



INTEGRITY COMMISSION

Special Report of an Investigation

**Conducted into Allegations Regarding the Removal of Aluminium Water Tank located at
Top Crawle, Riversdale, St. Catherine**

National Water Commission

Ministry of Economic Growth and Job Creation

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INTRODUCTION

The Office of the Contractor General, pursuant to Sections 1 and 5 of the Integrity Commission Act, 2017, has been fully subsumed into the Integrity Commission.

Sections 63(2)(b) of the Integrity Commission Act provides as follows:

*“(2)The Commission established under this Act
may-*

...

*(b) continue or do any act, thing or investigation
which was pending before the appointed day”.*

On June 19, 2015, the Office of the Contractor General (hereinafter referred to as the OCG), acting on the authority of the Contractor General and pursuant to Sections 4, 15, 16, 18 and 29 of the Contractor General Act (CG Act), launched an enquiry into the removal of an aluminium water tank which was located at Top Crawle, Riversdale, St. Catherine.



The OCG's decision to undertake an enquiry and subsequent investigation into the instant matter was prompted by a complaint which was received by way of email correspondence dated April 30, 2015, from Mr. Gregory Mair, former Member of Parliament (M.P.), North East St. Catherine.

The referenced email stated, *inter alia*, as follows:

“Subject: FW: “Disappearance” of aluminium water tank-Top Crawle, Riversdale, St. Catherine

...

As per our telephone conversation this morning, I am now copying you the thread of emails relating to the theft of the NWC aluminium tank in Top Crawle, Riversdale, St. Catherine which are self-explanatory.

The CDF office advised me that funds went to NWC in three tranches:

<i>\$1,000,000.00</i>	<i>4.11.14</i>
<i>\$2,000,000.00</i>	<i>14.10.14</i>
<i>\$990,951.00</i>	<i>17.2.15</i>

I am asking for the intervention of your Office in this matter...”¹

¹ Email correspondence dated April 30, 2015, from Gregory Mair to OCG



The email thread referenced above indicated, *inter alia*, the following:

“Subject: RE: “Disappearance” of aluminium water tank-Top Crawle, Riversdale, St. Catherine

...

Please find attached pictures taken this morning of WORK taking place at the site where the tank was stolen from...a member of the St. Catherine Parish Council has played a critical role in the removal of this tank and the present construction that is taking place...

The NWC received \$4 million from CDF to repair this tank and you have allowed the tank to be stolen and have done NOTHING about it! Even worse, you have allowed person [sic] outside of the NWC to start work on YOUR site.”²

² Email correspondence thread dated April 30, 2015, from Gregory Mair to ‘Mark Barnett’



JURISDICTION

The jurisdiction of the Contractor General to enquire into the circumstances surrounding the removal of an aluminium water tank which was located at Top Crawle, Riversdale, St. Catherine, is grounded in the following sections of the Contractor-General Act (CGA).

Section 2 of the CGA defines a “government contract” as including “any licence, permit or other concession or authority issued by a public body **or agreement entered into by a public body for the carrying out of building or other works** or for the supply of any goods of services;” (OCG Emphasis)

Section 4 of the CGA states as follows:

“(1) Subject to the provisions of this Act, it shall be the function of a Contractor General, on behalf of Parliament-

*(a) **to monitor the award and the implementation of government contracts** with a view to ensuring that-*

(i) such contracts are awarded impartially and on merit;

(ii) the circumstances in which each contract is awarded or, as the case may be, terminated, do not involve impropriety or irregularity;

(iii) without prejudice to the functions of any public body in relation to any contract, the implementation



*of each such contract conforms to the terms thereof;
and*

*(b) to monitor the grant, issue, suspension or revocation of any prescribed licence, with a view to ensuring that the circumstances of such grant, issue, suspension or revocation do not involve impropriety or irregularity and, where appropriate, to examine whether such licence is used in accordance with the terms and conditions thereof.”³
(OCG Emphasis)*

Section 15 (1) provides that:

“Subject to subsection (2), a Contractor-General may, if he considers it necessary or desirable, conduct an investigation into any or all of the following matters-

- (a) the registration of contractors;*
- (b) tender procedures relating to contracts awarded by public bodies;*
- (c) **the award of any government contract;***
- (d) the implementation of the terms of any government contract;*
- (e) the circumstances of the grant, issue, use, suspension or revocation of any prescribed licence;*

³ Section 4 (1) of the CGA.



(f) *the practice and procedures relating to the grant, issue, suspension or revocation of prescribed licences.*⁴ (OCG Emphasis)

Section 16 of the Act expressly provides that:

“An investigation pursuant to section 15 may be undertaken by a Contractor-General on his own initiative or as a result of representations made to him, if in his opinion such investigation is warranted.”

Consequently, the OCG initiated an investigation into allegations concerning the removal and subsequent repairs of the National Water Commission’s (NWC) aluminium water tank at Top Crawle, Riversdale, St. Catherine, which was to be undertaken as a result of an allocation from the Constituency Development Fund (CDF).

⁴ Section 15 (1) of the CGA.



TERMS OF REFERENCE

The OCG, in conducting its investigation into the circumstances surrounding the removal of an aluminium water tank which was located at Top Crawle, Riversdale, St. Catherine, sought primarily to ascertain, *inter alia*, the following:

1. Whether an aluminium water tank is/was located at Top Crawle, Riversdale, St. Catherine;
2. Whether the aluminium water tank was removed from the referenced location, and if yes, by whom;
3. Whether the National Water Commission (NWC) own(ed) and operate(d) an aluminium water tank at Top Crawle, Riversdale, St. Catherine;
4. Whether the NWC received Four Million Dollars (\$4,000,000.00) from the Constituency Development Fund (CDF) of Mr. Gregory Mair, former M.P. for North East St. Catherine for the repair of the referenced water tank;
5. Whether the NWC utilised the Four Million Dollars (\$4,000,000.00) for any activity other than the repair of the water tank located at Top Crawle, Riversdale, St. Catherine; and
6. Whether the St. Catherine Parish Council (St. Catherine PC) and/or any of its Councillors played a role in the removal of the referenced water tank.



METHODOLOGY

The OCG in the conduct of its investigation issued Requisitions/Questionnaires to the following Public Officials/Officers who were required to provide written responses:

1. Mr. Hoftate Pantry, Former Councillor, Troja Division, St. Catherine Parish Council;
2. Mr. Andre Griffiths, Acting Secretary/Manager, St. Catherine Parish Council;
3. Mr. Michael Morris, former Secretary/Manager, St. Catherine Parish Council; and
4. Mr. Mark Barnett, President, National Water Commission.

In addition to the foregoing, documentary evidence was provided by way of email by Ms. Moveta Munroe, Director, Constituency Development Fund Programme, Office of the Prime Minister.

Further, the OCG conducted a site visit on June 2, 2015, and thereafter undertook a detailed review and cross-referencing of the responses and supporting documents which were submitted by the referenced public officials/officers.



FINDINGS OF FACTS

1. An aluminium water tank owned by the National Water Commission (NWC) was located at Top Crawlle, St. Catherine.
2. The land on which the water tank was located at Top Crawlle, St. Catherine was leased by the NWC for a period of 49 years on the 1st day of March, 1999.
3. Mr. Gregory Mair was the Member of Parliament (MP) for the St. Catherine North Eastern constituency, during the period September 2007 to September 2015. The community of Top Crawlle is located within the St. Catherine North Eastern constituency.
4. An amount of \$3,990,951.00 was allocated from Mr. Gregory Mair's Constituency Development Fund and remitted to the NWC, in three tranches on October 14, 2014, November 4, 2014 and February 17, 2015. The funds were to be utilised to effect repairs to the water tank located at Top Crawlle, St. Catherine.
5. The NWC confirmed that it received \$3,990,951.00 from the Constituency Development Fund Programme Management Unit (CDF-PMU), Office of the Prime Minister, to effect repairs to the referenced water tank.
6. The CDF-PMU confirmed that the sum of \$3,990,951.00 was disbursed to the NWC to facilitate the repair of the water tank which was a CDF project.
7. On or about March 5, 2016, the NWC became aware of the missing water tank and the matter was subsequently reported to the Bog Walk Police Station.



8. Based on the representations made by the St. Catherine PC and Mr. Hoftate Pantry, former Councillor for the Top Crawl Division, the named parties facilitated the process in relation to the removal of the NWC's aluminium water tank from Top Crawl, St. Catherine.
9. The NWC was not aware that the St. Catherine PC removed the aluminium water tank.
10. Based on the representations made by the St. Catherine PC, a new water tank is being constructed in Top Crawl, St. Catherine, with the assistance and supervision of Mr. Hoftate Pantry.
11. The NWC, since becoming aware of the construction of the water tank, took no steps to prohibit the construction of the new tank.
12. There was no agreement between the NWC and the St. Catherine Parish Council for the Parish Council to effect repairs to and/ or replace the NWC's aluminium water tank which was located at Top Crawl, St. Catherine.
13. The NWC did not utilise the funds they received from Mr. Gregory Mair's CDF allocation to effect repairs on the water tank and has since returned the sum in its entirety to the CDF-PMU.
14. The NWC conducted an inspection of the tank that was erected by the St. Catherine Parish Council. This inspection was carried out after August 23, 2016.
15. Though the tank was inspected and sterilization conducted by the NWC, the tank was not officially commissioned into service.
16. It was the NWC's observation that "...water from the transmission pipeline was not reaching the tank due to a number of illegal connections that were found on the line".



17. The illegal connections to the pipeline were removed by the NWC on September 7, 2017.

18. A team from the NWC met with members of the community and outlined the implications of connecting illegally to the NWC's main.



DISCUSSION OF FINDINGS

The NWC entered into a lease agreement with Mr. Isaac Newton on the 12th of March 2002 for a period of 49 years, commencing on the 1st day of March, 1999, for a parcel of land located at Top Crawle, Riversdale, St. Catherine. Thereafter, the NWC constructed and serviced an aluminium water tank on the leased parcel of land to supply the Top Crawle and surrounding communities.

In furtherance of its investigation, the OCG posed the following question to Mr. Michael Morris, Secretary Manager of the St. Catherine PC:

“1. Are you aware of an aluminium water tank that is/was located on lands at Top Crawle, Riversdale, St. Catherine? In the event that your response is “yes”, please respond to the following:

...

- c. The ownership/management of the lands on which said water tank is/was located.”⁵*

In response to the OCG, the St. Catherine Parish Council indicated, *inter alia*, the following:

“Based on inquiry, a mutual agreement was entered into by the owners of the land and the Parish Council in excess of twelve years.”⁶

⁵ OCG requisition dated February 17, 2016 which was addressed to Mr. Michael Morris, Secretary Manager, St. Catherine PC. Question 1.

⁶ Response dated May 12, 2016 from St. Catherine PC addressed to the OCG from Mr. Andre Griffiths, Acting Secretary Manager, St. Catherine PC. Response 1 (c).



Ownership of the Aluminium Water Tank

The OCG, in its investigation, sought to ascertain the ownership of the aluminium water tank which was located at Top Crawle, Riversdale, St. Catherine. By way of a requisition dated June 19, 2015, the OCG sought to ascertain the following from Mr. Mark Barnett, then acting President of the NWC:

1. *“Please confirm whether a water tank is/[was] located on lands at Top Crawle, Riversdale.*
 - a. *If yes, please state (i) ownership of the water tank and (ii) ownership/management of the lands which housed said water tank.”*⁷

Mr. Mark Barnett by way of response dated July 6, 2015, indicated the following:

“I’ Yes

- a) *(i) National Water Commission*
*(ii) Owned by the Newton’s family. NWC has a lease for the tank site.”*⁸

By way of a requisition dated February 17, 2016, which was addressed to Mr. Michael Morris, former Secretary Manager, St. Catherine PC, the OCG posed the following question:

“1. Are you aware of an aluminium water tank that is/was located on lands at Top Crawle, Riversdale, St. Catherine? In the event that your response is “yes”, please respond to the following:

...

⁷ OCG requisition dated June 19, 2015 which was addressed to Mr. Mark Barnett, then Acting President, NWC. Question 1.

⁸ Response dated July 6, 2015, from Mr. Mark Barnett then Acting President, NWC. Response 1.



b) *The ownership of the aluminium water tank*⁹

Mr. Andre Griffiths, the Acting Secretary/Manager for the St. Catherine PC, in his response to the OCG's requisition, indicated that *"the tank is the property of the National Water Commission."*¹⁰

It was also acknowledged by Mr. Hoftate Pantry, Former Councillor for the Troja Division, in his response to the OCG's requisition dated February 17, 2016, that the aluminium water tank which was located at Top Crawle was owned by the NWC. Mr. Pantry stated that:

"1. ..

a. Based on inquiries I was advised that the National Water Commission (NWC) were the owners of the aluminium water tank located at Top Crawle, Riversdale. I was also a resident of the surrounding community and knew that the tank was out of commission for some time.

*b. The Tank is owned by the National Water Commission."*¹¹

⁹ OCG requisition dated February 17, 2016 which was addressed to Mr. Michael Morris, former Secretary Manager, St. Catherine PC. Question 1.

¹⁰ Response dated May 12, 2016, addressed to the OCG from Mr. Andre Griffiths, Acting Secretary/Manager, St. Catherine PC. Response 1b.

¹¹ Response dated July 29, 2016, addressed to the OCG from Mr. Hoftate Pantry, former Councillor St. Catherine PC. Response 1a and 1b.



Allocation of the CDF Funds by Mr. Gregory Mair, Former M.P for St. Catherine North Eastern

Mr. Gregory Mair advised the OCG that he assigned Four Million Dollars (J\$4,000,000.00) of his CDF allocation specifically for the repair of the NWC's water tank which serviced the Top Crawle Division in St. Catherine. In addition, Mr. Mair stated that the CDF office disbursed the funds to the NWC in three tranches during the period October 2014 to February 2015, totaling \$3,990,951.00.

The Constituency Development Fund (CDF) is:

“(1.1) ...a fund established to provide members [sic] of Parliament with financial resources to execute approved social and economic programs within their constituency[sic]...”

(1.3)The main thrust of the fund is to promote human and infrastructure development at the community and constituency levels....”¹²

Having regard to Mr. Mair's complaint, the OCG, by way of requisition dated February 17, 2016, sought to ascertain whether the NWC is still *“...in possession of the CDF funds which were allocated to effect repairs to the water tank in Top Crawle, Riversdale...”¹³*

In response to the referenced question, the NWC indicated, *inter alia*, that:

“...the NWC is still in possession of the Constituency Development Funds (CDF) funds in the sum of \$3,990,951.00 submitted by the

¹² Revised Constituency Development Fund (CDF) Operational Procedures, January 17, 2011, pg. 3

¹³ OCG requisition dated February 17, 2016, addressed to Mr. Mark Barnett, Acting President of the NWC. Question 6.



*Constituency Development Fund Programme
Management Unit.*¹⁴

The NWC also provided the OCG with a copy of a letter dated October 16, 2014, from the Director of the Constituency Development Fund Programme Management Unit (CDFPMU), Miss Moveta Munroe, which was addressed to the NWC and indicated, *inter alia*, the following:

“Re: CDF Project for St. Catherine North Eastern

*Enclosed you will find copy of project allocated to the National Water Commission (NWC) along with the relevant summary sheet. The amount of **Two Million Dollars (J\$2,000,000.00)** was electronically transferred to your account...in relation to its implementation...*

The sum received must be spent only for the specific purpose for which it was approved. In the event that the project/activity cannot be undertaken, any unused amount must be returned forthwith to the Office of the Prime Minister for reallocation. On no account whatsoever should funds allocated for one project be unilaterally diverted by the National Water Commission (NWC) to another project without prior approval of the Office of the Prime Minister.¹⁵

¹⁴ Response dated March 18, 2016, addressed to the OCG from Mr. Mark Barnett, President of the NWC. Response #6

¹⁵ Letter dated October 16, 2014, from Ms. Moveta Munroe, Director CDF-PMU, Office of the Prime Minister, addressed to Mr. Mark Barnett, President, NWC.



Ms. Moveta Munroe also enclosed a document entitled “**CONSTITUENCY DEVELOPMENT FUND PROGRAMME MANAGEMENT UNIT PROJECTS APPROVED FOR IMPLEMENTATION OCTOBER 14, 2014**” which is represented as follows:

Table 1

CONSTITUENCY DEVELOPMENT FUND PROGRAMME MANAGEMENT UNIT PROJECTS APPROVED FOR IMPLEMENTATION OCTOBER 14, 2014							
NATIONAL WATER COMMISSION							
MEMBER OF PARLIAMENT	CONSTITUENCY		PROJECT TYPE	BUDGET JA\$	AMOUNT DISBURSED	IMPLEMENTING AGENCY	DATE APPROVED
Mr. Gregory Mair	St. Catherine North Eastern	Top Crawle Steel Tank Membrane Installation	Physical Infrastructure	3,990,951.00	2,000,000.00	NWC	15.7.14
				3,990,951.00	2,000,000.00		

The NWC also provided the OCG with a copy of a letter dated the 11th of November 2014, from Miss Rosalie Phipps, Principal Finance Officer for the Permanent Secretary, Office of the Prime Minister, to the National Water Commission which indicated, *inter alia*, the following:

**“SUBJECT: CONSTITUENCY DEVELOPMENT
FUND (CDF) MOBILIZATION DRAWDOWN**

The amount of One Million Dollars (J\$1,000,000.00) was deposited to your account...The amount provided is to carry out the CDF project ...

The amount is being provided as an advance. However, we will require a monthly expenditure



report advising us on how the funds were disbursed.”¹⁶

In addition to the foregoing, the NWC provided a table detailing the sums which were disbursed to the NWC by the CDF-PMU in relation to the project at Top Crawle¹⁷, as depicted in the table below:

Table 2

<i>Financial Year Received</i>	<i>Constituency</i>	<i>Project Name</i>	<i>Amount Lodged</i>	<i>Date Lodgment Received</i>	<i>Expended</i>	<i>Balance</i>
2014/2015	St. Catherine - North East	Top Crawl-Steel Tank Membrane [sic] Installation (Physical Infrastructure)	2,000,000.00	Oct-14	-	2,000,000.00
	St. Catherine - North East	Top Crawl-Steel Tank Membrane [sic] Installation (Physical Infrastructure)	1,000,000.00	Nov-14	-	1,000,000.00
	St. Catherine-North East	Top Crawl-Steel Tank Membrane [sic] Installation (Physical Infrastructure)	990,951.00	Feb-15	-	990,951.00
			<u>3,990,951.00</u>			

¹⁶ Letter dated 11th of November 2014 from Miss Rosalie Phipps, Principal Finance Officer for the Permanent Secretary, Office of the Prime Minister, to the National Water Commission.

¹⁷ Response dated March 18, 2016, from Mr. Mark Barnett, President of the NWC. Response #6.



In the foregoing regard, the OCG wishes to highlight that the Finance and Accounts Branch (FAB) of the Office of the Prime Minister (OPM) is responsible for disbursing funds directly to implementing agencies based on the advice of the CDF-PMU¹⁸.

Actions taken by the NWC

In relation to the repair of the aluminium water tank at Top Crawle, Riversdale, St. Catherine, the NWC was the implementing agency assigned by the CDF-PMU. An implementing agency is responsible for, *inter alia*, the following:

“ (a) *Implementing the projects and activities of the CDF assigned to it By the CDF-PMU;*

(b) **To undertake technical, administrative and supervisory functions of CDF project/activities assigned;**

(c) **To undertake procurement in accordance with the procedures and guidelines outlined in the GOJ Procurement Handbook** for the purchases of goods, services and works undertaken by the Fund.

...

(g) *To ensure that funds received are utilised only for the specified project/ activities in respect of the constituency for which they were received and are not borrowed or utilised for any other purpose.*”¹⁹

¹⁸ Revised Constituency Development Fund (CDF) Operational Procedures, January 17, 2011, pg. 13

¹⁹ Revised Constituency Development Fund (CDF) Operational Procedures, January 17, 2011, pgs. 13-14



Notwithstanding the receipt of the CDF funds in October 2014 to conduct the repair to the water tank, the NWC, as the implementing agency, failed to undertake any procurement geared towards implementing the project. The NWC indicated that

“The NWC have not disbursed any funds from the amount received from the Constituency Development Fund Programme Management Unit as no procurement for the rehabilitation of the water tank at Top Crawle has been executed.”²⁰

²⁰ Response dated March 18, 2016, addressed to the OCG from Mr. Mark Barnett. Response #6, page 8.



Removal of the Aluminium Water Tank

The Role of the NWC

Mr. Gregory Mair's complaint indicated that he provided \$4,000,000.00 from his CDF funds to repair the water tank at Top Crawle and his understanding is that the tank was not repaired and was in fact removed.

Upon enquiry by the OCG, Mr. Mark Barnett, President of NWC, indicated the following:

"...on or about March 5, 2016 the matter of the missing water tank first came to the knowledge of the NWC's Mobile Operators...Subsequent to this discovery both men reported the matter to the Water Production Manager...who then ensured that the matter was reported to the Police and to the relevant NWC personnel"²¹.

The NWC was, therefore, unaware that the St. Catherine Parish Council removed the water tank and was undertaking rehabilitation works at the Top Crawle location. Mr. Mark Bennett, President of the NWC indicated, *inter alia*, the following in a letter to the OCG dated March 18, 2016:

"On the 31st March 2015, Miss Michelle Campbell...brought to the attention of Mr. Paul Fraser that the above mentioned item had disappeared from its location and requested that enquiries be made as to the circumstances of its removal"²².

²¹ Response dated March 18, 2016, addressed to the OCG from Mr. Mark Barnett. Response #1, page 2.

²² Response dated March 18, 2016, addressed to the OCG from Mr. Mark Barnett. Response #1, page 1.



Mr. Barnett also indicated that upon becoming aware of the missing tank, the NWC has been in communication with officers from the Bog Walk Police Station throughout the period April 17, 2015 to July 15, 2015 in relation to the investigation into the missing tank.²³ By way of response to the OCG's requisition, the NWC also indicated that “...**the NWC personnel involved in the matter made no contact with the St. Catherine Parish Council or with Councilor Pantry in relation to this matter**”²⁴. (OCG Emphasis)

The OCG also enquired by way of requisition²⁵ to the NWC, the steps which were taken by the NWC subsequent to the removal and construction of the water tank at the referenced site. In this regard, the NWC advised the OCG that “*since becoming aware of the on-going works, the NWC Security Consultant...continued to make contact with the Bog Walk and Riversdale Police Stations*”.²⁶

The Role of the St. Catherine PC

Subsequent to advising the OCG on March 18, 2016, that the NWC did not make contact with the St. Catherine Parish Council, the NWC sought to ascertain the role of the St. Catherine Parish Council with respect to the removal of the aluminum water tank. In this respect, Mr. Mark Barnett, President of the NWC, by way of a letter dated March 21, 2016, wrote to His Worship the Mayor Mr. Norman Scott at the St. Catherine PC, in relation to the removal of the aluminum water tank. The referenced letter enquired of, *inter alia*, the following:

“On or about March 2015, the NWC’s tank situated on lands leased by the NWC at Top Crawle,

²³ Response dated March 18, 2016, addressed to the OCG from Mr. Mark Barnett. Response #2, pgs 2-5.

²⁴ Response dated March 18, 2016, addressed to the OCG from Mr. Mark Barnett. Response #3, pg 5.

²⁵ OCG Requisition to Mark Barnett, NWC, dated February 17, 2016

²⁶ Response dated March 18, 2016, addressed to the OCG from Mr. Mark Barnett. Response #5(ii), pg 7.



Riversdale, St. Catherine was dismantled without the approval and/or permission of any officer and/or official of the NWC...

Based on investigations carried out by the NWC, residents in the area have alleged that on the day when the tank was being dismantled, Councillor Pantry of the St. Catherine Parish Council was on site overseeing and/or instructing the dismantling process...the whereabouts of the dismantled tank is not known by any officer and/or official of the NWC.

...it has come to the attention of NWC that work is being carried out on site.

...allegations are that the same Councillor alleged to be involved in the removal of the tank was also observed on site overseeing and/or instructing the construction process.

...Kindly indicate whether the removal of the tank and the on-going works on site was authorized and /or sanctioned by the St. Catherine Parish Council.”²⁷

In response to Mr. Mark Barnett’s letter, His Worship the Mayor of Spanish Town, Mr. Norman Scott, indicated, *inter alia*, the following:

²⁷ Letter dated March 21, 2016 , addressed to His Worship the Mayor, Mr. Norman Scott, from Mr. Mark Barnett.



“I have been informed that the tank in question was severely damaged and out of service for over ten (10) years. Consequently, it was removed by the St. Catherine Parish Council and is presently on the Council’s property at the Spanish Town Infirmary.

The removal of the water tank is to facilitate the installation of a new tank...there was no disruption to the water supply as a result, seeing the tank was by-passed years ago.

...construction is presently under way at the location to have a new tank installed. This has been approved by the Council and is being supervised by its technical team...[The] tank which will serve the entire Riversdale community.

...the presence of Cllr. Hoftate Pantry at the location would not be unusual as it is his duty to visit the location of any work site within his Parish Council Division.”²⁸

The St. Catherine PC indicated that they, through the request and guidance of former Councillor for the Troja Division, Mr. Hoftate Pantry, removed the aluminium water tank to build a new tank. The St. Catherine PC stated the following:

²⁸ Letter dated April 11, 2016, addressed to Mr. Mark Barnett, President of the NWC, from His Worship the Mayor, Mr. Norman Scott.



“...the technical staff and the Councillor for the division were present during the removal of the tank”²⁹.

Further, by way of requisition dated February 17, 2016, the OCG enquired the following of the St. Catherine PC:

“4. The OCG has been advised that construction related works have commenced at the site where the tank was located. Please indicate whether the St. Catherine Parish Council is aware of any works which is being undertaken at the referenced site? In the event that your response is “yes”, please state

- a. The type of work(s) which is/are being undertaken;*
- b. Whether the St. Catherine Parish Council and/or one of its Councillors had approved such work to be executed;*
- ...*
- d. Please indicate the source of funds for the works;*
- e. Please state whether a contract was awarded for the conduct of the referenced works;*
- f. Please state i) the procurement methodology utilized, ii) the name of the contractor(s) to whom the contract was*

²⁹ Response dated May 9, 2016, addressed to the OCG, from Mr. Andre Griffiths, Acting Secretary/Manager, St. Catherine PC. Response #2a.



awarded, iii) the value of the contract and iv) provide a copy of the signed contract...”³⁰

The St. Catherine PC provided the following responses to the aforementioned OCG questions:

“4. The St. Catherine Parish Council is aware of works being undertaken at the referenced site.

a. Infrastructure works are being done to accommodate a water tank.

b. Works being conducted were approved by the Council.

...

d. The Source of fund is taken from the Minor Water Parochial Revenue Fund (P.R.F).

e. There was no contract awarded for the referenced works.

f. The procurement methodology utilized was the Force Account. The work is being carried out by the St. Catherine Parish Council.”³¹

In the foregoing regard, the OCG wishes to highlight that an implementation agency is permitted to utilise force accounts where it does not contract for the works to be carried out by a private entity. By definition:

³⁰ OCG requisition dated February 17, 2016, which was addressed to Mr. Michael Morris, former Secretary Manager, St. Catherine PC. Response # 4.

³¹ Response dated May 12, 2016, from the St. Catherine PC, to the OCG. Response #4.



[A] *“Force Account” is a project implementation method whereby a Government entity undertakes rehabilitative or developmental works by using its internal resources rather than contracting a private entity.*”³²

Additionally, the St. Catherine PC provided the OCG with a Payment Voucher for the *“purchase of materials to be used at Crawl for Tank and Base”* with supporting Invoice from an entity identified as *“T.J. Enterprise”* totaling \$372,550.00.

The OCG also sought to ascertain whether the St. Catherine PC was aware of any decision(s) which was/were taken and/or any directive(s) which was/were given by any Official(s)/Officer(s) of the St. Catherine Parish Council, or any person or entity acting on its behalf, in relation to the missing water tank and the works which were being undertaken at Top Crawle, St. Catherine. The OCG specifically enquired the following:

- “ a. The nature and substance/content of the decision(s);*
- b. The extent of your knowledge of the circumstances surrounding the decision(s);*
- c. The rationale and/or justification for such decision(s);*
- a. Please provide full particulars of the substance of any discussion(s), negotiation(s), meeting(s), seminar(s), conference(s) and/or any other form of assembly with which you may have been*

³² Government of Jamaica Handbook of Public Sector Procurement Procedures, March 2014, pg. 44



involved and which pertained to the missing water tank and the works currently being undertaken at Top Crawle, Riversdale, St. Catherine;

...

*g. The date on which this decision was made.*³³

In this regard, the St. Catherine PC provided the following responses:

“a. The tank was removed to improve the water supply. Recommendation was made by the councillor and subsequent to site visit conducted by an officer of the Council; the decision was made to have the tank removed and another tank installed at the location.

b. The matter was discussed between the Mayor and the Superintendent of Roads and Works.

c. The water tank has been out of service for ten to twelve years (10-12 years). The population of the community has grown and the supply of the water from the tank was non-existent...Councillor Pantry had requested permission from the Mayor in conjunction with the technical team to replace same.

³³ OCG requisition dated February 17, 2016, addressed to Mr. Michael Morris, Secretary Manager, St. Catherine PC. Question 6



d. The “missing” tank was dismantled and placed in storage at the Spanish Town Infirmary. Any discussions that took place had to do with removing the existing tank, preparing a concrete base to receive the metal tank that would replace the non-functional bladder tank.

...

g. June 12, 2015”³⁴

The Role of Former Councillor, Mr. Hoftate Pantry

Mr. Hoftate Pantry, the former Councillor for the Troja Division, in response to the OCG’s requisition dated February 17, 2016, indicated that he was advised that the water tank located at Top Crawle, St. Catherine was owned by the NWC.

By way of requisition dated February 17, 2016, the OCG enquired of Mr. Hoftate Pantry the following:

“2. With reference to the allegation which was made, please advise whether you are aware that an aluminium water tank was removed from the lands at Top Crawle, Riversdale. In the event that your response is “yes”, please respond to the following:

a. Please state whether you contracted and/or commissioned or were involved in the removal of the aluminium water tank?

³⁴ Response dated May 12, 2016, from Mr. Andre Griffiths, Acting Secretary Manager, St. Catherine PC. Response #6.



- b. *Please provide a brief account explaining the reason(s) for the removal of the tank;*
- c. *Please also state the officer(s) and/or other Councillor(s) who was/were involved in the removal of the aluminium water tank;*
- d. *The name(s) and title(s) of the person(s) who approved and authorized the removal of the tank; and*
- e. *Please state the current location of the aluminium water tank and/or its parts.*³⁵

In response to the foregoing, Mr. Pantry indicated the following:

“2. Yes.

- a. *I, as well as the technical staff of the Parish Council was present during the removal of the water tank.*
- b. *It was observed that the bladder of the tank was damaged. It was determined that it would be expensive to replace the bladder and that it would be more efficient to replace the tank...*
- c. *The names of the persons involved in the removal of the water tank, including myself, are as follows:*
Mr. Norman Scott-The Mayor Spanish Town
Mr. Michael Morris- Secretary/Manager

³⁵ OCG requisition dated February 17, 2016, addressed to Mr. Hofate Pantry , Question 2



*Mr. Everton Ricketts-Superintendent- Roads
and Works Dept.*

*Mr. Romond Fisher- Deputy
Superintendent- Roads and Works Dept.”³⁶*

The OCG also enquired of Mr. Pantry whether he had taken any action to obtain approvals from the NWC prior to the dismantling and removal of the water tank³⁷. In this regard, Mr. Pantry indicated that *“There was no approval obtained [from] the National Water Commission (NWC) to my knowledge”³⁸*. Additionally, the OCG asked Mr. Pantry to indicate the action(s) he took, if any, to obtain the approvals from the NWC in relation to the construction now being undertaken at Top Crawle³⁹. Mr. Pantry’s response was *“N/A”⁴⁰*.

By way of requisition dated February 17, 2016, the OCG enquired of the St. Catherine PC the following:

“5. The OCG was advised that Mr. Hoftate Pantry, Councillor for the Troja Division, was supervising the dismantling of the water tank and the works which are now in progress in the captioned matter. Please advise whether you are aware of the allegation of Mr. Pantry’s involvement with the removal of the water tank and the subsequent works which are being undertaken. If yes, please indicate the following:

³⁶ Response dated July 29, 2016, from Mr. Hoftate Pantry. Response #2

³⁷ OCG requisition dated February 17, 2016, addressed to Mr. Hoftate Pantry. Question 5b.

³⁸ Response dated July 29, 2016, from Mr. Hoftate Pantry. Response #5b.

³⁹ OCG requisition dated February 17, 2016, addressed to Mr. Hoftate Pantry. Question 5c.

⁴⁰ Response to Requisition/Question #5c, pages 3 of Mr. Hoftate Pantry’s response dated July 29, 2016



- a. *Full details of your knowledge of Mr. Pantry's involvement in the removal of the tank and commencement of works at the referenced site;*
- b. *The date on which the St. Catherine Parish Council became aware of the removal of the water tank and commencement of works at the site;*
- c. *Please provide details of any action(s) taken by you and/or the St. Catherine Parish Council upon becoming aware of the removal of the tank and the conduct of work(s) at the noted location; and*
- d. *The involvement or support, if any, provided to Councillor Pantry, by the St. Catherine Parish Council or any of its officers and or agent(s)."⁴¹*

The St. Catherine PC provided the following responses to the aforementioned OCG requisition questions:

"5. Yes. The Council was made aware of the involvement of Councillor Hoftate Pantry, Troja Division in the removal of the water tank and subsequent works being conducted.

a. Mr. Hoftate pantry had informed the Parish Council of the existence of the tank and proposed

⁴¹ OCG requisition dated February 17, 2016, addressed to Mr. Michael Morris, Secretary Manager, St. Catherine PC. Question 5



the repairs/replacement of the tank in order to aid the community.

b. June 4, 2015

c. ...the Parish Council was aware of the removal of the tank as this action was to facilitate the installation of another tank which would serve the community.

*d. Supervision and consultation was rendered for work done through the Council.*⁴²

⁴² Response dated May 12, 2016, addressed to the OCG from Mr. Andre Griffiths, Acting Secretary Manager, St. Catherine PC. Response #5.



Return of CDF Funds by the NWC to the CDF-PMU

Mr. Gregory Mair, former MP for North East St. Catherine, advised the OCG by way of email dated September 1, 2016, of a letter from the President of the NWC which was addressed to the current MP of North East St. Catherine, Mr. Leslie Campbell. The referenced letter stated, *inter alia*, the following:

“Re: Project at Crawle, St. Catherine for rehabilitation of tank- funds received from former Member of Parliament Gregory Mair from CDF

...

a) *An aluminium water tank belonging to the NWC, situated on lands leased by the NWC at Top Crawle, Riversdale, St. Catherine was dismantled and removed from the site without authorization of the NWC. To the best of our information, the personnel from the St Catherine Parish Council were responsible for the removal of the tank and subsequent works that took place on site.*

b) *The NWC has returned the **Three Million Nine Hundred and Ninety Thousand Nine Hundred and Fifty One Dollars (\$3,990,951.00)** received from the Office of the Prime Minister, Constituency Development Fund Programme...*

c) ...



- d) *The NWC did not authorize the removal of any tank from Hampshire and will further state that it does not know where the tank came from that is now at Top Crawle.*
- e) *The NWC personnel have carried out preliminary quality checks pertaining to the erection of the tank and associated pipe work. A final inspection is to be done before the tank is sterilized and commissioned into service. This will be done at the earliest.*⁴³

Similarly, Ms. Moveta Munroe, Director CDF-PMU, Office of the Prime Minister, advised the OCG of, *inter alia*, the following:

*“Please be advised that the funds were returned by the National Water Commission. This amount was debited to the account of the Member of Parliament.”*⁴⁴

⁴³ Letter dated August 23, 2016 from Mr. Mark Barnett, President of NWC, addressed to Leslie Campbell, MP North East St. Catherine.

⁴⁴ Email CORRESPONDENCE dated September 1, 2016 from Moveta Munroe to, *inter alia*, the OCG.



CONCLUSIONS

Based upon the documents which have been reviewed, the OCG has made the following considered conclusions:

1. The failure of the NWC, as the implementing agency to undertake technical, administrative and supervisory functions of the CDF project to repair the water tank located at Top Crawle, St. Catherine, demonstrates that the Commission was lax in the execution of its functions as an implementing agency.

The NWC received a CDF allocation of \$3,990,951.00 to effect the repairs to the water tank by February 2015 and the St. Catherine PC removed the water tank and commenced works on site on June 4, 2015. The NWC only became aware on March 5, 2016 that the water tank was removed.

2. Notwithstanding the fact that the repair of the tank located at Top Crawle, St. Catherine was necessary to improve the supply of water to the communities it served, it was the obligation of the St. Catherine PC to obtain the prior approval of the NWC to remove and repair the water tank. Additionally, it would have been prudent for the Parish Council to coordinate with the NWC to undertake the referenced task, especially since the entity's approval is required for the tank to be commissioned into service.
3. Notwithstanding the fact that the St. Catherine PC was fully knowledgeable that the water tank was owned by the NWC, the Council blatantly disregarded the NWC's ownership and operational mandate, as it proceeded to remove and replace the water tank without the NWC's consent.



4. The failure of the NWC as the implementing agency, to effect repairs to the water tank by utilising the CDF funds, was to the detriment of the community/ies served by the water tank at Top Crawle.



RECOMMENDATIONS

Section 20 (1) of the Contractor General Act mandates that “*after conducting an Investigation under this Act, a Contractor-General shall, in writing, inform the principal officer of the public body concerned and the Minister having responsibility therefor of the result of that Investigation and make such Recommendations as he considers necessary in respect of the matter which was investigated.*” (OCG’s Emphasis).

In light of the foregoing, and having regard to the Findings and Conclusions that are detailed herein, the OCG now makes the following Recommendations:

1. Having regard to the crucial mandate and core functions of the NWC and the Municipal Corporations (formerly Parish Councils), the OCG recommends that both agencies develop strategies necessary to ensure inter-agency collaboration and to facilitate infrastructural development, especially at the community level.
2. The OCG further recommends that Municipal Corporations adopt a stringent due diligence process that would inform its decisions as they relate to the repairs and/or removal of assets owned by the NWC and/or any other agencies to which the Corporation is desirous of executing works, especially where the approvals of other agencies are necessary; and
3. As it relates to the allocation of funds for specified purposes, the OCG recommends that public entities responsible for the execution of procurement related activities, enter into the necessary contractual arrangements in order to ensure prudent financial management.



4. As it relates to the illegal connections which had been detected by the NWC to its main, the OCG recommends that the NWC continue its due diligence in monitoring the project as it regards this illegal activity.