time extension request.

<b>Ext. #</b>	<b>From (Date)</b>	<b>To (Date)</b>	<b>Days (Calendar)</b>	<b>Reason</b>
1	11/9/2009	1/30/2010	82	Rainout days and Hypalon polymer supply issues.
2	1/30/2010	2/25/2010	26	Additional cleanout installation work and rainout days.
3	2/25/2010	5/9/2010	73	Additional work for Change Order Nos. 3, 4, and 5; and rainout days.
4	5/9/2010	6/4/2010	26	Additional work for Change Order Nos. 6 and 7; and rainout days.
<b>5</b>	<b>6/4/2010</b>	<b>8/16/2010</b>	<b>73</b>	<b>Additional work for Change Order No. 9; and rainout days.</b>
Total Days (including this request)			<b>280</b>	

The Manager recommended that the Board approve a contract time extension to Goodfellow Bros., Inc. of seventy-three (73) calendar days from June 4, 2010 to August 16, 2010, for JOB NO. 2007-043, CONSTRUCTION OF THE WAIKOLOA RESERVOIR NO. 2 EARTHQUAKE REPAIRS.

MOTION: Mr. Meierdiercks moved to approve; seconded by Mr. Lindsey.

Mr. Meierdiercks, noting that FEMA funds were involved, asked whether a time extension would affect the reimbursement from FEMA.

Mr. Inaba said the FEMA deadline is October 2010.

Mr. Taniguchi asked why this item was featured on Hawai'i Public Radio all day yesterday.

Mr. Inaba said it may have been because of a recent newspaper article about the reservoir repairs.

Mr. Meierdiercks suggested that the new Board members arrange to go up to see the reservoir site, to gain a better understanding of what is involved. He noted that there are a lot of unknowns in the area.

Ms. Aton distributed a handout on the reservoir repairs, which she had prepared for the Mayor's meeting in Waimea tonight. She also offered copies of the newspaper article.

Chairperson Mukai asked why there were rainout days amid a drought.

Mr. Inaba said the rainout period between March 31 and April 3 essentially delayed the project for 10 days.

The Manager said the weather conditions are extremely wet up there.

Mr. Inaba said it does not take much to make for unworkable conditions up there.

ACTION: Motion carried unanimously by voice vote.

KA‘U:

H. **HAWAIIAN OCEAN VIEW ESTATES:**

*(This Item was taken up earlier.)*

MISCELLANEOUS:

A. **DEDICATION OF WATER SYSTEMS:**

The Department received the following documents for action by the Water Board. The water systems have been constructed in accordance with the Department’s standards and are in acceptable condition for dedication.

**1. GRANT OF EASEMENT AND BILL OF SALE**

Subdivision Application NO. 98-084, 2004-0072

Grantor/Seller: Prime A Investment, LLC

Tax Map Key: (3) 7-5-004:013

E.W.O. 2008-029

Facilities Charge: *Not Applicable*

Final Inspection Date: 3/27/2009

Water System Cost: \$279,000.00

The Manager recommended that the Water Board accept these documents subject to the approval of the Corporation Counsel, and that either the Chairman or the Vice-Chairman be authorized to sign the documents.

MOTION: Mr. Meierdiercks moved to approve; seconded by Mr. Taniguchi.

Ms. Garson pointed that this Item is not DWS’s typical form, with some changes made by the developer. DWS is taking this Dedication, subject to some encumbrances which are listed. She said DWS had looked at all of the encumbrances, and they did not interfere with DWS’s proposed use. The developer also added a provision about relocation, by which the developer could relocate the line but would have to pay for the relocation. She noted that the provisions regarding relocation were on Pages 4 and 5 of the Grant of Easement and Bill of Sale agreement. This relocation provision was substantially similar to one that Queen Lili‘uokalani Trust had in a grant of easement to DWS. If the developer wants to relocate the line, the developer will pay for everything and do all of the work.

Mr. Beck said that the property in question is across from Hanama Place, on the right side of Henry Street.

ACTION: Motion carried unanimously by voice vote.

B. **REPORT OF AD HOC FINANCE COMMITTEE:**

The Water Board’s Ad Hoc Finance Committee Chairperson, Mr. Art Taniguchi, has been investigating the three focus areas (DWS’s policies on credit card use, cash control and vehicle take-

home), which encompass the scope of the Committee's work. The vehicle take-home policy was to be the focus at this meeting.

Mr. Taniguchi said that the Committee was unable to meet with the Manager, but plans to meet with him soon. He said he expected to have a report next month.

C. **ENERGY MANAGEMENT ANALYST UPDATE:**

Ms. Myhre covered the following areas:

- Lālāmilo Update
  - a. Progress on clean-up;
  - b. Renewal of DLNR lease.
- DWS's Green Initiatives

Ms. Myhre said there was nothing new to report on the Lālāmilo Windfarm cleanup, but she expected to have a report next month. Regarding the renewal of the DLNR lease, Ms. Garson is reviewing the lease application before it is routed to the Manager and DWS staff.

Ms. Myhre gave a preview of the presentation she was slated to do on Thursday at the Mayor's Energy Advisory Commission. The presentation focused on the goals, projects and challenges of energy management within DWS. The primary goal is to comply with the Hawai'i Clean Energy Initiative, which calls for Hawai'i to become 30 percent more energy efficient by 2030. To accomplish that goal, DWS is taking the following actions:

- To increase the efficiency of water distribution;
- To reduce fuel consumption by DWS's vehicle fleet. Right now, the DWS fleet's overall fuel consumption is 15.3 miles per gallon;
- To develop additional energy generation.

Mr. Meierdiercks asked if DWS's own power generators are included in the equation of boosting the volume of water pumped per kwh of energy used.

Ms. Myhre said it did not include DWS's generators.

Mr. Meierdiercks observed that if DWS increases its generators, the Department will reduce its dependence on HELCO. If DWS stays the same and does not increase any generators and HELCO rates go up, DWS will pump less per kwh.

The Manager said DWS is basically looking at more energy-efficient pumps and a more energy-efficient way of doing things. By increasing efficiency, DWS can pump more water for the same kilowatt-hours.

Ms. Myhre said the second goal is to reduce the costs to produce water, which is related to the first goal of becoming more energy efficient. DWS projects associated with the second goal are:

- Seeking HELCO's optimum rate structure;
- Increasing the volume of water pumped per kilowatt-hour (kwh) of energy used. The more DWS can pump per kwh, the more efficient DWS will be.

She cited a DWS energy audit of selected pump stations done in 1989. Since then, all of DWS's new motors are energy-efficient. DWS developed an energy plan in 2003. In 2005, DWS Operations Division began focusing on the unaccounted water (leak detection) program. In 2007, Hawai'i County developed an energy sustainability plan, in which DWS participated. In 2009, DWS did an energy audit of the main DWS office building. DWS is focusing on where else (besides how much DWS is spending to pump water) the Department can become more efficient in its energy use, such as air conditioning. Also in 2009, DWS started tracking its vehicle fleet fuel consumption, which is over

100,000 gallons per year. All of DWS's newly purchased computers are Energy Star models, she said. Regarding energy generation, in the 1980s, a DWS employee at the Waimea Water Treatment Plant decided to take a pump and turn it backwards to make it a turbine. That equipment lasted until 2008, when DWS replaced it with an in-line hydro-generator, as well as installing two other hydro-generators in the Kona district. She noted that in 2009, DWS applied for a grant for a fourth hydro-generator at Parker Ranch, but the application was denied. DWS has piping to install a hydro-generator within the DWS's Palani Road pipeline project, because feasibility-wise, it will work. Currently, details such as sound attenuation and permitting need to be ironed out. A few weeks ago, DWS successfully tested another pump at Kaloko, and DWS can put another generator just downstream of the existing Kaloko generator. In 2012, DWS is planning to work with a third party to power the Lālāmilo Windfarm, which could supply power to eight wells in the Lālāmilo area. Since 2008, the existing Kaloko hydro-generator has brought \$40,000.00 in savings in the form of checks from HELCO. The hydro-generator at the Waimea Water Treatment Plant receives a check from HELCO, and the plant also uses that power to operate the water treatment plant. That saves DWS \$2,300.00 a month because DWS uses the energy on-site. In 1998, DWS entered into a Rider M agreement with HELCO, whereby DWS curtails or shuts off its pumps from 5:00 p.m. to 9:00 p.m., which is HELCO's peak energy use time. This arrangement gets DWS a discount on its rates from HELCO. She estimated that DWS has had well over \$1 million in savings through this program. Ms. Myhre said she continues to work closely with HELCO to get DWS the best rates. One of the biggest challenges is to quantify that 30 percent efficiency mandated by the Hawai'i Clean Energy Initiative, and articulate how to reach that goal. She noted the ever-changing situation vis a vis the Public Utilities Commission and how they regulate HELCO. There are new dockets for feed-in tariffs, net energy metering and distributed generation to keep on top of. One important challenge is to weave DWS's core mission of serving water with its long-range energy management planning. Key questions include the following:

- How can DWS balance the need to save water, our most precious resource, while fulfilling DWS's mission of serving water?
- What are the priorities for energy within the long-range planning of water projects?
- How can DWS address these challenges with limited funding?

The Manager asked Ms. Myhre to review DWS's recycling efforts.

Ms. Myhre said DWS started its recycling program a little over a year ago, and the Department is diverting about 1,300 pounds of trash per month from the Hilo and Kona landfills.

Mr. Taniguchi asked what the 30 percent meant, i.e., 30 percent of what.

Ms. Myhre said it is a good question; it is 30 percent efficiency. The Hawai'i Clean Energy Initiative talks about 70 percent renewable energy by 2030, by law. That 70 percent includes vehicles and efficiencies, she said. Ms. Myhre said she was trying to get at what 30 percent more efficiency means in terms of kilowatt-hours.

Mr. Taniguchi asked if the Power Cost Charge was part of the equation.

Ms. Myhre confirmed that it was.

Mr. Taniguchi noted that the power cost is DWS's biggest cost, and is a huge nut to crack. He suggested that if DWS controls its costs and is more efficient on the pumping, and develops alternative methods in which DWS can offset it, then the overall cost to DWS and to the consumer will drop.

Ms. Myhre said that if the Power Cost Charge goes up and DWS uses less energy, the per unit cost will stay the same.

Mr. David Greenwell asked if DWS pays a standby charge to HELCO.

Ms. Myhre confirmed that it does.

Mr. David Greenwell asked if there was any way that DWS can work with HELCO to eliminate the standby charges. He cited the example of the Department of Agriculture (DOA) in Waimea, which pays a standby charge for some pumps it does not use. DOA worked out a schedule whereby if a pump is not used or is not turned on, they do not pay a standby charge. However, if the pump is turned on, then for 12 months they have to pay a standby charge.

The Manager said what floored him is that the standby charge is based on 15 minutes of run time.

Ms. Myhre said that DWS tests its booster pumps monthly, but only tests them for 10 minutes, and not for 15 minutes.

The Manager said yes, because 15 minutes will determine the whole year's standby charge.

Mr. Meierdiercks asked if DWS needed more than 15 minutes' run time, could a portable generator be used.

Mr. Inaba said yes, if the control building is wired for it.

Ms. Aton noted that the Kahalu'u Well Shaft is powered partly by a hydro-generator, which was not included in the Power Point presentation.

The Manager said that hydro-generator powers the controls in the control building, but it cannot power the pumps in the shaft itself. By generating power and using it, DWS gets the maximum benefit, he said.

**D. MONTHLY PROGRESS REPORT:**

Mr. Taniguchi asked if the air conditioning project was finished.

Mr. Inaba said it was 98 to 99 percent done; the air conditioning is operating.

The Manager said what remains are basically punch-list items.

Mr. Inaba said there was also change order work that remains.

The Manger said that DWS has to put in a road out back of the building to provide Americans with Disabilities Act (ADA) access to the lower section, so that DWS can rent it out. That work is a change order to the project.

Mr. Taniguchi observed that the progress report shows the project is still way under the budgeted \$5.1 million, at some \$4.1 million.

Mr. Inaba said that DWS did receive a discount on the project because the State moved out, making it easier for the contractor to work on the project.

**E. REVIEW OF MONTHLY FINANCIAL STATEMENTS:**

Mr. Taniguchi asked what was included in the Power and Pumping entry.

Mr. Sumada said that the entry, for \$16 million, was the power and pumping cost paid to HELCO, plus staff salaries, etc.

F. **POWER COST CHARGE:**

A Public Hearing held immediately before this regular Water Board meeting, took testimony on raising the Power Cost Adjustment to \$1.91 from the current Power Cost Charge of \$1.77.

MOTION: Mr. Meierdiercks moved to approve adjusting the Power Cost Charge to \$1.91; seconded by Mr. Taniguchi.

Mr. Reynolds asked what happens if the Power Cost Charge does not actually cost \$1.91.

The Manager said that if the Power Cost Charge goes down next month, then for that period that the Board did not change it, DWS would generate more than DWS paid HELCO. By the same token, HELCO's rate goes higher than \$1.91 during that month, then, what DWS generates would be less than what DWS pays HELCO. Therefore, it evens out throughout the year.

Mr. Reynolds asked if DWS is going to continue to charge \$1.91 until the rate is changed again.

The Manager said exactly, and the Board has the authority to change the Power Cost Charge every two months.

Mr. Reynolds observed that in the current campaign season, the politicians will make sure that gasoline prices stay down – until after Election Day in November.

The Manager said that if the Power Cost Charge goes down, the Board will do another Public Hearing.

Chairperson Mukai noted for the new Board members that the Board made it so that the Board could adjust the Power Cost Charge every two months, whereas before, the Board could only adjust it once a year.

Mr. Perry asked if there was a trigger or a percentage that would cause the Board to change rates.

The Manager said he thought it was a change of five cents or five percent. He noted that Mr. Sumada and his staff closely monitor the Power Cost Charge, and when the power cost reaches the threshold, the Department comes to the Board for a Public Hearing.

Mr. Perry asked if the threshold is five cents.

Ms. Garson said it was not a formal threshold.

Mr. Meierdiercks noted that the Department has the authority, granted by the Board, to go to Public Hearing without waiting for additional approval from the Board. The Board then just approves any increases or decreases to the Power Cost Charge.

ACTION: Motion carried unanimously by voice vote.

G. **WATER RATE STUDY:**

*(This Item was taken up earlier.)*

H. **MANAGER'S REPORT:**

The Manager provided an update on the following:

- a. Palani Road Transmission Waterline Project

The Manager said that following the May 25, 2010, Water Board meeting in Kona, Mr. Beck had met with the residents of the Tomi Tomi Drive area.

Mr. Beck said that he first met with the contractor to go over the request list that resident Mr. Fred Housel had provided to the Board. Mr. Beck and the contractor scheduled some of the work requested on the list during the following couple of weeks. Mr. Beck said he did a follow-up meeting with the residents, who were pleased that a lot of the work was done. There are still some things that need to be done, Mr. Beck said. The dust issue was one of the residents' main concerns, and recent rains have helped alleviate the problem. However, DWS's inspector is monitoring the situation on a day-to-day basis. Regarding the issue of paving early, the contractor declined to do so. The contractor believes that he will be done by the end of July; he is currently waiting for parts for the PRV (pressure-reducing valve) stations up above. When those parts arrive, the contractor will finish up. The contractor in the meantime does not want to have to go up and around on Palani Road, which involves limited sight distance and the danger of entering that access. Instead, the contractor has a secure route to get up there, but it involves leaving Kuni Road unpaved for now because the heavy equipment going through will damage the road. Therefore, it makes sense to wait until the work is finished before paving, he said. A lot of the residents' issues have been addressed, but some issues still need to be tackled before the project finishes up. As long as the dust issue does not crop up again, things should be okay on that score. However, DWS still has issues to attend to, including the fact that the road was scarred. Mr. Beck explained that the road was originally replaced when DWS was planning this route. At that time, the road was in terrible shape, but the County was doing its Roads in Limbo program and they had money available to fund the paving of Tomi Tomi Road. DWS informed the residents that the road would be damaged in the course of the current project. At the very least, DWS would end up paving one lane and it would look like a patchwork job. The residents accepted that explanation, and DWS also told the residents that the contractor is required to restore things to equal or better condition. A portion of the road that was repaved by the County was scarred up noticeably by the heavy equipment going through, and at some point that will need to be addressed, Mr. Beck said. He noted that it may have been beneficial that property owner Mr. Mark Jernigan wanted the road reduced from 20 feet wide to 15 feet wide. Perhaps the reduction in paving along that strip of road can be applied to resurfacing some of the lower section, he said.

Chairperson Mukai asked if the residents were aware that the contractor is not going to repave the road now.

Mr. Beck confirmed that the residents understood that at the time. To capture the County funding that was available, the residents wanted to go through with the County repaving it.

Chairperson Mukai said the main thing is that the lines of communication are wide open.

Mr. Reynolds said he had received a three-page list of restoration requests from the Tomi Tomi Drive residents, dated June 1. The list is itemized with all of the requested repairs, which were all scheduled, according to the list, between May 31 and June 7. He asked if the repairs have been done, and asked if Mr. Beck has the same list.

Mr. Beck confirmed that this was the list he received from Mr. Housel. More things have been done since then, while not everything on the list has been accomplished. For example, things like re-setting the pins are still pending. The repaving needs to be done before the pins are re-set, or else the pins would be asphalted over.

Mr. Reynolds said the pins were not much of a problem. He asked about repairing the fences, the driveways, etc.

Mr. Beck said that a lot of the wall has been taken care of. One of the issues remaining is the concrete driveway that was damaged. The contractor was given permission to use the driveway, but now the contractor has to go back to fix it. The driveway in question is not Mr. Jernigan's driveway, but is down below Mr. Jernigan's property near the intersection of Kuni Road and Tomi Tomi Drive, and is shared by three property owners. While the driveway repairs are underway, the owners will need to get

in and out through a breach that is being temporarily left in the wall. Therefore, not everything is paved yet. There was also the issue of a hose on the walls, which is part of the spaghetti line that is serving the 935 Tank site. The hose is being used for the work, so it is not something that can disappear right away. Some items are more pressing than others, but the residents appear pleased that things are being done.

Mr. Reynolds thanked Mr. Beck for going to see the residents to address their concerns.

Turning to the upcoming American Water Works Association (AWWA) convention in Chicago, the Manager said that the secretary will be in Chicago, and Board members attending the convention can call her on the DWS cell phone if they need assistance.

Mr. Perry asked what was in Chicago.

The Manager explained that it is the annual AWWA convention, which is an exhibition as well as a convention which rotates around 11 cities in the United States and Canada. Upwards of 15,000 AWWA members attend every year.

Chairperson Mukai said that in the past, the entire Board was invited to attend, but because of fiscal constraints, only three Board members are going this year: the Chairperson, Mr. Taniguchi and Mr. Lindsey. The Board's travel policy determines who may travel, based on position and seniority on the Board.

#### **I. CHAIRPERSON'S REPORT:**

Chairperson Mukai said that Corporation Counsel Lincoln Ashida is offering a Sunshine Law training session on Thursday, June 24 from 9:00 a.m. to 11:00 a.m. at the County Building. He encouraged all Board members to attend, and asked those interested in the training to contact the secretary to make the arrangements.

Mr. Reynolds noted his chagrin that the State Legislature is not bound by the Sunshine Law, while the County is bound by it.

Mr. Taniguchi asked if the Board was planning to set up a meeting for Waimea so the new members could see the reservoir site.

Chairperson Mukai said that maybe the Board could do it in August.

Ms. Garson expressed Sunshine Law-related misgivings, about having more than two members go at a time.

Mr. Meierdiercks suggested having two members go to the site one day, and then another two members go another day.

Chairperson Mukai said he himself missed going to the site the last time and was interested in going. He asked interested members to contact Mr. Ikeda to make arrangements.

The Manager suggested that interested members visit the site soon, in order to be able to see the contractor working.

Mr. Inaba agreed, noting that the contractor was getting close to installing the liner for the reservoir. The members would probably prefer to see the reservoir while it is empty.

Chairperson Mukai asked for a show of hands of members interested in visiting the site. Five Board members raised their hands: Mssrs. Perry, Greenwell, Kaneshiro, Taniguchi, and Chairperson Mukai. He suggested holding the Water Board meeting in Waimea in September.

Mr. Inaba said by that time, the liner will have been installed.

Chairperson Mukai said in that case, it would be better to visit when the reservoir is still empty. He said the Board would work with DWS to arrange for visits by two members at a time, to comply with Sunshine Law.

#### ANNOUNCEMENTS:

1. **Next Meeting:**

The next meeting of the Water Board will be held on July 27, 2010, at 10:00 a.m. at the Department of Water Supply, Operations Center Conference Room, 889 Leilani Street, Hilo, HI. **This meeting will be preceded by a Public Hearing on water rates at 9:30 a.m.**

Chairperson Mukai reminded the Board that there would be a Contested Case Hearing following the regular Board meeting.

2. **Following Meeting:**

The following meeting of the Water Board will be held on August 24, 2010, at 10:00 a.m. at the Royal Kona Resort, Resolution Room, 75-5852 Ali'i Drive, Kailua-Kona, HI.

#### STATEMENTS FROM THE PUBLIC:

None.

#### ADJOURNMENT:

Chairperson Mukai adjourned the meeting at 1:09 p.m.

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#### Senior Clerk-Stenographer

*Anyone who requires an auxiliary aid or service for effective communication or a modification of policies or procedures to participate in this Water Board Meeting should contact Doreen Shiota, Secretary, at 961-8050 as soon as possible, but no later than five days before the scheduled meeting.*

*The Department of Water Supply is an Equal Opportunity provider and employer.*

*Notice to Lobbyists: If you are a lobbyist, you must register with the Hawai'i County Clerk within five days of becoming a lobbyist. {Article 15, Section 2-91.3(b), Hawai'i County Code} A lobbyist means "any individual engaged for pay or other consideration who spends more than five hours in any month or \$275 in any six-month period for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials." {Article 15, Section 2-91.3(a)(6), Hawai'i County Code} Registration forms and expenditure report documents are available at the Office of the County Clerk-Council, Hilo, Hawai'i.*