

MINUTES

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

January 27, 2015

Department of Water Supply, Operations Center Conference Room, 889 Leilani Street, Hilo, HI

MEMBERS PRESENT: Mr. Rick Robinson, Chairperson
Mr. Craig Takamine, Vice-Chairperson
Mr. Russell Arikawa
Mr. David Greenwell
Ms. Brenda Iokepa-Moses
Mr. Kenneth Kaneshiro
Ms. Susan Lee Loy
Mr. Jay Uyeda
Mr. Quirino Antonio, Jr., Manager-Chief Engineer, Department of Water Supply (ex-officio member)

ABSENT:

Mr. Duane Kanuha, Director, Planning Department (ex-officio member)
Mr. Warren Lee, Director, Department of Public Works (ex-officio member)

OTHERS PRESENT: Ms. Renee Schoen, Deputy Corporation Counsel
Mr. Jeff Zimpfer, National Parks Service
Mr. Richard Horn, Lālāmilo Wind Company, LLC
Ms. Nancy Cook Lauer, West Hawai'i Today
Mr. Peter Young
Mr. Ken Kawahara

Department of Water Supply Staff

Mr. Keith Okamoto, Deputy
Mr. Kurt Inaba, Engineering Division Head
Mr. Richard Sumada, Waterworks Controller
Ms. Kanani Aton, Public Information and Education Specialist
Ms. Candace Gray, Assistant Waterworks Controller
Mr. Clyde Young, Operations Division
Mr. Owen Nishioka, Engineering Division
Mr. Eric Takamoto, Operations Division

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- 1) CALL TO ORDER – Chairperson Robinson called the meeting to order at 10:02 a.m.
 - 2) STATEMENTS FROM THE PUBLIC

Mr. Peter Young testified regarding Item 8(D), DISCUSSION REGARDING WATERSHED PARTNERSHIPS.

(The following testimony is verbatim.)

MR. YOUNG: Thank you. My name is Peter Young. You guys have an Agenda Item to talk about the Three Mountain Alliance, which is a watershed partnership on this island. Just some background... When I started at DLNR, within about the first three days, the head of Forestry and Wildlife came to me and told me about this thing called Watershed Partnerships. And at that time, they were independent partnerships around the islands. And because of that, it then ultimately got organized under an association of partnerships. It is voluntary; it is, um, without any specific expectation of direct funds... It is grant-driven; it is primarily governmental agencies, where the Boards of Water Supply, the Departments, are very active on Oahu and Maui. Um...the Department is active in Kohala Watershed Partnership; it is a member on that now. Um...but they look at resource management in a...what was described to me then...was a "blurring" of boundary lines, so it wasn't doing a management function on someone's specific property. It was more where it should be, in order to protect the resource. It is a...it's one of the best public-private partnerships out there, and it uses primarily federal and State money...with in-kind from private members. The Three Mountain Alliance started as the Ola'a-Kīlauea Watershed Partnership, and it was primarily focused around the Volcano area. But then, when the State and Kamehameha Schools got involved with that one, they could see that it would...include a lot more of Mauna Loa, and also Hualālai. So that's how it got to be known as the Three Mountain Alliance: Hualālai, Mauna Loa, Kīlauea. Um...headquarters at Volcanoes National Park. The Park is making the staff space available. Again, voluntary. It's not like they're expecting you to write a check. But it's an opportunity for expanding the outreach on water resource protection, and water use and conservation, and all those other messages you guys come up with. And it's also getting you more directly in...dealing specifically with the resource protection...beyond just educational...but it's getting into actual projects. So I strongly encourage you to not only approve it, but embrace it. There's another watershed partnership on the island. It's Mauna Kea. And that one is also worth joining. Each has its own issues...has their own reasons. But the Three Mountain Alliance made a presentation at the Kona Water Roundtable; I believe it was favorably received. So I would just encourage you guys to support that, and get actively involved. Thank you.

3) APPROVAL OF MINUTES

The Chairperson entertained a Motion to approve the Minutes of the December 16, 2014, Water Board meeting.

ACTION: Mr. Arikawa moved to approve; seconded by Ms. Iokepa-Moses; and carried unanimously by voice vote.

4) APPROVAL OF ADDENDUM AND/OR SUPPLEMENTAL AGENDA

None.

5) PUNA:

A. JOB NO. 2013-996 RE-BID, PĀHOA DEEPWELL A REPAIR:

(Deferred from the December 16, 2014, Board meeting.)

This project generally consists of the demolition and construction of a new well pump pad and replacement of the existing deepwell submersible motor, pump, power cable, column pipe and appurtenances and chlorination of the well and pumping assembly, in accordance with the plans and specifications.

Bids for this project were set to be opened on November 20, 2014, but there were no bids. This project was **re-bid on December 11, 2014**, at 2:30 p.m., and the results are as follows.

Bidder	Bid Amount
Beylik Drilling and Pump Service, Inc.	\$134,040.00
Derrick's Well Drilling and Pump Services, LLC	\$160,000.00

Project Costs:

1) Low Bidder (Beylik Drilling and Pump Service, Inc.)	\$134,040.00
2) Contingencies (10%)	\$ 13,404.00
Total Cost:	<u>\$147,444.00</u>

Funding for this project will be from DWS's CIP Budget under Deepwell Pump Replacement. The contractor will have 180 calendar days to complete this project. The Engineering estimate for this project was \$191,100.00.

The Manager-Chief Engineer recommended that the Board award the contract for JOB NO. 2013-996 RE-BID, PĀHOA DEEPWELL A REPAIR, to the lowest responsible bidder, Beylik Drilling and Pump Service, Inc., for their bid amount of \$134,040.00 plus \$13,404.00 for contingencies, for a total contract amount of **\$147,444.00**. 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 by Corporation Counsel.

MOTION: Mr. Uyeda moved to approve; seconded by Ms. Lee Loy.

The Manager-Chief Engineer noted that this Item was deferred last month due to a protest, which was subsequently withdrawn after staff provided explanation. The Department now wants to go ahead with the award to Beylik Drilling and Pump Service, Inc.

ACTION: Motion carried unanimously by voice vote.

6) SOUTH KOHALA:

A. **JOB NO. 2011-972, LĀLĀMILO WIND FARM REPOWERING PROJECT -- RENEWABLE ENERGY SERVICE AND POWER PURCHASE AGREEMENT; LEASE FROM STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES AND SUBLEASE TO LĀLĀMILO WIND COMPANY, LLC:**

DWS staff appeared before the Board of Land and Natural Resources (BLNR) on January 9, 2015 regarding the request for the Lease and Sub-lease for the subject properties, encompassing a total of 83.997 acres, and will provide a report at the January 27, 2015, Water Board meeting.

The Renewable Energy Service and Power Purchase Agreement (PPA) was also discussed.

The Manager-Chief Engineer reported that the Deputy and Ms. Kathy Garson, Deputy Corporation Counsel, attended the January 9, meeting on Oahu, where the land board approved the lease and the sub-lease. DWS is now in the process of ironing out some details with Lālāmiilo Wind Company, LLC, on finalizing the lease and sub-lease and getting the design going, he said. He noted that the Water Board at the December meeting had approved a time extension on the PPA to June 30, 2015, but he was confident that things could get done before that date. The Manager-Chief Engineer recommended that DWS staff sit down again with Mr. Horn to hammer out the remaining details, so that the momentum on the project is not lost.

The Deputy noted that Mr. Horn was present today because the PPA was to be discussed at this meeting. Ms. Garson had worked on the Amendment to the PPA, as a result of a previous Board meeting, he said. The contractor has concerns with some of the proposed language, specifically

regarding Exhibit C, Pricing. Part of the revised language included a statement saying: “Provided, however, ITP mitigation costs over the three-year period shall not exceed \$73,500.00.” The Deputy said that Mr. Horn had concerns with that language, because there are periods when the work involved may exceed that amount.

Ms. Lee Loy, noting that the big problem last meeting involved the extremely high amount that DLNR had been asking for the annual lease rent. She asked what amount was decided by the land board.

The Deputy said that DLNR had had an appraisal done, funded by DWS, and the appraisal rent amount was \$56,000.00. Needless to say, DWS had concerns about that amount, he said. Prior to the January 9 meeting, DWS worked with land board staffers, including District Land Agent Mr. Gordon Hite, Assistant Administrator Mr. Kevin Moore, and Land Administrator Mr. Russell Tsuji. DWS sent a letter to DLNR saying that a fairer amount would be based on the last rent amount that DWS paid on the property, adjusted for inflation. That amount came to \$7,000.00 a year – as opposed to \$56,000.00, the Deputy said. Fortunately, that made sense to the land board staffers as well, and they proposed a lease amount of \$7,700.00. It was not clear how they arrived at that number, but DWS was satisfied with that amount, versus the \$56,000.00. The Deputy credited Mr. Tsuji and BLNR member Mr. Chris Yuen for going to bat for DWS; they both recognized that this is a terrific project for the community and the State. They understood that any increase in rent would mean reduced savings for DWS’s customers. The land board passed the lease rent amount of \$7,700.00. In addition, Mr. Yuen made a Motion to relax other requirements within the actual lease, such as the performance bond requirement. DWS has not yet seen the final language of the lease, the Deputy added.

Ms. Lee Loy said that she had a chance to speak with Mr. Yuen, who represents the Big Island on the land board. Mr. Yuen expressed real excitement about the project, which he considers right in line with sustainability aims; Mr. Yuen also likes DWS’s five-year plan, and is supportive of all of DWS’s other projects, Ms. Lee Loy said. It was clear that Mr. Yuen understands that a high rent would hurt DWS’s customers, and he could see that this wind farm agreement was a cornerstone for DWS, whereby the Department will know how much the project will cost for the next 50 years.

The Deputy said the lease is for 50 years; the sub-lease with Lālāmilo Wind Company, LLC, will be for 20 years.

Mr. Horn said that there were two issues that need to be resolved, in order for the project to move forward. The first issue is the sub-lease; he said that he had asked DWS for a letter stating that: “Upon consummation of the discussions with DLNR, that the sub-lease has been described in full, and will be produced as described, from the DLNR agreement.” He said he needed this letter for his lending institution. Mr. Horn said the second issue involves the Addendum to the PPA; there was some initial language from Ms. Garson, some of which Mr. Horn then asked to change. Ms. Garson asked Mr. Horn to write language that he considered acceptable. Mr. Horn did so, and sent that to Ms. Garson on January 13. Mr. Horn said that he had a copy of what was submitted, and said that he would give that to DWS. Mr. Horn said that his revised language accomplishes the same thing, but is just phrased differently. He noted that Ms. Garson was not present today, but he wanted to keep the ball rolling because he needed this letter, in addition to the sub-lease, in order to sew up the financing. Those two items are the only things stopping him from closing the loan, Mr. Horn said.

The Deputy asked Mr. Horn if he had extra copies.

(Mr. Nishioka took Mr. Horn’s document and had copies made by staff.)

Mr. Horn said his company next Monday was planning on beginning to survey and lay out all of the turbines and access areas, where the underground collection system will be located. He said his company has the initial release from DWS to go ahead with doing the preliminary findings for the project. His company will also next week or the following week be doing its geotechnical investigation, to determine where the turbines will go. The company will have to drill down 30 or 35 feet to find out what the substrate looks like; the company will design the turbine foundations based on that investigation, Mr. Horn said. He noted that if an excavation exceeds 100 yards, the project is required to get NPDES (National Pollutant Discharge Elimination System) permits, which could take six months to a year. Therefore, to avoid that, the company has designed another style of foundation whereby such excavation is not needed to put the foundations in place. This is what is known as a tension anchor, he said. With a tension anchor, the contractor drills down into the soil, and post-dresses the foundation back down to the ground. This is a newer version of a foundation, which is approved by all of the agencies from whom approvals are needed. That is the purpose of next week's geotechnical investigation, Mr. Horn said.

Chairperson Robinson asked to clarify that Mr. Horn needs the sub-lease agreement and the Addendum to the PPA, which was related to the pricing.

Mr. Horn said that it was related to the Habitat Conservation Plan/Incidental Take Permit costs.

The Manager-Chief Engineer said that DWS staff can work closely to draft that letter to Mr. Horn, which would state that DWS is proceeding with the lease and the sub-lease; this will enable Mr. Horn to secure his financing. The Manager-Chief Engineer said he was directing the staff to work closely with Mr. Horn to get the Addendum to the PPA ironed out; DWS apparently still needs to review the proposed language from Mr. Horn. He said that the details are close to being finalized.

The Deputy said that DWS can write a letter regarding the Department's commitment to execute the sub-lease. He said that DWS will need Board approval for the Manager-Chief Engineer, the Chairperson and/or the Vice-Chairperson to sign it, subject to approval by Corporation Counsel. He reiterated that DWS is working with DLNR land staff. In order for the sub-lease to go forward, what needs to happen first is the **execution of the direct lease** between the land board and the Water Board; DWS wants to ensure that there are no conditions in the direct lease that conflict with the sub-lease, the Deputy said. There is no question that DWS can write a letter of commitment for Mr. Horn and his lenders.

Ms. Lee Loy asked how long it will take for DLNR to get the direct lease through the Attorney-General's Office, so that the Board can take a look at it.

The Deputy said DWS would do its utmost to get it expedited.

The Manager-Chief Engineer said DWS needs to keep in close contact with DLNR staff to make sure that things do not fall through the cracks.

Mr. Greenwell asked if DLNR needs to issue a temporary letter or something to allow the contractor to get started on work, ahead of obtaining the sub-lease.

The Manager-Chief Engineer said that the process can taken place. He asked the Deputy to describe what has been going on with DLNR staff, as far as allowing Lālāmilo to be able to do their investigative work on-site.

The Deputy has been working with DLNR staff on the right-of-entry to the property, and DWS has already given Mr. Horn a letter which indicates that DWS is okay with the contractor to proceed. He said DWS is still trying to secure the formal right-of-entry from DLNR.

Mr. Greenwell asked if DLNR is okay with the contractor to proceed.

Mr. Inaba said that DWS already has an existing right-of-entry to the property; DWS is just clarifying what the scope will be on the current right-of-entry.

ACTION: Ms. Lee Loy moved to go into Executive Session; seconded by Mr. Takamine, and carried unanimously by voice vote.

Once back in regular session, Ms. Lee asked to make a Motion.

MOTION: Ms. Lee Loy moved to follow the advice of Corporation Counsel to have DWS draft a letter to assist with Mr. Horn's financing, and further moved for DWS to continue to collaborate on the sub-lease and the PPA; seconded by Mr. Greenwell.

Chairperson Robinson reiterated that the Motion on the floor was to write a letter to the lender and to Mr. Horn indicating DWS's commitment to the project, and secondly, for DWS to continue to work with Mr. Horn on the issuance of the sub-lease, and thirdly, for DWS to discuss the proposed amendments to the PPA.

AMENDED MOTION: Ms. Lee Loy asked to add to her Motion the authority for the Manager-Chief Engineer, Chairperson and Vice-Chairperson to sign the documents once the details are worked out. She said that if there are any issues between the parties, they can come back before the Board, but if not, the parties can just iron things out on their own. She asked to supplement her Motion to allow for the Chairperson/Vice-Chairperson and Manager-Chief Engineer to sign, subject to approval by Corporation Counsel; if there are any substantive changes to those agreements, the parties would be willing to come back before the Board.

Chairperson Robinson asked Mr. Horn to come back up to explain why he wanted to get rid of the \$73,500.00 from the PPA.

Ms. Lee Loy noted that her Amended Motion first needed a second.

Ms. Iokepa-Moses seconded.

Returning to the discussion of the contractor's wish to remove the \$73,000.00 from the PPA, Mr. Horn referred back to the PPA schedule which was submitted and approved by the Board in October. One payment on that schedule is going to be for \$490,000.00; the contractor had already issued its contract with the environmental engineers to the tune of \$140,000.00. Those two amounts alone exceed the \$73,500.00. He said that it was understandable that the Board wanted to focus on the \$73,500.00, but it does not really come into play, because it is all encompassed by the two-cent increase in the PPA. The total number is taken up by that increase in the PPA price, he said. He noted that his recent letter to Ms. Garson said that there was no need to focus on the \$73,500.00; the main thing is that the Board has approved the two-cent increase in PPA prices. In addition, the PPA schedule moved the one-cent from the back end of the PPA to the front end, to help cover the costs for the first five years.

The Manager-Chief Engineer thanked Mr. Horn for his explanation, and said he was sure that DWS would be able to analyze that, and move forward.

ACTION: Motion to approve the Amended Motion carried unanimously by voice vote.

ACTION: Motion to approve the Main Motion as Amended carried unanimously by voice vote.

B. EXECUTIVE SESSION RE: JOB NO. 2011-972, LĀLĀMILO WIND FARM REPOWERING PROJECT -- RENEWABLE ENERGY SERVICE AND POWER PURCHASE AGREEMENT; LEASE FROM STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES AND SUBLEASE TO LĀLĀMILO WIND COMPANY, LLC:

The Water Board convened an executive meeting, closed to the public, pursuant to Hawai'i Revised Statutes, Sections 92-4, 92-5(a)(4), for the purpose of consulting with the Water Board's attorney on questions and issues pertaining to the Water Board's powers, duties, privileges, immunities and liabilities.

(The Board went into Executive Session at 10:23 a.m., and exited Executed Session at 10:33 a.m.)

7) NORTH KONA:

A. JOB NO. 2008-934, KONA OCEAN VIEW PROPERTIES WATER SYSTEM IMPROVEMENTS:

The contractor, Koga Engineering & Construction, Inc., requested a contract change order to increase the amount of pavement restoration. Due to the existing condition of the road, the contractor had disturbed more than what was estimate in the original scope. The cost to cover this increase is more than the remaining contingency amount of \$58,950.10. However, as USDA Rural Development is funding this project, there are still grant funds available to cover this change order.

DWS and Koga have agreed to the amount of pavement restoration and USDA Rural Development has approved the use of the remaining grant funds to cover the change order amount of \$183,150.00 to complete this work. The additional funds required are \$124,199.90. The revised contract amount will be \$1,357,899.90.

Staff is requesting a time extension to February 28, 2015.

The Manager-Chief Engineer recommended that the Board approve additional funds of \$124,199.90, as well as grant a time extension to the contract for JOB NO. 2008-934, KONA OCEAN VIEW PROPERTIES WATER SYSTEM IMPROVEMENTS, to bring the completion date from November 1, 2014 to February 28, 2015. If approved, a contract change order will be processed, and the revised contract amount will be \$1,357,899.90, with a contract completion date of February 28, 2015.

MOTION: Ms. Lee Loy moved to approve; seconded by Mr. Kaneshiro.

Mr. Inaba explained that there was some back-and-forth discussion about the repaving of the road in the subdivision, and USDA wound up approving additional funding to repave areas where the road was damaged. This would mean additional paving, which was not included in the original scope of work. All of the funds in question are coming from the remaining grant portion of the USDA funding, Mr. Inaba said. He stressed that the money was not coming from DWS; all of the project funding has come from the USDA loan and grant.

Mr. Kaneshiro asked whether the contractor had looked at the road when he put in the bid; he quoted wording above: "Due to the existing condition of the road, the contractor had disturbed more than what was estimate in the original scope." He said the condition of the road did not change from the time the contractor looked at it, i.e., at the time he put in his bid.

Mr. Inaba said that was correct. He explained that when DWS first came up with the scope of the project, DWS tried to include the road re-paving, because the staff felt that the road was going to be disturbed by the work. However, USDA did not agree to include the re-paving in the scope. Therefore, from an engineering standpoint, the consultant had to determine the limits of paving as “trench patching,” he said. There was a push to state that the road was going to get damaged because of the road’s substandard condition anyway, Mr. Inaba said. The project was originally bid out with a quantity for trench patching, i.e., paving over only the trench patch. However, DWS went back in and looked at the actual condition of the road, and told USDA that something should be done about it, Mr. Inaba said. It took USDA a while to review the request, and DWS ended up having the consultant go and quantify what should be repaired; the above-mentioned amount for resurfacing was what the consultant came up with, based on the unit price bid. USDA agreed that the resurfacing was an incidental item that should have been included in the original scope, Mr. Inaba said.

Mr. Uyeda asked whether any other government agency or entity such as the County Council, needed to approve the change order.

Mr. Inaba said no, the signatures on the change order are being done only by DWS.

Mr. Greenwell asked if this was a private or a public, i.e., County-dedicated, road.

Mr. Inaba said it was a private road; the community has an association.

Ms. Lee Loy, noting that the time extension runs until February 28, 2015, asked if by that date everything would be finished.

Mr. Inaba said yes, that is the contractor’s intention, and DWS is holding them to it. He said that the slight delay was due to DWS defining the scope of the re-paving; it was also due to DWS working to get a product that would be acceptable to the community.

ACTION: Motion carried unanimously by voice vote.

8) MISCELLANEOUS:

A. DEDICATION OF WATER SYSTEMS:

The Department has received the following document for action by the Water Board. The water system has been constructed in accordance with the Department’s standards and is in acceptable condition for dedication.

1. **GRANT OF WATER METER EASEMENT**

Project Name: St. Michael the Archangel Parish (Water Meter)
Grantor: Roman Catholic Church in the State of Hawai‘i
Tax Map Key: (3) 7-5-008: 006 Portion

2. **BILL OF SALE**

Project Name: Kumau Street Extension Improvements
Seller: State of Hawai‘i Department of Transportation, Harbors Division
Tax Map Key: (3) 2-1-007
Facilities Charge: \$13,750.00 Date Paid: 01/08/2015
Final Inspection Date: 01/05/2015
Water System Cost: \$156,410.00

The Manager-Chief Engineer recommended that the Water Board accept this document subject to the approval of the Corporation Counsel, and that either the Chairperson or the Vice-Chairperson be authorized to sign the document.

MOTION: Ms. Lee Loy moved to approve; seconded by Mr. Arikawa.

Mr. Arikawa asked where the Kumau Street Extension was.

Mr. Inaba said it was on the Hāmākua side of Hilo Harbor, near Baker’s Beach.

The Manager-Chief Engineer said yes, it was near Gaspro.

Mr. Greenwell asked whether the grant of easement for St. Michael the Archangel Church was because the water meter had to be put *on* the property itself.

The Manager-Chief Engineer said that the road right-of-way there was too narrow, so DWS had to go in and put the meter *on* the church property. Therefore, DWS needed an easement to do so.

Mr. Inaba noted that the church is on Ali‘i Drive.

ACTION: Motion carried unanimously by voice vote.

B. DISCUSSION REGARDING MEDIATION AS DIRECTED BY COMMISSION ON WATER RESOURCE MANAGEMENT (CWRM) ON NATIONAL PARKS SERVICE’S PETITION TO DESIGNATE KEAUHOU AQUIFER AS A GROUND WATER MANAGEMENT AREA:

ACTION: Ms. Lee Loy moved to go into Executive Session; seconded by Mr. Greenwell, and carried unanimously by voice vote.

(Upon exiting Executive Session at 11:09 a.m., the Board recessed until 11:14 a.m.)

MOTION: Ms. Lee Loy moved to accept the recommendation by Corporation Counsel on the response to the National Parks Service; seconded by Ms. Iokepa-Moses.

Chairperson Robinson recapped the Motion to approve the Board’s response to the National Parks Service.

ACTION: Motion carried unanimously by voice vote.

C. EXECUTIVE SESSION RE: MEDIATION AS DIRECTED BY COMMISSION ON WATER RESOURCE MANAGEMENT (CWRM) ON NATIONAL PARKS SERVICE’S PETITION TO DESIGNATE KEAUHOU AQUIFER AS A GROUND WATER MANAGEMENT AREA:

The Water Board convened an executive meeting, closed to the public, pursuant to Hawai‘i Revised Statutes, Sections 92-4, 92-5(a)(2), to discuss mediation as directed by the Commission on Water Resource Management regarding the National Park Service’s petition to designate Keauhou Aquifer as a Ground Water Management Area, and for the purpose of consulting with the Water Board’s attorney on questions and issues pertaining to the Water Board’s powers, duties, privileges, immunities and liabilities.

(The Board went into Executive Session at 10:48 a.m., and exited Executive Session at 11:08 a.m.)

D. DISCUSSION REGARDING WATERSHED PARTNERSHIPS:

DWS staff met with the Three Mountain Alliance coordinator and consultant regarding the benefits of membership/participation in the cooperative management of state, federal and private lands in the Kīlauea, Mauna Loa, and Hualālai Mountains. This group regularly convenes for the purpose of natural resource management, education, and building consensus on what is best for the shared resources for all in this region.

The Manager-Chief Engineer noted that Mr. Peter Young, who testified earlier about this Item, and Three Mountains Alliance director Ms. Colette Cole, recently met with DWS staff. DWS has no problems participating with the Alliance, and DWS plans to attend the Alliance's next quarterly meeting. As Mr. Young said earlier, there is no obligation or commitment on DWS's part to provide funding. However, if the need to fund anything arises, DWS will put it in the Budget. The Manager-Chief Engineer agreed that DWS's active participation in the watershed is important; DWS is part of the water cycle. It is not clear whether DWS's participation will be formal or informal; if its participation is to be formal, DWS will come back to the Board. Otherwise, for the time being, DWS's participation will remain informal, and DWS will participate in the Alliance's discussions.

Mr. Greenwell asked if DWS had been approached by the Kohala watershed project; he asked this in light of the heavy dependence on runoff water from the Kohala Mountains. He said he did not know the official name of the Kohala watershed project.

The Manager-Chief Engineer said that as Mr. Young mentioned, DWS is part of the Kohala Watershed, although DWS has not been actively involved in their meetings recently. DWS has not been formally approached by them, but is open to doing so, if they request that DWS be involved in something.

Mr. Greenwell expressed surprise that the Kohala watershed people have not contacted DWS recently, because the group is very active in the Kohala Mountains watershed usage.

The Manager-Chief Engineer said that it was not clear whether DWS would wait until somebody from the group submits something in writing or gives DWS a call.

The Deputy said that DWS is a part of that partnership, the Kohala Watershed Partnership. DWS receives their emails regularly, although DWS has not actively participated in their meetings.

Ms. Lee Loy said that this was a great win-win situation; it is an opportunity for DWS to act as a clearinghouse for a lot of information. She said her personal philosophy is that more information is good information, and good information helps the Board make good decisions. Therefore, participating in these partnerships is right up DWS's alley, Ms. Lee Loy said.

Mr. Kaneshiro agreed that it would be good for DWS to participate. He said that DWS should really look at the island's recharge areas, where ground water is recharged. These partnerships would be an opportunity for DWS to work with other organizations to protect watershed areas, and especially recharge areas, he said. He noted that the County's Commission on Public Access, Open Space and Natural Resource Preservation is tasked, among other things, with the protection of watershed areas and recharge areas.

E. **DISCUSSION OF AMENDING RULES AND REGULATIONS REGARDING PLACING RESPONSIBILITY WITH PROPERTY OWNERS FOR TENANTS' DELINQUENT BILLS:**

(This Item was deferred from the November 25, 2014, Water Board meeting.)

Ms. Lee Loy reported that she and Ms. Garson had come up with a draft Rule Amendment, but due to Ms. Garson's absence today, the Rule Amendment will be unveiled next month. It is a comprehensive Rule Amendment, that addresses anything and everything in DWS's Rules. It does everything from housekeeping changes such as revised fax numbers, to substantive changes such as placing liens and prescribing how to collect delinquent bills, Ms. Lee Loy said. It is a really comprehensive look through DWS's Rules. Ms. Lee Loy asked the Board to offer any suggestions regarding things that should be looked at in the Rules.

F. **AD HOC COMMITTEE PURSUANT TO HRS SECTION 92-2.5(B) TO PRESENT, DISCUSS AND/OR NEGOTIATE FOR LEGISLATION REGARDING THE PLACEMENT OF SUCH LIENS ON REAL PROPERTY FOR NON-PAYMENT OF WATER BILLS:**

(This Item was deferred from the November 25, 2014, Water Board meeting.)

The Ad Hoc Committee is exploring legislation pursuant to HRS Section 92-2.5(B) which would allow the placement of an automatic lien on property for non-payment of water bills. The Ad Hoc Committee will present, discuss, and/or negotiate for such legislation with any necessary person including, but not limited to, any water or wastewater department or division of any county, and/or with any legislators in the State of Hawai'i.

The Ad Hoc Committee is also exploring a revision of the Department of Water Supply Rules and Regulations to hold a property owner responsible for any water bill for water service to such property, whether or not the property owner resides on the property; and that no water service will be granted to such property until all such delinquencies are paid or other agreement is reached.

Ms. Lee Loy, noting that the new Legislative Session started on Wednesday, said that she asked Senator Russell Ruderman to re-introduce DWS's bill, which would allow the Department to place a lien on real property for unpaid water bills. The Senate Bill this time is SB110, she said. She is currently in discussions with Representatives Cliff Tsuji and Richard Onishi, to introduce a House companion bill to go with the Senate bill. The hiccup there is that House members are limited to the number of bills they can each introduce, so the two representatives are trying to figure out who has room to introduce the companion bill, Ms. Lee Loy said. She noted that last year, the reason that DWS's bill stalled was because it ran into pushback from the Hawai'i Realtors Association. This time, Ms. Lee Loy has reached out to the realtors association, and has started collaborating with them. The realtors association has come up with their own bill, which would allow the realtors to collect deposits, that could be used to pay for unpaid utility bills including water, electric and sewer. There would also be an opportunity for the realtors to collect a deposit for pets, as well. DWS and the realtors association are looking at the prospect of hybridizing the language of their respective bills, in the event that either DWS or the realtors fail to get their bills passed. A hybrid bill in that case would allow the two entities to at least get something going, Ms. Lee Loy said. She is still in discussion with the representatives' staffers over proposed language amendments, in order to dovetail their respective bills with DWS's own Rule Amendment, covered in the previous Agenda Item. Ms. Lee Loy said that placing the lien is DWS's very last option, but DWS is going to really close the gap on unpaid water bills with the Rule Amendments. DWS's piece of State legislation is the Department's absolutely final step in doing this, but right now there are some gaps to close, and DWS will be doing that together with the realtors association, she said.

Mr. Greenwell asked if DWS's bill had any backers from the other islands; he asked whether other islands had comparable bills, or were the other islands just going to sign on with the DWS bills to be introduced by Messrs. Ruderman and Tsuji.

Ms. Lee Loy said that she had not yet reached out that far, but last year, DWS got help from its counterpart water departments on the other islands. She said she would network with the other water departments at the upcoming conference on Oahu, to explore whether they can get their respective legislators to support DWS's bills. She thanked Mr. Greenwell for raising his question, because support from other islands is another key to getting the bills through. The realtors' bill has gotten support up front from a number of senators and representatives, who are piggy-backing onto the realtors' bill.

Mr. Arikawa said that the realtors support getting the deposit, to pay for utilities; that was an excellent idea to put into DWS's bill.

Ms. Lee Loy agreed, and said that the realtors' bill is going to look at extending the deadline for returning the deposit. All of this has been good because it has initiated a conversation that the realtors needed to have, she said. There are things in their bill that help the realtors' businesses, while also helping DWS's business. If the realtors get the money through the deposit and in turn, pay DWS, then it works, Ms. Lee Loy said. DWS does not want to initiate the lien, and instead wants to secure DWS payments as soon as it can without going that far, she said.

Mr. Takamine asked if Ms. Lee Loy knew which committees would be hearing the DWS bill. He thought at the end it would be the Consumer Protection Committee, but was not sure which Committee would hear the bill before that.

Ms. Lee Loy said the Water Resource Committee would also hear the bill, and another Committee which is basically a funding mechanism; the bill would go through three committees, she said.

G. MONTHLY PROGRESS REPORT:

Mr. Greenwell asked Mr. Inaba what was happening on the Halaula Well Development, Phase 2.

Mr. Inaba said that DWS is in "semi-agreement" regarding paying a third appraiser on the property; DWS has discussed this with the landowner's representative, who is okay with it in concept, so long as the third appraisal comes in between the low and the high numbers. The matter is still really a land acquisition, Mr. Inaba said.

Mr. Greenwell asked if Phase 2 was basically a land acquisition.

Mr. Inaba said no. Once that third appraisal is done, the project can move forward.

The Manager-Chief Engineer said that Phase 2 involves putting in the production well.

Mr. Inaba said that because the property was in foreclosure, DWS had thought it was stuck.

Mr. Greenwell asked for more information on how the project is going; he asked if it is closer to moving forward – or are people standing firm.

Mr. Inaba said he did not know; DWS should be hearing back from the landowner soon.

Mr. Greenwell thanked Mr. Inaba for putting the Puakō Pipeline back on the CIP list. He said he was a bit concerned to hear at the Waimea community meeting the other night that DWS is going

to have to pay \$4 million for the repair of Waikoloa Reservoir No. 1, and that FEMA is only going to come up with 10 percent of that.

Mr. Inaba said the \$4 million is the determined amount; DWS had asked to include additional work that is necessary to make the reservoir whole. Basically DWS wants to do for Reservoir 1 that the Department did for Reservoir 2. FEMA is approving only a small portion of the scope for Reservoir 1; that was pre-determined by FEMA's analysis after the earthquake occurred (in 2006).

Mr. Greenwell asked if DWS actually owns the Reservoir, or does DWS just lease the site and operate the Reservoir.

The Manager-Chief Engineer said that DWS has an Executive Order to operate the Reservoirs; DWS's responsibility is to maintain and operate the Reservoirs. The land is State land. The Manager-Chief Engineer did not know exactly how the Executive Order is worded; he was not sure how or whether the land would revert back to the State if DWS decided to discontinue using those Reservoirs. What is clear is that DWS operates and maintains the Reservoirs under that Executive Order.

Mr. Greenwell asked if DWS could get State help on the \$4 million.

The Manager-Chief Engineer said DWS has been trying to get waivers on the inspection fees for the Reservoirs, but the State said no. DWS has to pay those inspection fees, etc., to the State.

Mr. Greenwell said what he is concerned about is that the State engineered and built the Reservoirs, and it has been 40 years since the Reservoirs were turned over to DWS. He wanted to know why DWS could not get some help in repairing this facility, which might not technically even belong to DWS. He said he could not see DWS coming up with \$4 million, to repair a Reservoir that was designed inappropriately to start with.

Chairperson Robinson asked about the Queen Ka'ahumanu Highway Widening project. He understood that the Feds and the State Historical Preservation Division had signed off; he asked if the Memorandum of Agreement (MOA) was just sitting there.

Mr. Inaba said that he did not think that all of the necessary parties have signed off on the MOA yet.

Chairperson Robinson asked if Mr. Inaba had any idea when that would happen.

Mr. Inaba said not really; he wanted to say soon.

Chairperson Robinson said that DWS had to pay the extra design fee; he asked if DWS had paid that already.

Mr. Inaba said no, DWS had not paid that yet, because the go-ahead still has not been given to do the work.

Chairperson Robinson said that DWS's \$1.2 million for the pipes is still sitting there.

Mr. Inaba said yes, DWS's money is sitting in (the State Department of Transportation's) account.

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

Mr. Sumada noted that he had distributed copies of the Budget for Fiscal Year 2016 to the Board. This is not on today's Agenda; it will appear on next month's Agenda, and succeeding Agendas through June, for the Board's approval. The Agenda next month will have an Item to approve a Public Hearing in March. The Board will discuss the Budget at the February meeting, and could vote to approve the Budget after the Public Hearing in March, Mr. Sumada said. The five-year CIP Budget was also distributed today. Also next month, Ms. Ann Hajnosz of Brown & Caldwell will do a presentation on her five-year Water Rate Study recommendations. Ms. Hajnosz will go over her methodology and the results she came up with, and answer any questions that the Board may have. The proposed new water rates will also need to go to Public Hearing, in both Hilo and Kona on succeeding days, before the new rates can be approved and implemented, Mr. Sumada said.

Mr. Greenwell said that he is sure that Ms. Hajnosz is taking into account the Lālāmilo Windfarm coming back online. He asked if there was a problem is that Lālāmilo *Farm Lot*, adjacent to the Windfarm, does not make the deadline, i.e., runs a year or so late due to construction problem, etc.

The Manager-Chief Engineer said no, he did not think that was going to happen, because with the Windfarm, DWS will be buying power at a lower rate, and basically passing it on to the customer directly. He did not think that it was going to affect DWS's budgeting. Whether DWS pays 40 cents or 25 cents does not affect DWS's budget, because the power cost is passed on to the customer.

Mr. Sumada agreed; the power cost charge is a pass-through to the customer. He noted that Ms. Hajnosz will propose the consumption charge and the standby charge; her recommendations will have nothing to do with the Power Cost Charge (PCC), which is based on actual invoicing from HELCO.

Chairperson Robinson asked when the annual auditor's report would be presented to the Board.

Mr. Sumada said that the auditors finished the report only last week; Mr. Sumada needs to meet with the auditors to set up a date when the auditors will do their presentation to the Board. It could be as soon as the February meeting, or whenever is convenient for the Board.

Chairperson Robinson, turning to the Monthly Financial Statements, asked about the entry listed as "Other," under Non-Operating Revenues.

Mr. Sumada said that the "Non-Revenue" revenues primarily include rental income from the County, for the space downstairs in the Waiākea Office Plaza. DWS gets about \$40,000.00 a month in rental income from the County. The other major category included in the Non-Revenue column are things like the Rider M credits that DWS gets from HELCO. There are four or five smaller accounts that feed into the Non-Revenue column, he added.

Ms. Lee Loy asked for confirmation that the rental income is what was worked out with the Department of Environmental Management.

Mr. Sumada confirmed this.

Mr. Arikawa remarked that the five-year CIP Budget weighs in at \$65 million for the five years, with about a third of that amount coming in the next Fiscal Year; that is a lot of projects.

I. MANAGER-CHIEF ENGINEER'S QUARTERLY UPDATE:

The Manager-Chief Engineer presented his report on the fourth quarter of 2014. He noted that Operations Division had added a new tactic regarding Energy Efficiency. He said that Finance Division was on-track with its Rate Study, which is underway, and there are some Rule changes that need to be made on the water shutoffs, etc. Administration Division is finalizing its Contracts Management System, with staff undergoing training.

Ms. Lee Loy asked Ms. Aton whether the vast quantity of information on the Keauhou Aquifer issue is being covered by the area labeled "Review and Improve Communication: Implementation of the Laserfiche." She asked if the Keauhou Aquifer information is going into the laserfiche.

Ms. Aton said that Mr. Dennis Wong, the Information Systems Manager, is handling the laserfiche for the Department. She asked Ms. Lee Loy to clarify her question.

Ms. Lee Loy said that leading up to the important CWRM meeting in December regarding designation of the Keauhou Aquifer, there was a lot of information and the Board had discussed having Frequently Asked Questions on the subject be posted on the DWS website. She said that she considered DWS as becoming a clearinghouse or repository of all things.

Ms. Aton said it would certainly go up on the website, as the information becomes available. She asked what information Ms. Lee Loy wanted posted; she asked if it was all of the letters going back and forth, or the *outcomes*.

Ms. Lee Loy said she wanted more of the outcomes; she wanted to see some of the key information that everybody seemed to want regarding the Board's discussions.

Ms. Aton asked if Ms. Lee Loy wanted to see that incorporated as part of the Business Plan, or separate.

Ms. Lee Loy said it would be separate; she said she was not sure if that information had been folded into the website.

Ms. Aton said all right, she would put that on the website.

Ms. Lee Loy asked whether people who are researching on the DWS website, such as seeking forms or applications, are getting linked to the laserfiche.

Ms. Aton said that was a technical question that she could not answer.

The Deputy said that DWS currently is not quite there yet. That is among the things that DWS would like to implement somewhere down the road, i.e., online applications or forms, etc. The Department has been talking about it internally, but it has not been specifically mapped out yet.

Ms. Lee Loy said that it is really helpful among people in the private sector, who are at work late at night, and who cannot go to the DWS office to grab a form. Online applications and forms are helpful tools, she said. She said she herself does a lot of research on County Council bills, ordinances and Agendas. It takes a bit of work to navigate through, but Ms. Lee Loy was just wondering how things like this will come together on the DWS laserfiche.

Ms. Aton said the Department can clarify that.

Chairperson Robinson asked what contract management software that DWS was using.

The Deputy said that DWS was using a platform that was established already by a company called Infor; DWS hired Data House, a local company, to administer the contract. DWS basically wants to ease into it incrementally, to test the waters with it, he said. Over the years, DWS staff

in Engineering, Finance, Administration, etc., kept a copy of their own stuff. The move to get contract management software has started out small, aiming at better efficiency on a bigger scale for the Department. The contract management software is meant to create a central location where people can go to find contract information, without having to chase down the project engineer or the contracts technician. It is a small step, but it seems to be working pretty well, the Deputy said. Because this software is off-the-shelf, it needed to be tweaked a little, and it has its little glitches and challenges. However, DWS felt that it was a better approach than to create a whole new software from scratch, the Deputy said. This seems to be a good starting point, to make DWS more efficient in tracking down projects and contracts.

J. MANAGER-CHIEF ENGINEER'S EVALUATION FOR CALENDAR YEAR 2014:

(This Item was deferred from the December 16, 2014, Board meeting.)

Chairperson Robinson asked that this Item, and Item 8(K) below, be taken up at the end of the Agenda.

K. EXECUTIVE SESSION:

(This Item was taken up at the end of the Agenda.)

L. MANAGER-CHIEF ENGINEER'S REPORT:

The Manager-Chief Engineer will provide an update or status on the following:

- 1) Pu'ukala/Kona Ocean View Properties Subdivision Improvement District Update – The project is slated for completion at the end of February.
- 2) Lava Update – The lava flow has slowed, but DWS continues to monitor it to see if the lava is going to affect DWS's system. If the lava crosses Highway 130, it will affect DWS's system.
- 3) Public Information and Education Specialist Update – Ms. Aton said she did a lot of messaging via radio and social media, regarding the North Kona water conservation, the Kea'au main break, the windstorm event that affected four different DWS systems, etc. Mr. Greenwell asked for an update on the Kona water situation and the wells that are down. The Manager-Chief Engineer said there are four wells down in Kona: Hualālai, Honokōhau, Hōlualoa and Kahalu'u. There are some issues regarding a new transformer for Hualālai. DWS needs to find out why some of those wells had broken down. He noted that the Conservation Notice for North Kona had gone out due to the four wells being down. If another well goes down, it will be bad for DWS, the Manager-Chief Engineer said. However, DWS is working closely with the contractor, and will keep everyone posted if anything happens. He said the situation is not a minor thing; it is very serious. The District Supervisor in Kona is concerned, and DWS is doing whatever it can to get the wells repaired. Meanwhile, the QLT Well has been acting up; staff has noticed some vibration on that well, the Manager-Chief Engineer said. The four wells need to be repaired; otherwise DWS will be in dire straits due to lack of supply, he said. The Department will keep the Board informed, the Manager-Chief Engineer said. Mr. Greenwell said the time frames for those well repairs are months down the road. The Manager-Chief Engineer said Mr. Young is on hand; he has a better handle on the time constraints. A couple of the wells are under emergency status for repairs; the emergency status means that DWS must push the contractor to get the repairs completed, he said. Ms. Lee Loy asked what the status was on the Maku'u Mauka situation. The Deputy said it was all taken care of.
- 4) Employee of the Quarter – Ms. Candace Gray, the Assistant Waterworks Controller, was being honored as Employee of the Quarter. Mr. Sumada said she was being recognized

for her work in filing claims to FEMA following disasters that have taken place since the 2006 earthquake. Ms. Gray has been responsible for increasing the reimbursable claims from about \$3 million to \$8 million; DWS will get 75 percent of that \$8 million, if approved.

M. CHAIRPERSON'S REPORT:

No report.

MANAGER-CHIEF ENGINEER'S EVALUATION FOR CALENDAR YEAR 2014:

(This Item was moved to the end of today's Agenda).

Chairperson Robinson entertained a Motion to go into Executive Session.

ACTION: Ms. Lee Loy so moved; seconded by Mr. Arikawa, and carried unanimously by voice vote.

The Board returned to regular session.

ACTION: Ms. Lee Loy moved to continue the matter to the next meeting, and in the interim, to allow the Chairperson and Vice-Chairperson to discuss with the Manager-Chief Engineer the evaluation and the salary compensation, and to bring a Recommendation for the Board's approval at its next meeting; seconded by Ms. Iokepa-Moses, and carried unanimously by voice vote.

K. EXECUTIVE SESSION:

The Board convened an executive meeting to consider the evaluations of the Manager-Chief Engineer, as authorized by Hawai'i Revised Statutes, Sections 92-4, and 92-5(a)(2), 92-5(a)(4) and Hawai'i County Charter Section 13-20(b), where consideration of matters affecting privacy will be involved, and for the purpose of consulting with the Water Board's attorney on questions and issues pertaining to the Water Board's powers, duties, privileges, immunities, and liabilities.

(Executive Session began at 11:58 a.m., and ended at 12:12 p.m.)

9) **ANNOUNCEMENTS:**

1. **Next Regular Meeting:**

The next meeting of the Water Board is scheduled for February 24, 2015, at the West Hawai'i Civic Center, Community Center, Bldg. G, 74-5044 Ane Keohokalole Hwy, Kailua-Kona, HI.

2. **Following Meeting:**

The following meeting of the Water Board will be held at 10:00 a.m. on March 24, 2015, at the Department of Water Supply, Operations Center Conference Room, 889 Leilani Street, Hilo, HI.

10) **ADJOURNMENT**

ACTION: Mr. Takamine moved to adjourn; seconded by Mr. Arikawa, and carried unanimously by voice vote.

The meeting adjourned at 12:14 p.m.

Secretary

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.