

MINUTES

DEPARTMENT OF WATER SUPPLY COUNTY OF HAWAII WATER BOARD MEETING

January 22, 2013

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

MEMBERS PRESENT: Mr. Art Taniguchi, Chairperson
Mr. Kenneth Kaneshiro, Vice-Chairperson
Mr. David Greenwell
Ms. Susan Lee Loy
Mr. Bryan Lindsey
Mr. Bob Meierdiercks
Mr. Delan Perry
Mr. Rick Robinson

Mr. Quirino Antonio, Jr., Manager-Chief Engineer, Department of Water Supply (ex-officio member)

ABSENT:
Mr. Jay Uyeda, 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. Steven Lim, Carlsmith Ball LLP
Mr. Jason Knable, Carlsmith Ball LLP
Mr. Roger Harris, Palamanui Global Holdings, LLC
Mr. Kaimi Judd, Kohanaiki Shores, LLC
Mr. Neal Herbert
Ms. Cindy Yee, Accuity LLP
Mr. Donn Nakamura, Accuity LLP

Department of Water Supply Staff
Mr. Keith Okamoto, Deputy
Mr. Kurt Inaba, Engineering Division Head
Mr. Daryl Ikeda, Chief of Operations
Mr. Richard Sumada, Waterworks Controller
Ms. Kanani Aton, Public Information and Education Specialist
Ms. Julie Myhre, Energy Management Analyst
Mr. David Mellom, Credit and Collection Clerk

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- 1) CALL TO ORDER – Chairperson Taniguchi called the meeting to order at 10:00 a.m.
 - 2) STATEMENTS FROM THE PUBLIC

The following Statements from the Public are recorded verbatim:

Mr. Steven Lim testified about Agenda Item 6(A) ASSIGNMENT AND ASSUMPTION; CONSENT:

MR. LIM: Good morning, Mr. Chairman, members of the Board. I represent Kohanaiki Shores, LLC, and you recognized us from the last meeting. I'll read a statement from Kohanaiki Shores on the Palamanui Global's Item 6(A), the Assignment and Assumption, which is related to the three-party agreement. Kohanaiki Shores does not object if the Water Board blesses the Assignment, with the conditions to Kohanaiki's execution and delivery of the Assignment are not yet satisfied. Namely: 1.) The Water Board has not executed the Wai'aha Amendment agreement, executed originals of which were delivered to the Water Board's Counsel on January 15, 2013; and 2.) DWS has yet to sign off on its due diligence review and approval of the easements and facilities, to confirm it is satisfied that Wai'aha may proceed with the development of the Wai'aha System. Both Mr. Bolton and Kohanaiki have been working with DWS to satisfy the conditions, and we understand that DWS has refused via conclusion. However, Kohanaiki will not deliberately execute an Assignment until after all of the conditions have been satisfied in full. We've been engaged in an exchange of amendments on the proposed Assignment and Assumption that's before you in Item 6(A) today. I think we're very close to that, but we haven't reached final agreement yet. Thank you very much.

CHAIRPERSON TANIGUCHI: Thank you, Mr. Lim. Roger Harris?

MR. HARRIS: Good morning. I'm Roger Harris from Palamanui, and I just want to reiterate, or agree with Steve Lim...that we would like to ask for you to defer the Item 6(A). And we're working with your staff and Counsel and the Kohanaiki/Wai'aha people, and hopefully we'll get it done and be back. Thanks.

Chairperson Taniguchi called for a Motion to move up Item 6(A), ASSIGNMENT AND ASSUMPTION; CONTENT.

ACTION: Mr. Meierdiercks moved to approve; seconded by Mr. Perry, and carried unanimously by voice vote.

6) NORTH KONA:

A. ASSIGNMENT AND ASSUMPTION; CONSENT:

Palamanui Global Holdings LLC and Kohanaiki Shores LLC, developers of the Palamanui and Kohanaiki projects, respectively, in North Kona and current parties with the Board to a June 15, 1999, Water Agreement, as amended, seek the Board's consent to the assignment by Kohanaiki to Palamanui and the assumption by Palamanui from Kohanaiki of all of Kohanaiki's rights and obligations under the agreement, and the Board's release of Kohanaiki from any further obligations under the agreement.

The Manager-Chief Engineer said that because DWS has no agreement in hand, the recommendation is to defer this Item, at the request of the parties and of the testifiers today.

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

Mr. Robinson expressed confusion, asking whether the Board had not already approved an Agreement at the December Board meeting. He asked if there was any reason why the agreement appears to still be going back and forth, and seems to be uncompleted.

The Manager-Chief Engineer said it is not a matter of not agreeing to the terms of the Agreement; there are certain things that must be done regarding the Agreement itself. He thought that DWS needed to post a procurement exemption.

Ms. Garson confirmed that a procurement exemption was required. She said that the Assignment and Assumption; Consent document was **not** actually in front of the Board today. Ms. Garson said she received the document on January 16, and she made comments back on January 17 or 18; as of

yesterday (January 20), Ms. Garson got comments back from Carlsmith Ball. That is the way things are at present, she said. The document was not provided to the Board, and comments continue to go back and forth on the document. This is the document that is on the Agenda today, she said. The parties have certain conditions that they are imposing as to when they will accept the Assignment and Assumption; Consent, and that is a matter between the two parties (i.e., Palamanui and Kohanaiki).

Mr. Robinson noted that Mr. Lim said that DWS has not signed off on the Wai‘aha agreement approved last month.

Ms. Garson confirmed this. One of the things that DWS is supposed to do is to post the agreement as a procurement exemption; that has not been done yet. That is one reason DWS has not signed off. Ms. Garson noted that in addition, Palamanui withdrew its objection to the Wai‘aha agreement based on certain conditions. The parties are still trying to work these conditions out, she said.

Mr. Lim asked Ms. Garson to clarify the procurement exemption, and what DWS has to do.

Ms. Garson said that DWS is going to post a procurement exemption, attaching the Wai‘aha agreement. This was done for the original North and South Wai‘aha agreements, she said.

Mr. Lim said he had never heard about this exemption before, and asked how long it would take. He said he needed an explanation for his clients.

Ms. Garson said she would speak with Mr. Lim about it off-line.

ACTION: Motion to defer carried unanimously by voice vote.

3) APPROVAL OF MINUTES

The Chairperson entertained a Motion to approve the Minutes of the December 18, 2012, Water Board meeting.

ACTION: Mr. Perry moved to approve; seconded by Mr. Meierdiercks, and carried unanimously by voice vote.

4) APPROVAL OF ADDENDUM AND/OR SUPPLEMENTAL AGENDA (Note: Addendum requires Roll Call Vote)

None.

5) PRESENTATION OF AUDITED FINANCIAL STATEMENTS – June 30, 2012:

Mr. Donn Nakamura of Accuity, LLP went through the Fiscal Year 2012 Audit Results, Financial Statements and Internal Control and Business Issues Report through the end of June 2012.

Mr. Nakamura noted that on Page 2 of the Financial Statement Highlights, as of June 30, 2012, restricted investments on the Department’s Balance Sheet decreased by approximately \$10.6 million, due to spending of restricted bond and State Revolving Fund loan proceeds on capital projects through the year. Meanwhile, unrestricted investments increased by \$5.9 million as of June 30, 2012, compared to the prior year, due to less restricted funds for capital projects or for debt service.

Mr. Nakamura noted that water sales in Fiscal Year 2012 increased by \$9.5 million, due to a 6.8 percent increase in water rates, as well as a 5.4 percent increase in the Power Cost Charge and a 266.7 million-gallon increase in consumption during 2012. This was a rebound from the decrease in demand in 2011, which was primarily due to the March 2011 tsunami which affected the Kona coast, he said.

Mr. Nakamura said that contributions in aid of construction decreased by \$8.4 million in 2012, primarily due to the fact that in 2011, amounts contributed were particularly high.

The audit found that DWS has adopted appropriate and responsible accounting policies, and applied them in their financial report. Likewise, the audit found that DWS's management judgments and accounting estimates were found to be reasonable. The audit noted no uncorrected misstatements above the auditors' de minimis, Mr. Nakamura said. There were no material weaknesses as far as internal control deficiencies.

There was one significant deficiency involving Information Technology, noted on the last page of the Financial Statements (Page 31). The deficiency involved several IT control deficiencies over physical and logical security, change management, and backup and recovery. However, in Fiscal Year 2012, the Department began to correct these deficiencies, and the audit reports them as partially resolved.

There was one control deficiency involving Construction Work in Progress, whereby capital assets placed into service by year end were improperly classified as construction work in progress. These items amounted to approximately \$24.5 million, Mr. Nakamura said. The auditor's report recommended that the Department establish formal procedures to ensure that the status of projects is timely reviewed by Engineering staff and reported to the Finance Division; this would ensure that capital assets are properly classified and depreciated in accordance with Generally Accepted Accounting Procedures (GAAP). He noted that the Audit Plan for 2013 listed on Page 12 of the Presentation to the Water Board shows Capital Assets as a primary focus.

Another primary focus of the 2013 Audit Plan is Long-Term Debt, as it relates to the American Recovery and Reinvestment Act (ARRA) State Revolving Fund loans payable from the State Department of Health, with an eye to principal forgiveness upon fulfillment of the loan conditions.

The third primary focus is Information Technology, mentioned by Mr. Nakamura earlier as a significant deficiency area. The audit in 2013 will review IT policies and procedures, and perform tests of controls to assess whether DWS management has implemented appropriate measures to address IT risks, Mr. Nakamura said.

Mr. Nakamura provided the timeline for the audit this year. In May, the auditors will meet with DWS management for updates, and in June the auditors will map out their planning for the audit. The field work for the audit will take place in September, with the draft report to management due in mid-October. The final report will be issued in mid-November.

Turning to the Financial Highlights in the 2012 report, Mr. Nakamura said that operating revenues increased significantly, by about \$9 million, which led to a large decrease in the operating loss (from \$9.8 million to \$2.2 million.) Meanwhile, however, the contributions in aid of construction decreased significantly, so the net result, i.e., the change in net assets, was a \$1.2 million decrease in 2012, versus a \$455,000.00 increase in 2011.

Mr. Nakamura returned to the subject of the significant deficiency involving Information Technology. This is a recurring item that the auditors pointed out to the Board last year. However, the auditors did note that DWS management is taking action to implement the auditors' recommendations, and the auditors hope to see further improvement in FY2013. Hopefully, the auditors will not have to report IT as a significant deficiency next year, Mr. Nakamura said.

Mr. Robinson asked for details on the segment on Page 12 of the Presentation involving Long-Term Debt, specifically about "principle forgiveness."

Mr. Nakamura explained that this involved the State Revolving Fund loans made under the American Recovery and Reinvestment Act (ARRA) which were granted to the State Department of Health (DOH)

and through DOH, to local government entities including DWS. The loans were granted with the provision that the loans would eventually be forgiven if all of the loan conditions were met – primarily that the projects were completed. Once all of those loan conditions are met, DOH is expected to forgive the loans to DWS. There are several loans involved, Mr. Nakamura said.

Mr. Robinson asked what the total loan amount was.

Mr. Nakamura, referring to Page 20 of the Financial Statements, said that as of 2012, the balance of the ARRA loans was \$4,466,407.00. That amount would be forgiven if all of the loan conditions are met, he said.

Mr. Robinson asked about the Management Judgments and Accounting Estimates on Page 5 of the Presentation, where Allowances for Uncollectible Receivables were listed among “the more difficult and subjective judgments and estimates.” Mr. Robinson asked whether the auditors discount the money that is outstanding on a percentage basis, for 30 days outstanding, 60 days, or 90 days.

Mr. Sumada said it is exactly like that, and the older accounts are at a higher percentage.

Mr. Robinson asked whether the uncollectible receivables wind up being discounted or subtracted from revenue.

Mr. Nakamura confirmed this.

Mr. Robinson asked about the use of the word “subjective.”

Mr. Nakamura said the term “subjective” is used in auditors’ terminology; it is a matter of management’s judgment to come up with a percentage to be discounted.

Mr. Robinson asked what percentage DWS uses in this case.

Mr. Sumada said it is 25 percent for current accounts, 50 percent for 31 to 60 days, and 75 percent for over 60 days.

Ms. Lee Loy asked for a definition of “significant deficiency.”

Mr. Nakamura referred to the first of two unnumbered pages ahead of Page 30 in the Financial Statements. A significant deficiency is “a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.” The definition of a material weakness appears in the preceding paragraph, he added.

Ms. Lee Loy asked if there were any indicators that could warn the Department of an approaching significant deficiency.

Mr. Nakamura said that determining whether there is a significant deficiency or a material weakness is more a matter of the auditors’ professional judgment.

The Deputy noted that it is subjective.

Ms. Lee Loy agreed that is subjective. She said it would be nice to know ahead of time if the Department is going to end up with another significant deficiency.

Mr. Nakamura said the auditors had not identified anything else over the past two years.

Touching on the recommendations that the auditors made on Page 31 of the Financial Statements, Mr. Robinson asked whether the auditors would assume that these recommendations on IT policies and procedures would be implemented over the course of the year.

Mr. Nakamura said yes, the corrections would hopefully be made. He said he realized that for certain things, it take time for the Department to work with their vendors to make some changes; in some cases, it might be found to be impossible to make changes.

Chairperson Taniguchi noted that a lot of things cited as deficiencies in IT procedures have been corrected.

Mr. Nakamura said yes, he was aware that the Department has been correcting a lot of these items.

Chairperson Taniguchi mentioned the item listed as “Lack of segregation of duties for developers that have access to modify production software.” He said this would be a tough one for a small IT department. He asked whether the term “developers” referred to developers of the software used by DWS.

Mr. Nakamura confirmed this.

Chairperson Taniguchi asked whether it could also refer to the vendor.

Mr. Nakamura said yes, it could be the vendor, or in some cases, the Department person who had access to the case. In that case, the Department person could make development changes himself, so the term “developer” would apply here, too. Regarding the segregation of duties issue, one of the auditors’ recommendations was for there to be a subsequent monitoring report, or an activity report by those developers. After the fact, the Manager-Chief Engineer or someone else would review the report to ensure that no inappropriate changes were made, etc.

Chairperson Taniguchi said that the danger lies with the people who make the changes.

Mr. Nakamura said that in many cases, the changes are made by the vendor.

Chairperson Taniguchi asked whether that meant that DWS should enable its own internal people to monitor what changes are made.

Mr. Nakamura said yes, that was one of the auditors’ suggestions.

Chairperson Taniguchi turned to Page 32 of the Financial Statements, where it says under Status, that Finding No. 2011-01: Information Technology (Significant Deficiency) “will not carry forward.” He asked what that meant.

Mr. Nakamura said that because Finding 2012-01 is similar, the auditor will simply write an update of that Finding, and not include findings of 2011-01.

6) NORTH KONA:

A. **ASSIGNMENT AND ASSUMPTION; CONSENT:**

(This Item was handled earlier in the meeting.)

B. **JOB NO. 2012-985, HUALĀLAI DEEPWELL REPAIR:**

Bids for this project were opened on January 15, 2013, at 2:30 p.m.

This project generally consists of the replacement of the existing deep well submersible motor, pump, power cable, column pipe and appurtenances and chlorination of the well and pumping assembly, in accordance with the plans and specifications. The estimated cost is \$146,500.00.

The Manager-Chief Engineer asked that this Item be deferred.

run up their water bill and then walk away, it is not a personal matter to the company; it does not bother the company people personally.

Ms. Garson said that Corporation Counsel recommended that this account be written off a few years ago, and it should have come to the Board back in 2006. Corporation Counsel has been going back into its files, and realized that this write-off just did not get done. Ms. Garson apologized for the oversight.

Chairperson Taniguchi said his big question had been answered already. He had wanted to know whether DWS had filed a lien against this property, whose tax map key (TMK) is listed on the Agenda Item. However, it turns out that the account was on a property that the dairy was just renting; they were not the owners of the property.

Ms. Garson confirmed this. She noted that in the past, the Board's practice was to request that any proposed write-offs of over \$10,000.00 should come before the Board. She asked the Board whether they wanted to continue this practice.

(Several Board members signified by nodding that this practice should continue.)

Mr. Perry asked how many write-offs have been higher than \$10,000.00 in the past 10 years.

Mr. Mellom, the Credit and Collection Clerk, said that there have only been a handful of such write-offs in the five or six years since he joined DWS. He only recalled four or five occasions when he came before the Board with a proposed write-off; it has not been very often.

Mr. Perry asked whether \$10,000.00 was the appropriate number.

Mr. Robinson asked about the write-offs below \$10,000.00, and asked when DWS writes them off.

Mr. Mellom said that most delinquent accounts go to Collections, and generally DWS writes them off if they have not been collected by the time that the statute of limitations runs out, in six years.

Mr. Robinson asked what kind of a success rate DWS has with its collection agency.

Mr. Mellom said that the industry standard is roughly 20 percent, and that is what DWS's collection agency has been collecting on. Mr. Mellom noted that most of the accounts that he sends to the collection agency are "skips," i.e., customers who cannot be found or contacted. About 20 percent of these delinquent accounts are "skips." The collection agency, collecting on about 20 percent of the accounts, is doing pretty well, Mr. Mellom said.

Chairperson Taniguchi asked whether the 20 percent was of the principle.

Mr. Mellom confirmed this.

Chairperson Taniguchi asked whether that meant that if DWS sends the collection agency an account of \$100 owed, DWS gets \$20.00 back. He asked if what DWS gets back is the amount *after* the collection agency takes their 50 percent share, or before.

Mr. Mellom said he is not figuring the agency's 25 percent expense.

Ms. Garson said that for the Board's information, the Hawai'i County Code stipulates that the Department sends Corporation Counsel a list of accounts the Department considers uncollectible, and then Corporation Counsel will say whether or not the accounts are uncollectible. The ruling by Corporation Counsel is based on several factors:

- The debtor is no longer within the jurisdiction of the State of Hawai'i;
- The debtor cannot be located;

- Cases where there is damage to a property, but it is not clear who did the damage;
- The debtor has filed for bankruptcy; and
- Such other accounts that Corporation Counsel deems to be uneconomical and impractical to collect.

In the presence of such factors, Corporation Counsel will recommend a write-off to the Department, Ms. Garson said. It is not a willy-nilly decision to write an account off, she said.

Chairperson Taniguchi asked what the statute of limitations means in this case. He asked whether DWS can collect from a customer, who disappears for six years and then reappears, requesting service.

Mr. Mellom explained that the statute of limitations means that no legal action can be brought against that person, nor can collection notices, etc., be sent to that person. However, if that customer comes to DWS to request service, the Department *does* collect on that outstanding balance. DWS has collected on such outstanding balances in cases like this. The only thing is that DWS cannot bring any *legal action* against the customer.

Mr. Robinson asked Ms. Garson about Āhualoa Dairy, whose premises were a leasehold property. He noted that under the mechanics of *material* liens, water would be considered a *material* provided to the dairy to run its operations. Under those circumstances, DWS could actually put a lien on the *leasehold* interest, as well as the fee interest.

Ms. Garson said she had not thought of that; that was a good point.

Mr. Robinson said he had dealt with such a case in the past.

Ms. Lee Loy said she had been thinking along the same lines as Mr. Robinson, whereby a lien could be put on a leasehold interest. She asked if such protections for DWS could be set into DWS's procedures.

Ms. Garson said she would look at the definitions.

Mr. Greenwell asked if by letting this creditor go, the Board was not being irresponsible in its fiduciary duty.

Ms. Garson said no, because there is nothing that the Board can do about it; the company no longer exists and there is no entity from which to collect the outstanding balance.

ACTION: Motion carried unanimously by voice vote.

C. **HAWAI'I WATER AGENCY RESPONSE NETWORK (HIWARN) MUTUAL AID AND ASSISTANCE AGREEMENT:**

Water utilities including Honolulu Board of Water Supply, Maui Board of Water Supply, and County of Kauai Board of Water Supply are proposing to enter a mutual aid and assistance agreement. The agreement provides that in case of an emergency which may require aid or assistance in the form of personnel, equipment and supplies, in excess of what a signatory to the agreement can provide, a signatory may ask the other signatories for assistance, although there is no obligation to assist.

The agency requesting the assistance would have a duty to reimburse any responding members expenses and would have a duty to defend and indemnify such responding members if any claim, loss, damage injury or liability arose from the assistance provided. Such agreements are in place nationwide and are recognized by federal emergency agencies that provide assistance to local agencies.

The Manager-Chief Engineer recommended that the Water Board authorize the Manager-Chief Engineer to execute the agreement, subject to Corporation Counsel's review and approval as to form and legality.

The Manager-Chief Engineer noted that the Federal Emergency Management Agency (FEMA) has been looking at this agreement, and such an agreement helps in the process where the federal agency reimburses the affected agencies or the affected area. He said that Hawai'i is one of only two states that does not have such a mutual assistance agreement.

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

Mr. Kaneshiro said he thought this was a good thing to do; in a disaster, all of the water departments would be working together. His only concern was regarding the reimbursement. Mr. Kaneshiro asked if there was a standard of how much reimbursement there would be.

The Manager-Chief Engineer said that in disasters, FEMA and other federal agencies work in concert with Hawai'i's State and County Civil Defense agencies to ensure that procedures in executing the emergency actions are carried out correctly regarding finances, equipment, personnel, etc. FEMA and the federal agencies work closely with the state and local agencies to ensure that the proper procedures are followed. In following those procedures, reimbursement should be no problem, the Manager-Chief Engineer said.

ACTION: Motion carried unanimously by voice vote.

D. **AD HOC FINANCE COMMITTEE REPORT:**

Mr. Sumada said that today, the Oahu billing system went live; he did not know how it went. The system that Oahu put in place will be a monthly billing system for all users, therefore, it eliminates DWS from considering using that system.

Chairperson Taniguchi said that DWS had been led to believe that there was a possibility that DWS could go with the Oahu system while continuing to do bi-monthly billing. However, that option is not there. Oahu is only going to a single billing, and DWS lacks the capability of reading the meters monthly. It would mean that DWS would have to estimate the usage on one bill, and then the balance on another bill. Therefore, at this point in time, DWS is looking at other options, including staying with the current vendor, looking at other vendors, etc.

The Manager-Chief Engineer said that DWS will now proceed to a locked box system.

Mr. Sumada confirmed that this would happen, as well as sewer billing (for the Department of Environmental Management).

Chairperson Taniguchi said that things are moving along regarding joint billing, following the conversations between DWS and the Waste Water Division of the Department of Environmental Management.

E. **ENERGY MANAGEMENT ANALYST UPDATE:**

Ms. Myhre said that next month she would provide a full quarterly report, which will be a summary to the end of calendar year 2012.

DWS has extended the RFP deadline for the Lālāmilo Windfarm project to January 31, 2013. The original deadline was January 8, 2013, but the deadline was extended because some people needed more time, or had a lot of questions. DWS will be reviewing three proposals in early February. Currently, DWS is preparing more information for another Addendum. DWS, which has had *bat monitors* on-site

for six months, is going to provide six months of bat data analysis. It appears that DWS will need to do mitigation for the bats on that site, Ms. Myhre said.

DWS held an engineer-to-engineer meeting with HELCO last week, where HELCO provided information on switchgears and meter standards, etc. This kind of meeting will be held every six months or so, in the interest of improving communications.

DWS is looking into using sheep to do vegetation control on the slopes at the Waimea Treatment Plant, as an alternative to poisoning the grass. It will take a couple of months to figure out the logistics, Ms. Myhre said.

Mr. Robinson asked where he could locate the Lālāmilo RFP on-line.

Ms. Myhre said she believed there was a link to the State website, where the actual RFP is posted.

The Manager-Chief Engineer said the Department would get Mr. Robinson the link to the RFP.

Ms. Lee Loy asked whether the mitigation measures for the bats were written into the Lālāmilo RFP.

Ms. Myhre said yes, it was mentioned that it was likely that there would be a need for mitigation measures. The new bat data points to a more affirmative statement -- that there will be a need for a habitat conservation plan, as well as an *incidental take permit*. Such a permit is required because the bats are a federally-listed endangered species; whenever a project affects a federally-listed species, an incidental take permit is required.

Ms. Lee Loy said she was familiar with this, because she handled a similar project. She said that DWS should be mindful of when construction takes place, based on the bats' whelping season, which is in late summer. At that time, the bat mothers are giving birth, and the federal government would ask for minimal disturbance in that area, Ms. Lee Loy said.

Ms. Myhre said yes, there will be other species that DWS must take into consideration and must gather data on. The bat issue was the one that DWS felt there was a largest lead time for evaluation, she said.

F. **MONTHLY PROGRESS REPORT:**

Mr. Greenwell noted that the drought in South Kohala is being seen as the worst in years. He asked the Manager-Chief Engineer whether there was any FEMA money available in case water pumping becomes necessary – instead of farmers and ranchers using their runoff water. He said that the drought-stricken areas might need extra money for electricity for pumping, etc. Mr. Greenwell asked if there was any money available in case the area is declared a Disaster Four area.

The Manager-Chief Engineer said he was not aware of such monies in case DWS needs to increase its operations for pumping electricity. He said the Department could inquire into whether there were such monies or grants available. The State Department of Agriculture may have such funds to stem impacts on the agricultural industry, he said. The Manager-Chief Engineer was not aware of any funds available for DWS to increase operations in drought conditions.

Mr. Greenwell said he was just wondering if there was any money to be had, in case the drought situation gets worse.

The Manager-Chief Engineer said the Department monitors its supplies. If a spike in pumping, etc. is detected to the extent that it affects DWS's customers, DWS issues a conservation notice. If the situation gets really bad, DWS issues a restriction notice. He noted that due to the reservoir repair underway in Waimea, DWS has posted a conservation notice. Fortunately, DWS's storage capacities

have been maintained, and supplies stand at about 100 million gallons. So far, supplies have come back up even in the current dry weather, so DWS has not had to resort to full restriction measures in the area.

Chairperson Taniguchi, addressing Mr. Inaba, noted that the auditors mentioned that communications need to be improved between Engineering and Finance, regarding when projects are completed. He asked at what point a project is considered done. He asked whether DWS waits for it to reach 100 percent, noting that there were few 100 percent projects on the report.

Mr. Inaba said in the past, Engineering turned its documentation over to Finance Division upon the closing of a project. However, on the auditors' recommendation, Engineering will now report to Finance when a project goes on-line.

Chairperson Taniguchi asked where the auditors got their numbers on projects.

Mr. Inaba said the numbers probably came from the previous year's audit.

Chairperson Taniguchi said he was surprised not to see too many 100 percent-completed projects last year.

Mr. Inaba said the Department has been trying to speed up the closing of projects, but it still takes a significant amount of time. However, the auditors pointed out to the Department that projects should be considered completed when they are *put into service*, which could be six months before 100 percent of the project is actually done.

Chairperson Taniguchi asked whether a project that is put into service could be written down as less than 100 percent.

Mr. Inaba confirmed this.

Chairperson Taniguchi said that maybe there should be such a column that the Board could see in order to track projects. Finance Division would know that the project was actually in service, albeit not 100 percent done.

The Manager-Chief Engineer said the Department is putting internal controls in place with Engineering, to settle up projects.

Chairperson Taniguchi said he thought it would be 100 percent before a project is settled up.

Mr. Inaba said, yes, that was the way DWS used to do it.

Mr. Robinson, following up, noted that the CTS/Hinalani Street project is 100 percent complete.

Mr. Inaba apologized, saying he had not updated the actual column. The 100 percent actually should be more like 99.6 percent. He said that the project was in service, but there is a small portion left that is basically just retainage.

Chairperson Taniguchi said it would be good for the Board, when it looks over the Monthly Progress Report every month, to ask how many projects listed are not actually 100 percent done.

Mr. Lindsey, turning to the Mutual Assistance Agreement dealt with earlier, asked whether DWS has an insurance policy to cover damage caused by disasters such as hurricanes, etc.

The Manager-Chief Engineer explained that in the wake of disasters, DWS follows emergency procedures. The Department submits paperwork when a facility or equipment needs to get back in service, and when monies are expended after a disaster, the Department files reports for reimbursement

by FEMA or other federal agencies. DWS works closely with County Civil Defense in contacting FEMA, and the Department keeps close track of what it spends, and provides all necessary documentation to FEMA. Once the County and State issue a declaration of emergency, the federal funding becomes available, the Manager-Chief Engineer said.

Ms. Garson said there is also an insurance policy for catastrophic events.

Mr. Sumada said that DWS has property insurance covering Department buildings and equipment.

Mr. Lindsey asked whether this is accounted for on the financial side, or whether it is just rolled into the insurance bill.

Mr. Sumada said it is an annual expense. He noted that this insurance policy is mentioned in the Notes to the Financial Statement.

G. REVIEW OF MONTHLY FINANCIAL STATEMENTS:

Mr. Robinson warmly thanked Mr. Sumada for the new, streamlined Aging Summary in the Financial Statements. He said it was very helpful and in fact, perfect.

Chairperson Taniguchi asked about Engineering Division having gone 134 percent over budget. He noted that in the overall scheme of things, however, that Finance Division still had a lot of room.

Mr. Sumada confirmed that department-wide, the financial picture was okay. The Contractual Services account in Engineering Division was overspent because of payments to the State Department of Land and Natural Resources (DLNR) for reservoir fees.

Chairperson Taniguchi noted that Finance Division bought billing envelopes and statements last month; he asked whether Finance Division was on budget.

Mr. Sumada confirmed this. Finance Division must buy supplies such as billing envelopes and statements a couple of times a year; the supplies last about six months.

Chairperson Taniguchi asked for confirmation that on an annualized basis, Finance Division was okay.

Mr. Sumada confirmed this.

H. MANAGER-CHIEF ENGINEER'S REPORT:

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

- 1) Palani Road Transmission Waterline Project – The Manager-Chief Engineer said there was still minor clean-up work to be done. DWS is already bringing water from mauka, all the way down to the Palani 210 Reservoir. He noted that at present, the amount of water that DWS can bring down is limited, mainly because one well is down in Hualālai. He noted that there is also a delay with the Palani Ranch well, which DWS has been banking on to come on-line.
- 2) Kawailani Tank update – The Manager-Chief Engineer said that there are some issues involving the interior coating of the tank, where there may be some leaks. Mr. Inaba is working with the contractor to resolve that problem. Chairperson Taniguchi asked about the problems that the general contractor was having with his sub-contractors. Mr. Inaba said the problem actually involves a sub-contractor with another sub-contractor. At issue is \$4,000.00. Mr. Inaba asked the sub-contractor who contacted Mr. Inaba directly to get the issue sorted out by giving qualifications to the sub-contractor's statements regarding any questionable amount. This came up at the very beginning of the year. Mr. Inaba went to the site with the general contractor to inspect the project and to work out how it can be completed. Chairperson Taniguchi, noting that DWS's contract is with the general contractor, said that the

general contractor should be the one chasing his sub-contractors to get things done. Mr. Inaba agreed, and said DWS wants to get the project going again.

- 3) Pu'ukala/Kona Ocean View Properties Subdivision Improvement District Update – The Manager-Chief Engineer said bids are scheduled to be opened early next month. Hopefully, the bids will be favorable and a proposed award will be brought to the Board for approval.
- 4) Public Information and Education Specialist Update – Ms. Aton participated in a training session at Civil Defense which integrated social media with disaster response. The Kona Water Roundtable on January 17 in Kona drew about 60 attendees. Detect-A-Leak Week is coming up in March; DWS is working on this event with the Honolulu Board of Water Supply (BWS) and Hawai'i Energy. The Mayor's Office has inquired about the apparent calming of the Ocean View situation; DWS surmises the calm is due to the drop in water hauling rates. Meanwhile, customers in Ocean View appear to realize that demanding that haulers have PUC licenses could well drive rates up. Some of the Ocean View haulers have reportedly offered to donate water to the Ocean View community association, as a way of giving back to the community. DWS has sent documentation requested by the Legislative Auditor's office, which has assured the Department that despite the changeover at the Legislative Auditor's office, the audit will proceed on schedule. Meanwhile, customers at the Ocean View spigot station have been letting their dogs run all over while they fill up their drinking water containers. In response, DWS has posted signs regarding the County's leash laws, which prohibit such activity. Chairperson Taniguchi asked about the Legislative Audit's timeframe. Ms. Aton said the audit will take about six months. Mr. Greenwell asked whether Honolulu BWS, in its collaboration with the Department on Detect-A-Leak Week, was teaching DWS any leak detection tricks. Ms. Aton said that like last year, DWS will distribute leak detection tablets provided to the Department by Hawai'i Energy. Ms. Aton said that there is a lot of interaction between BWS's leak detection crew and the DWS leak detection crew, and DWS will be participating in future educational campaigns with BWS and Hawai'i Energy. Hawai'i Energy is looking to put DWS into its budget, with the possibility of Hawai'i Energy subsidies for Drinking Water Week and future Kona Water Roundtables. Mr. Perry asked Ms. Aton to talk about the Hilo conference that took place on January 18, the day after the Kona Water Roundtable. Ms. Aton said she could not attend the Hilo conference due to a family commitment. The Manager-Chief Engineer said the Hilo conference was basically the same as the one held in Kona the day before, with about 60 people in attendance. Ms. Aton noted that the Deputy was one of the speakers at the Hilo conference. Mr. Perry noted that he was the only Water Board member who attended the Hilo conference. Mr. Perry mentioned one speaker, Dr. Don Thomas, who presented his theory that there is an aquifer under the cap rock (which is about 800 feet thick) at a low elevation. This raises hopes for relief for Kona to get relatively cheap, accessible water by drilling down 1,000 feet near the shoreline, Mr. Perry said. The Manager-Chief Engineer said Dr. Thomas is doing wonders in getting out new information about the Big Island's geology. These new theories may spur developers or state hydro-geologists to pursue water development that may not have happened in the past, he said. The Manager-Chief Engineer noted that drilling costs money, and it would be developers who do the drilling and take the risks and the expense. Mr. Robinson recalled the now-defunct arm of DLNR, the State Division of Land and Water Development (DOWALD), which put in wells, and then gave them to the counties. Now that DOWALD is gone, Mr. Robinson wondered who would take the initiative to drill a 1,000-foot-deep well at the shoreline close to Kona, aside from maybe a developer like Kohanaiki or others that would want to have that water resource. The fact is that it is an unproven resource; it really is a speculative venture, Mr. Robinson said. Mr. Robinson asked if there were any branch of State government today that would take the risk to try to drill a well – just to see if it would be a viable source. The Manager-Chief Engineer said he knew of no such state entity; the risk in drilling is entirely on developers or government suppliers like DWS. Chairperson Taniguchi complained that one of

the speakers at the Kona conference, sponsored by the State, had a slide of Maui in his Power Point presentation. The presenter, who was doing his presentation on all of the islands, should have been more professional by tailoring his talk to his Big Island audience.

- 5) Employee of the Quarter – The Manager-Chief Engineer said that the judging for the Employee of the Quarter came in late, and he did not have any information other than the fact that it came in as a tie. Because two people were nominated, the Manager-Chief Engineer proposed awarding both people. Chairperson Taniguchi agreed with this. The Manager-Chief Engineer said the awards will probably be made next month.

I. CHAIRPERSON'S REPORT:

Chairperson Taniguchi thanked Messrs. Lindsey and Meierdiercks for continuing to serve on the Board until a replacement is named for their respective districts, Districts 3 and 6. He noted that with redistricting, the lines of the districts have changed and for instance, Mr. Lindsey now lives in the newly-configured District 2 (he was originally appointed to what *had been* District 3).

Turning to the 2013 Water Board meeting schedule, Chairperson Taniguchi said he consulted with Kona members Messrs. Uyeda and Robinson.

Ms. Lee Loy apologized for interrupting, but asked that the discussion briefly return to the redistricting issue. She said that the hiccup for her was that she was appointed to what had been District 4, but her newly-configured district is District 3. She asked for Ms. Garson to assist.

Ms. Garson said that Corporation Counsel will make sure that when a new member is found, that person will be appointed to the right district.

Chairperson Taniguchi asked where Ms. Lee Loy lives.

Ms. Lee Loy explained that she lives in Pana'ewa. When she was appointed, it was to District 4, but after the new lines were drawn, she now lives in District 3.

The handout showing the list of districts had the original districts of the members whose terms have not yet expired; only Districts 3 and 6 -- those being vacated by Messrs. Lindsey and Meierdiercks -- reflected the newly-configured Districts 3 and 6.

Chairperson Taniguchi clarified that everybody else on the Board stay in their original districts until their respective terms expire. He said that it was even confusing to the Executive Assistant in the Mayor's Office in charge of appointments to the Board.

Chairperson Taniguchi returned to the 2013 calendar. He said he felt bad for the two Kona members who have to wake up early to drive to meetings in Hilo, so he proposed that the Board meet in Kona once a quarter. The February meeting is already set for Kona, he said. He proposed that the May, August and November Board meetings also be held in Kona. (*The Board assented to this.*)

8) ANNOUNCEMENTS:

1. Next Regular Meeting:

The next meeting of the Water Board will be held at 10:00 a.m. on February 26, 2013, at West Hawai'i Civic 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 19, 2013, at the Department of Water Supply, Operations Center Conference Room, 889 Leilani Street, Hilo, HI.

10) ADJOURNMENT

ACTION: Mr. Lindsey moved to adjourn; seconded by Ms. Lee Loy; and carried unanimously by voice vote.

Chairperson Taniguchi adjourned the meeting at 11:36 a.m.

Secretary

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 Janet Snyder, 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.*