

MINUTES

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

July 26, 2011

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

- MEMBERS PRESENT: Mr. Dwayne Mukai, Chairperson
Mr. Robert Meierdiercks, Vice-Chairperson
Mr. David Greenwell
Mr. Kenneth Kaneshiro
Mr. Bryan Lindsey
Mr. Delan Perry
Mr. Art Taniguchi
Mr. Milton Pavao, Manager-Chief Engineer, Department of Water Supply
(ex-officio member)
- ABSENT: Ms. Bobby Jean Leithead-Todd, Director, Planning Department (ex-officio member)
Mr. Warren Lee, Director, Department of Public Works (ex-officio member)
- OTHERS PRESENT: Mr. Craig Masuda, Deputy Corporation Counsel
Ms. Molly Lugo, Deputy Corporation Counsel (arrived at 11:08)
Mr. James Souza (arrived 11:30 a.m.)
Mrs. Judy Souza (arrived 11:30 a.m.)
Ms. Tara Trujillo, Sign Language Interpreter (arrived at 11:30 a.m.)
Ms. Makana Guillermo (arrived 10:40 a.m.)
- Department of Water Supply Staff
Mr. Quirino Antonio, Jr., Deputy
Mr. Kurt Inaba, Engineering Division Head
Mr. Rick Sumada, Waterworks Controller
Mr. Daryl Ikeda, Operations Chief
Mr. Larry Beck, Engineering Division
Mr. Keith Okamoto, Engineering Division
Ms. Kanani Aton, Public Information and Education Specialist
Ms. Crestita Hudman, Customer Service Supervisor (arrived 11:25 a.m.)
Ms. Ka'iulani Carvalho, Contracts Technician (arrived 10:40 a.m.)

CALL TO ORDER - Chairperson Mukai called the Meeting to order at 10:00 a.m.

STATEMENTS FROM THE PUBLIC:

The Board received a letter from Mr. Richard Allen Gomes and Mrs. Flora Gomes expressing concerns regarding the water system improvement district at Kona Ocean View Subdivision. Chairperson Mukai encouraged the Board to read the letter, which was in the Board members' packets.

APPROVAL OF MINUTES:

The Chairperson entertained a Motion to approve the Minutes of the Water Board meeting on June 28, 2011.

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

APPROVAL OF ADDENDUM AND/OR SUPPLEMENTAL AGENDA:

Chairperson Mukai entertained a Motion to approve Supplemental Agenda items 5(A) JOB NO. 2011-975, PANA‘EWA BOOSTER #1 REPAIR, and 6(A) JOB NO. 2009-958, CONSTRUCTION OF THE ĀHUALOA WELL POWER LINE ACCESS ROADWAY, DISTRICT OF HĀMĀKUA.

ACTION: Mr. Meirdiercks moved to approve; seconded by Mr. Perry. Motion carried unanimously by voice vote.

SOUTH HILO:

A. JOB NO. 2011-975, PANA‘EWA BOOSTER #1 REPAIR:

This project generally consists of the replacement of the existing booster vertical pump, discharge head and appurtenances.

Bids for this project were opened on July 21, at 1:30 p.m., and the following are the bid results:

Bidder	Bid Amount
Derrick’s Well Drilling & Pump Services, LLC	\$24,979.50
Beylik Drilling & Pump Service, Inc.	\$42,000.00
Water Resources International, Inc.	Disqualified

Project Costs:

1) Low Bidder (Derrick’s Well Drilling & Pump Services, LLC)	\$ 24,979.50
2) Construction Contingency (10%)	\$ 2,497.95
Total Cost:	<u>\$ 27,477.45</u>

Funding for this project will be from DWS’s C.I.P. Budget under Deepwell Pump Replacement. The contractor will have 180 calendar days to complete this project.

The Manager-Chief Engineer recommended that the Board award the contract for JOB NO. 2011-975, PANA‘EWA BOOSTER #1 REPAIR, to the lowest responsible bidder, Derrick’s Well Drilling & Pump Services, LLC, for their bid amount of \$24,979.50, plus \$2,497.95 for construction contingency, for a total contract amount of \$27,477.45. It is further recommended that either the Chairperson or the Vice-Chairperson be authorized to sign the contract, subject to review as to form and legality of the contract by Corporation Counsel.

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

The Manager-Chief Engineer said this was a typical repair, involving the removal of the discharge head. He said that the bids were really favorable, and noted the big discrepancy between the first and second bids. Pana‘ewa is the main well source for Hilo, which has three deep wells and a booster. The booster pumps the water out to the reservoir on Puainako Street. This serves most of Hilo, he said. It is one of the cheapest wells in the DWS system, with an elevation of only 205 feet. The water stands at about 17 feet above sea level, with a tremendous amount of very good water.

Mr. Greenwell asked whether the Department, seeing a large discrepancy, takes into consideration the contractors' past construction problems, etc.

The Manager-Chief Engineer said that the way that the laws are written, barring any unforeseen problems in the past whereby the contractor was specifically barred by the State, DWS must accept the lowest responsible bid. DWS has worked very well with Derrick's Well Drilling & Pump Services, LLC, he added.

Mr. Kaneshiro asked why Water Resources International, Inc., was disqualified.

The Manager-Chief Engineer said it was because their Intent to Bid did not come in on time. State law stipulates that the Intent to Bid must come in no later than six days prior to the bid. Water Resources International, Inc., missed the deadline, and so DWS could not even open the bid because it is considered a non-bid.

Chairperson Mukai asked if the low bid, at \$24,979.50, was reasonable.

The Manager-Chief Engineer said that the bid was reasonable, and had been reviewed by DWS's engineers who are trained to spot a problem with a bid. If there were a problem with the bid, the engineers would have notified management, and management would not have accepted the bid.

ACTION: Motion carried unanimously by voice vote.

HĀMĀKUA:

A. JOB NO. 2009-958, CONSTRUCTION OF THE ĀHUALOA WELL POWER LINE ACCESS ROADWAY, DISTRICT OF HĀMĀKUA:

This project generally consists of the construction of an access road for the installation/maintenance of power lines, by Hawaii Electric Light Co., to serve the Department's Āhualoa Well.

Bids for this project were opened on July 21, at 2:00 p.m., and the following are the bid results:

Bidder	Bid Amount
William C. Loeffler Construction, Inc.	\$662,879.00
Ludwig Construction, Inc.	\$851,587.00
Kona Kau Construction Services & Supplies, Inc.	\$887,772.80*
Willocks Construction Corporation	\$920,725.07
Goodfellow Bros., Inc.	\$1,077,058.00
Jas. Glover, Ltd.	\$1,260,500.00*
Isemoto Contracting Co., Ltd.	\$1,276,554.00
Koga Engineering and Constr., Inc.	\$1,342,000.00
Kaikor Construction Company, Inc.	\$1,493,291.00
Yamada Paint Contracting dba GW Construction	\$1,672,369.50*

* As corrected per DWS General Requirements and Covenants

Project Costs:

1) Low Bidder (William C. Loeffler Construction, Inc.)	\$ 662,879.00
2) Construction Contingency (10%)	\$ 66,287.90
Total Cost:	<u>\$ 729,166.90</u>

Funding for this project will be from DWS's C.I.P. Budget. The contractor will have 150 calendar days to complete this project.

The Manager-Chief Engineer recommended that the Board award the contract for JOB NO. 2009-958, CONSTRUCTION OF THE ĀHUALOA WELL POWER LINE ACCESS ROADWAY, to the lowest responsible bidder, William C. Loeffler Construction, Inc., for their bid amount of \$662,879.00, plus \$66,287.90 for construction contingency, for a total contract amount of \$729,166.90. It is further recommended that either the Chairperson or the Vice-Chairperson be authorized to sign the contract, subject to review as to form and legality of the contract by Corporation Counsel.

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

Mr. Inaba said that this is a roadway project to provide access that DWS needs to bring power up to the Āhualoa Well that is nearing completion. This project is being undertaken by DWS instead of by HELCO, whose estimate for bringing power along the highway had been over \$3 million. DWS is doing the roadway so that HELCO can bring power up to the site. Currently, HELCO's transmission line is running through a pasture, and this roadway will bring the power straight up to the site, Mr. Inaba said. The Engineer's Estimate for this project was \$500,000.00, while the low bid was \$662,879.00. He acknowledged the discrepancy, but said that the contractor is confident that he can do the work for the price.

Mr. Meierdiercks asked how long the roadway would be.

The Manager-Chief Engineer estimated that it would be about a mile. He said this project would be of great benefit to DWS. Currently, to supplement Honoka'a, DWS is bringing water from Waimea cross-country. The new well will serve Honoka'a, and alleviate the need to bring water from Waimea all the way across the pastures. There will be a bigger transmission pipeline from the well to Honoka'a, so that DWS can open up Honoka'a to subdivisions. Currently, DWS does not have enough water in Honoka'a to allow subdivisions, but the new well and the pipeline will resolve that problem, the Manager-Chief Engineer said.

Mr. Taniguchi asked who estimated the \$500,000.00 for the project cost.

Mr. Inaba said the consultant made the estimate, based on the per linear footage of the road.

Mr. Greenwell noted that at a past meeting, it was mentioned that HELCO had to redesign their power line going along this road. He asked whether HELCO would have its act together to have this power line put in without further delays.

Mr. Inaba said DWS has a contract signed with HELCO, and they know the status of this roadway project. DWS needs to keep HELCO informed of when the roadway will be completed. Once the roadway is done, HELCO should start stringing their power line up.

Mr. Greenwell asked about the hauling of water issue that was raised a few meetings ago.

The Manager-Chief Engineer explained that the water hauling was done for Kukuihaele, which is in a different area and has no connection to the Honoka'a area (i.e., the two areas are on separate systems). He said that the roadway is above the Honoka'ia Boy Scout Camp.

Mr. Inaba said that HELCO will use the power line as a distribution line, to serve other customers off of this line. Because it will not be strictly a transmission line, HELCO apparently was obliged to pay for an easement from the State, whose lands it passes through.

Chairperson Mukai asked who would be responsible for maintenance of the roadway once it is completed.

Mr. Inaba said it would be turned over to HELCO. HELCO has the easement, and DWS has a construction right-of-entry. HELCO needs this roadway for installation of its poles, as well as for maintenance. He said that DWS does not have to pay for the power going up because DWS is going to use enough power off of the well.

ACTION: Motion carried unanimously by voice vote.

NORTH KONA:

A. JOB NO. 2003-823: PALANI ROAD TRANSMISSION WATERLINE (MĀMALAHOA HWY TO PALANI NO. 2 RESERVOIR):

The contractor, CTS Earthmoving, Inc., has submitted a request for a contract time extension of twelve (12) working days, due to a number of recent change order items requested by DWS.

This would be the first time extension to the contract.

If approved, the contract completion date will be extended from August 21, 2011 until September 7, 2011. Engineering staff has reviewed the request, and finds that the twelve (12) working day time extension is a reasonable request by the contractor to include the change orders and complete the project.

The Manager-Chief Engineer recommended that the Board grant this extension of contract time of twelve (12) working days, to CTS Earthmoving, Inc., for JOB NO. 2003-823, PALANI ROAD TRANSMISSION WATERLINE (MĀMALAHOA HWY TO PALANI NO. 2 RESERVOIR).

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

The Manager-Chief Engineer expressed surprise that the request was for only 12 days.

Mr. Inaba said that part of the change orders involve the runoff along Mr. Mark Jernigan's driveway, which is something that had to be taken care of.

The Manager-Chief Engineer said that the residents were aware of what was happening. The time extension is for extra work above and beyond the contract. The change orders fall within the contingency funds that the Board accepted at the beginning of the project.

ACTION: Motion carried unanimously by voice vote.

MISCELLANEOUS:

A. DEDICATION OF WATER SYSTEMS:

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

1. GRANT OF EASEMENT AND BILL OF SALE

Subdivision Application No. 2009-000857

Grantor/Seller: Hawai'i Island Community Development Corporation

Tax Map Key: (3) 5-5-019: 025 (Portion)

E.W.O.: 2010-043

No. of Lots: 22

Zoning: RS 7.5

Facilities Charge: \$104,500.00

Date Paid: 8/13/2010

Final Inspection Date: 12/04/2010

Water System Cost: \$117,652.70

2. GRANT OF EASEMENT AND BILL OF SALE

“Kaloko Housing Project”

Grantor/Seller: TSA, LLC

Tax Map Key: (3) 7-3-009: 056

E.W.O.: E11-007

Facilities Charge: \$247,500.00 Date Paid: 7/12/2011

Final Inspection Date: 07/02/2011

Water System Cost: \$20,000.00

3. GRANT OF EASEMENT

(For Access and Utility Purposes)

Subdivision Application No. 2007-000507

Grantor: Daniel B. Bolton

Tax Map Key: (3) 7-5-017: 004 and 008

E.W.O.: 2008-075

No. of Lots: 17 Lots

Zoning: AG-1A and AG-5A

Facilities Charge: \$84,880.00

Date Paid: 2/25/2010

Final Inspection Date: 4/17/2011

Water System Cost: \$40,100.00

4. GRANT OF EASEMENT

(For Access and Waterline Purposes)

Nā‘ālehu Spur Road

Grantor: LLC Kawala

Tax Map Key: (3) 9-5-010: 001

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

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

Chairperson Mukai noted that he thought the Grantor in Item 4 (above) should be Kawala LLC (instead of LLC Kawala).

Mr. Inaba said that Item 4 was just a grant of easement on an existing waterline, and for that reason, there was no further information given.

Mr. Meierdiercks asked about Item No. 3, which also was only a grant of easement.

Mr. Inaba said that Item No. 3 involved a big detector check, and DWS was only providing service laterals to the property. DWS does not do a bill of sale portion for service laterals, he said. He explained that the big detector check would have been too close to the traffic along Palani Road, and therefore it needed to be placed further into the property. For this reason, DWS needed an easement. The big detector check is for fire protection, Mr. Inaba added.

ACTION: Motion carried unanimously by voice vote.

B. PROFESSIONAL SERVICE AGREEMENT – JOB NO. 2011-971, KAPULENA WELL DEVELOPMENT, PHASE 2 DESIGN:

A Professional Services Agreement contract for the following Department of Water Supply project is currently being processed. However, the project, JOB NO. 2011-971, KAPULENA WELL DEVELOPMENT, PHASE 2 DESIGN, is not listed on the Department's current fiscal year Capital Improvement Projects (C.I.P.) list.

- JOB NO. 2011-971, KAPULENA WELL DEVELOPMENT, PHASE 2 DESIGN: The project generally consists of the design of a 300,000 gallon reinforced concrete reservoir, outfitting the existing exploratory well, and by-passing the existing Kapulena Booster Pump Station.
- Consultant: TNWRE, Inc.
Fee: \$360,000.00 (*estimate, subject to negotiation*)

The Manager-Chief Engineer recommended that the Board approve the new professional services contract for JOB NO. 2011-971, KAPULENA WELL DEVELOPMENT, PHASE 2 DESIGN, subject to results of the procurement process, and that either the Chairperson or the Vice-Chairperson be authorized to sign the documents, subject to approval of our Corporation Counsel.

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

The Manager-Chief Engineer said this is a straightforward design project, since the exploratory well is pretty much finished up. Therefore, this next phase is to design what is necessary to utilize the well.

Mr. Taniguchi asked where the money for this phase would come from.

Mr. Inaba said DWS will get the funds for the consulting contract from C.I.P. He said that DWS is trying to acquire the property right now, which is the main holdup of the project. The construction portion of the project is being partially funded by about \$900,000.00 in grant money from the U.S. Environmental Protection Agency (EPA). That is for the construction portion, not for the design, he added.

Mr. Taniguchi asked how many other projects like this are on the C.I.P. budget. He noted that later in the meeting he would be talking about C.I.P. funds for enhanced billing. He was concerned whether DWS had several projects hanging out there of this nature. He noted however, that the \$360,000.00 estimated for this project was not a large sum.

Mr. Inaba said there may be a couple of similar projects. This project was overlooked when DWS did the C.I.P. budget for this year. On this project, there is an issue with the property owner over land acquisition (i.e., he does not want to cooperate with DWS), and DWS may have to go to condemnation, he said.

Mr. Meierdiercks asked whether this well is comparable in size to the one in Hawaiian Ocean View Estates.

The Manager Chief-Engineer said this well has a bigger capacity.

ACTION: Motion carried unanimously by voice vote.

C. REPORT OF AD HOC FINANCE COMMITTEE:

The Water Board's Ad Hoc Finance Committee Chairperson, Mr. Art Taniguchi, has been investigating the three focus areas (DWS's policies on credit card use, cash control and vehicle take-home), which encompass the scope of the Committee's work. At this meeting, the Committee may do the following:

- Discussion of DWS's cash handling procedures and proposed changes.

Mr. Taniguchi reported that the Committee met with the Manager-Chief Engineer. The hope had been to bring the proposed vehicle policy to a vote by the Board at this meeting, but there is a holdup involving one of the unions on one of the policy's stipulations. Mr. Taniguchi said he hopes to be able to report on that further at next month's meeting.

On the conversion to a new billing system, Mr. Taniguchi noted that Oahu is changing to a monthly, instead of bi-monthly, billing system. If Honolulu Board of Water takes over DWS's billing, DWS will have to go to a monthly system as well. The problem is that DWS does not have automatic meter reader (AMR) devices islandwide on this huge island. Mr. Taniguchi expressed the hope that DWS will be able to have C.I.P. money to build up the number of AMRs in use, to bring in revenue and get on track for monthly billing. This issue will probably come up for discussion at next month's meeting.

The Committee also discussed the issue of delinquencies, and would like to place on next month's Agenda a discussion about a possible change to the Rules and Regulations regarding who the responsible party is for water service. Mr. Taniguchi noted the discussion at last month's meeting regarding the fact that even if someone fails to pay his bill and gets shut off, *someone else* in the household could come in to apply for water service – and DWS is currently obligated to grant them water service. The Committee wants to have a possible change in the Rules up for discussion in next month's meeting, whereby the Committee will make recommendations on who the responsible party would be.

D. REPORT OF AD HOC COMMITTEE TO REVISE THE MANAGER-CHIEF ENGINEER'S EVALUATION FORM:

The Water Board's Chairperson of the Ad Hoc Committee to Revise the Manager-Chief Engineer's Evaluation Form, Mr. Ken Kaneshiro, has been looking at a revised Manager-Chief Engineer Evaluation Form.

Mr. Kaneshiro reported that his Committee, consisting of Chairperson Mukai, Mr. Perry and Mr. Kaneshiro, had not yet met. However, the Committee has put together three sample performance appraisal forms as templates, in addition to the current evaluation form. The next step is to obtain the Manager-Chief Engineer's job description and the Department's Goals and Mission for its annual plan of work. After that, the Committee will examine some of the things it wants to look at in the Performance Appraisal. The Committee would also like to meet with the pertinent people in the Human Resources (H.R.) Department to make sure the Committee is tracking correctly. After that, the Committee will come up with a draft Performance Appraisal and present it to the Board, and also discuss it with Human Resources and the Manager-Chief Engineer. Following that, the Committee can finalize everything on the form. While there is still a ways to go, Mr. Kaneshiro said he thinks that once it gets rolling, the process will move pretty quickly. The Committee needs to have its first meeting soon, and also needs to meet with the H.R. people. Mr. Kaneshiro said he did not even know the pertinent H.R. people, but he believed that it was very important to meet with them to make sure the Committee is tracking things correctly.

The Manager-Chief Engineer said the Department could provide Mr. Kaneshiro with the names of the pertinent H.R. people.

Mr. Kaneshiro asked whether, under the Sunshine Law, it was necessary to issue a Public Notice when the Committee plans to meet. He asked whether the Committee could just meet.

Mr. Masuda said it was not necessary to put out a Public Notice, because it is an Ad Hoc Committee.

E. ENERGY MANAGEMENT ANALYST UPDATE:

No report this month.

F. MONTHLY PROGRESS REPORT:

No discussion.

G. REVIEW OF MONTHLY FINANCIAL STATEMENTS:

Mr. Taniguchi expressed frustration that, despite the Department's efforts to keep the Power Cost Charge close to what HELCO is charging DWS, it still is not on top of it yet for the fiscal year. He asked whether that was because the power cost skyrocketed.

Mr. Sumada said yes, even though DWS raised the Power Cost Charge, the cost of power kept increasing – and is continuing to rise. He said that June's numbers came up, and the Department plans to raise the Power Cost Charge again next month (after a planned Public Hearing). However, until the power cost drops, DWS will not be able to catch up, Mr. Sumada said.

Mr. Taniguchi noted that in June, DWS was about \$500,000.00 behind on the power cost.

Mr. Sumada said yes, that is because the power cost keeps rising.

Mr. Taniguchi asked about the Power & Pumping number on the Operations Statement of the Financial Statement, on Page 4.

Mr. Sumada said the number includes salaries, materials, etc.

Mr. Taniguchi asked if the pure HELCO charge (i.e., the power cost) was on the front side, in the Budget.

Mr. Sumada said yes, it is in the Budget, on Page 7.

Mr. Taniguchi noted that for that, the Department is looking at \$1.9 million.

Mr. Perry asked if there were any restrictions on how often DWS could adjust the Power Cost Charge. He noted that currently, it can be adjusted every two months. He asked whether that was based on the Rules and Regulations.

The Manager-Chief Engineer said yes, it was based on a policy that the Board had decided on some time ago. He said at one time, DWS was only allowed to adjust the Power Cost Charge once a year. This meant that DWS had no control, amid the price fluctuations. For that reason, the Board approved the Department's request to allow an adjustment every two months.

Mr. Perry asked whether every two months was frequent enough. He said, however, that every month would probably not be realistic.

The Manager-Chief Engineer said that every month would be really cumbersome because it would mean holding a Public Hearing every month.

Mr. Masuda said that there would not be enough time to do the Public Notice; the Public Notice timing would always be off.

Mr. Perry asked if every six weeks would be possible.

The Manager-Chief Engineer said no, because the Public Hearing would need to be held when the Board holds its monthly meeting. The adjustment would have to be made in monthly increments, and every two months works really well because DWS has time to get the power cost figures in time to do a Public Notice.

H. MANAGER-CHIEF ENGINEER'S REPORT:

Before reporting on the agenda items below, the Manager-Chief Engineer reported on the furlough situation. DWS will follow the rest of the County, with one furlough day each month. The first furlough day will be this Friday (July 29), and the rest of the furloughs will be on the first Friday of each month. This translates into a pay decrease of approximately 4.6 percent. The furloughs are only for employees who belong to HGEA, he said. Nothing has been settled yet with UPW, but the Department will report to the Board on any developments regarding UPW.

The Manager-Chief Engineer reported on an interesting breakfast meeting this morning with the new head of Kamehameha Investment Corporation (KIC), Mr. Kyle Chock. Mr. Chock provided an overview of KIC's plans for its property in Keauhou. DWS has an agreement with KIC dating back to 1983, whose terms were never fulfilled. Under that agreement, DWS was to have gotten three wells. This never happened. KIC got 1,700 or so water commitments. The old agreement is considered by both sides to be invalid. It was agreed at this morning's meeting that the two sides will revisit that agreement and prepare a new one. KIC's vision for the area has changed dramatically since the old agreement was done; KIC no longer needs 1,700 water commitments. The Manager-Chief Engineer said that DWS would be working with KIC's consultants to draft a new agreement, which will be brought to the Board for approval at some point in time.

The Manager-Chief Engineer provided an update on the following:

- 1) Palani Road Transmission Waterline Project – Mr. Beck noted that the change order items that were discussed earlier in the meeting were things that are of benefit to the residents of the area. The seal coat has been put down on Mr. Larry McCabe's driveway. A number of things need to be done: the tanks need to be painted and the paving needs to be done. The contractor has been doing the electrical conduits and other items that needed to be put into the ground before the final paving could take place. The project is set for completion by September 7th as of now. If there is to be any further extension, the contractor will have to request it before the next Board meeting, Mr. Beck said.
- 2) Hawaiian Ocean View Estates Project – Mr. Inaba said the tank has been completed and is being tested. There are a couple of leaks to fix, but nothing unusual. The fill site is close to completion, and the electrical work is also being worked on. Chairperson Mukai asked about HELCO's timeline. Mr. Inaba said the electrical work is being installed, so it should be ready on schedule. Chairperson Mukai expressed concern that the pump and motor are already in the well; he asked if the pump could be tested, and asked whether a temporary line could be put in to see if the pump works. Mr. Meierdiercks said that was out of DWS's hands until the contractor turns the pump over to DWS; if the pump does not work, DWS will not accept it. The Manager-Chief Engineer acknowledged that he shared the Chairperson's concerns, noting that the pump and motor are normally the last things to be installed. In this case, the pump and motor arrived early, and the contractor installed them. The Manager-Chief Engineer hoped the contractor would be smart enough to hold off starting the pump/motor right away (i.e., the contractor should give the pump/motor a chance to warm up first). Mr. Okamoto said it would not be safe to jury-rig a temporary line to test the pump/motor; there are many safety considerations involved. Mr. Taniguchi asked how the completed facility would serve the community, and wondered whether it would be for businesses or individuals. The Manager-Chief Engineer said the facility consists of standpipes that will serve commercial water haulers, and spigots that will serve individuals. The commercial water haulers will have

- 3) Pu‘ukala/Kona Ocean View Properties Subdivision Improvement District Update – The Manager-Chief Engineer said this is a typical Improvement District, whereby the County fronts the money, DWS does the construction, oversees the construction and administers the contract, etc. The residents will pay back over a period of time. He said that most of the residents are happy with the project, although some residents such as the Gomeses (whose letter was put into the Board packets as a Statement from the Public) do not approve. The Manager-Chief Engineer said the Improvement District is a great process that is afforded to any subdivision that wants to do this kind of waterline project. Improvement Districts may also be done for roads, sidewalks, etc. Mr. Taniguchi, citing Mr. and Mrs. Gomes’s letter which mentioned that their lot is at the top of the subdivision, asked whether they have water. The Manager-Chief Engineer explained that in the past, DWS was able to give customers a meter if their lot was adjacent to the highway. The customer in that case would have to string the waterline down to their lot. Therefore, there are several lots like this in that subdivision. However, since then, State Highways has barred DWS from giving meters in such cases because State Highways does not want meters within their right-of-way. The homeowners who got their meters back in the day are very happy, and some of them do not want to participate in the Improvement District because they already have a meter. Mr. Taniguchi said they are just being selfish. The Manager-Chief Engineer said that he sympathizes with these homeowners, but under the Improvement District process, when 60 percent of the residents approve, 100 percent of the subdivision must participate. Mr. Greenwell asked whether the Board needed to take any further action regarding the Gomeses’ letter. The Manager-Chief Engineer said the Board can instruct DWS to acknowledge that the Board received the letter. Mr. Masuda concurred, and said that other than that, the Board has no jurisdiction because the Improvement District is under the County’s jurisdiction. Chairperson Mukai said he had gotten a phone call from Mr. Gomes, and had suggested that Mr. Gomes write to the Board to bring the matter to the Board’s attention. The Chairperson said that he did not make any promises to Mr. Gomes, and had, in fact, told Mr. Gomes that he did not believe the matter was under the Board’s jurisdiction.
- 4) Public Information and Education Specialist Update – Ms. Aton reported that she has been in discussions with the social services community, which expressed concerns about the fill stations around the island. The problem is that the elderly and disabled have a hard time carrying their filled drinking water containers back to their cars. The suggestion was to possibly have a platform or pedestal in the disabled parking area of the fill stations, to put the drinking water containers on top. The Manager-Chief Engineer suggested instead having a

- 5) Upcoming HWWA conference – Ms. Aton reported that a highlight of the upcoming conference will be a taped interview with the conference’s founding father, Mr. William Y. Thompson. The Manager-Chief Engineer said it was Mr. Thompson’s idea to found the Hawai‘i Water Works Association, whose annual conference will mark its 50th anniversary this year. The HWWA packets are expected to come out in August, Ms. Aton said.
- 6) Recognition of Service Retirement – Mr. Charles Stewart, Lead Pipe Fitter at the Kona Baseyard, was recognized for his retirement at the end of July. Mr. Stewart joined DWS in 1994 as a Clerk-Meter Reader at the Waimea Baseyard. He worked his way up to his present position, which is a supervisory position, Mr. Ikeda said.
- 7) Employee of the Quarter presentation – The Deputy introduced the Employee of the Quarter, Ms. Ka‘iulani Carvalho, who joined DWS in 2008 as a Contracts Clerk. He described her as a vibrant, can-do person who is always smiling. Ms. Carvalho has been a very big help with contract, under the supervision of Ms. Dolores Degele, who recently retired as Secretary-Administrative Assistant. Upon Ms. Degele’s retirement, Ms. Carvalho took over the reins as Contracts Technician. The Deputy noted that Ms. Carvalho was nominated for the Employee of the Quarter award by someone from another division of DWS, which is a strong testament to her outstanding work. The Manager-Chief Engineer said Ms. Carvalho is always a joy to work with; she brightens up the section.

The Manager-Chief Engineer announced that he plans to retire at the end of December, after 39 ½ years of service with DWS. He said that 17 of those 39 ½ years were served at the helm of the Department. He said that he thoroughly enjoyed his time with DWS, and recalled how he was first hired by Mr. Thompson as a summer intern. DWS is the only place the Manager-Chief Engineer ever worked, right out of college. He encouraged the Board to look within the Department to select his successor. The Manager-Chief Engineer commended the Deputy, Mr. Antonio, as eminently qualified, having served as Deputy all of the past 17 years. Mr. Antonio understands the Department as thoroughly as the Manager-Chief Engineer, he said. Knowing the history of the Department is very important, and Mr. Antonio has deep historical knowledge of DWS. The Manager-Chief Engineer said that for these reasons, Mr. Antonio would be the logical choice as successor. The Manager-Chief Engineer said that he was announcing his retirement now to give the Board sufficient notice to pave the way for a decision on a successor. He urged the Board to look within the Department, and to choose the person with experience. The Manager-Chief Engineer said he will be here for another five months, and expressed his deep appreciation to the Board for their support.

I. CHAIRPERSON'S REPORT:

Chairperson Mukai thanked the Manager-Chief Engineer, and thanked him for the wonderful job he has done. He commended the Manager-Chief Engineer for always being open and accessible to the Board, which is a huge plus. That is the reason that the Board works so well with the Department, the Chairperson said. The Manager-Chief Engineer leaves very big shoes to fill; and the Chairperson noted that the Board must pick his successor during the Chairperson's term. The Chairperson said the Board looks forward to working with the Manager-Chief Engineer for the next five months.

Chairperson Mukai reported that Ms. Degele, who recently retired, sent him a very nice card. He apologized for not bringing it to today's meeting.

Chairperson Mukai said that the Board should look into possibly incorporating DWS's billing with the County's Wastewater Division, as a cost-saving measure.

Chairperson Mukai thanked Mr. Lindsey for bringing in sushi and spam musubi.

ANNOUNCEMENTS:

1. Next Regular Meeting:

The next meeting of the Water Board will be held on August 23, 2011, at 10:00 a.m. at the West Hawai'i Civic Center, Community Center, 74-5044 Ane Keohokalole Highway, Kailua-Kona, HI. *A Public Hearing on the Power Cost Adjustment will be held immediately preceding the regular Board meeting, at 9:45 a.m.*

2. Following Meeting:

The following meeting of the Water Board will be held on September 27, 2011, at 10:00 a.m. at the Department of Water Supply, Operations Conference Room, 889 Leilani Street, Hilo, HI.

STATEMENTS FROM THE PUBLIC:

None.

(The Board recessed at 11:10 a.m. and reconvened at 11:30 a.m.)

CONTESTED CASE HEARING:

A. WATER SERVICE ACCOUNT NUMBER 67054000-10 (TMK4-5-003-124, Lt 2-C):

The above Contested Case Hearing took place in accordance with Chapter 91 of the Hawai'i Revised Statutes and Rule 2-5 of the Rules and Regulations of the Department of Water Supply.

The issues involved in the above-referenced hearing were Mr. James Souza's appeal of the amounts shown due and owing on account #67054000-124, Lt 2-C) and the appeal of the shut-off notice dated June 13, 2011.

(The following testimony is reported verbatim. The Appellant, Mr. Souza, is speaking through sign language interpreter Ms. Trujillo:)

MR.MASUDA: Mr. Chairman, if we can ask that the interpreter be sworn in?

SECRETARY: Please raise your right hand. Do you swear or affirm that you will truly and accurately interpret all that is spoken in this proceeding from American sign language to English, and English to American sign language?

MS. TRUJILLO: I will.

SECRETARY: And I have an oath for Mr. Souza. Is that necessary?

MR. MASUDA: That's later on, when it comes to his testimony.

SECRETARY: Okay.

MR. MASUDA: For the Board's information, it's not only the interpreter who is being sworn in, but it's also going to be all persons testifying, including the Appellant. If the Appellant chooses to testify, he will be as a witness, so all witnesses will be sworn in. But also, I talked with the interpreter ahead of time, so if you folks aren't talking too slow, I'm sure she's gonna raise her hand to slow down, or give you some kind of scolding or something.

MS. LUGO: Okay. Good morning, Mr. Chairman, members of the Board. Deputy Corporation Counsel Molly Lugo, representing the Department of Water Supply.

MR. MASUDA: And for the record, may we have Mr. Souza identify himself?

MR. SOUZA: Good morning, everyone. I'm James Souza. I'm from Honoka'a. *(Pause)* So you just wanted an introduction right now, or do you want me to go into my case?

MR. MASUDA: Mr. Chairman, are you ready for the testimony?

CHAIRPERSON MUKAI: Yes, we are. Board, ready?

MR. SOUZA: I'm sorry; can I just say one more thing about the interpreter? I apologize. This is my interpreter here, and she's also all of your interpreter as well, because we speak different languages. It's not just that she was provided for me, it's simply because we speak different languages, so I just want you to feel free, to know that, and use her as such. Thank you.

CHAIRPERSON MUKAI: Okay? We're all set.

MR. MASUDA: Okay, if we're gonna begin with the testimony portion, is Mr. Souza gonna go first, or is the Department?

MS. LUGO: Mr. Souza, as the Appellant, can go first.

MR. MASUDA: If that's the case, can we have Mr. Souza sworn in?

SECRETARY: Do you swear or affirm that you will accurately and truthfully testify in all matters before this Board?

MR. SOUZA: Yes, I will. Okay, this is regarding a water bill that I received. Let me find it here. I have it here and I was charged over \$1,000.00 for a running toilet. Now, understand that I can't hear, obviously. I'm not one to go for charity, as such. However, I feel like I'm here making this complaint for three different reasons. The first being, I feel like the only people who might be receiving a high water bill due to not hearing the running toilet would be deaf people, because people who are hearing are able to hear the toilet running, and then get it fixed, or address the issue. Also, I was unaware of this issue until I received the bill. I know in the past I remember... people, if there was a leak, you would be warned about it, and people would call or do something. I know I remember in the past, and other friends of mine would have something – some kind of warning, given to them that they would be aware of, and then I just found out about this when I received the bill from the billing cycle time. My third issue is that I understand that hearing people have laws that protect them against high billing, if there is a leak or something that they don't catch. And I feel that there's no reversal for deaf people who are not

able to hear, and therefore, catch their leak. Really, hmmm. I know that the Water (Department) has offered me a discount in regards to this bill, but I still feel that it's too high. I feel like most deaf people would not accept this. I feel like it's a little bit of a punishment, or it might be viewed as a punishment for simply being deaf. Um, I mean, right now, for me, honestly, this is living a little bit in a nightmare, because I'm really worried and concerned about it. I've put the lid of the toilet aside, so that I can look in it every time. You know, it's not practical to move it every time so I just keep it off, and I shouldn't have to do that, you know. But that's the only way that I can prevent this happening again, and be able to notice the leak, because inside the bowl of the toilet, it doesn't... You know, the water doesn't move like it does in some toilets. I've seen that happen before. But in my particular toilet, the water does not move around as it's running. You know, I would like to see the problem solved so it's not happening again in the future. I would like to see maybe a visual, some kind of a warning, flashing light or something that will signal deaf people that the toilet's running, so that we know. I mean, because the Water Board has, or the Water Company has, money for these kinds of things, so I mean... For example, this is the low-flow showerhead that has been distributed by the Water Supply Company to save water, and that a very great, and simple and easy solution, given out to the community. And you could help deaf people too by providing some kind of a warning light for the running. I mean, we... the running of water or leaks... We deserve the same kind of service as well. So the three reasons that I've laid out today, you know, I just... in addition to that, I really can't afford to pay that high bill, and I feel like it's not fair, based on the three reasons I've lined out. And I can't afford to pay that bill. So... I know that I did sign one agreement for monthly payments. But I signed it kind of with protest. *(Interpreter is clarifying...)* This is... I was just handed these papers... This is Number 5 and... you know, I just went ahead and signed it even though I didn't necessarily agree with it. I didn't feel, you know, supported, and it's nerve-wracking to be the only one here and in front of all these people. And you know, what could I do? So I... you know, I signed it, but I still have this complaint about it, you know, and I don't have a lawyer with me today so... Okay, that's all.

CHAIRPERSON MUKAI: Okay, thank you, Mr. Souza. Can we hear from the Department?

MS. LUGO: Is it okay at this point if I ask questions of Mr. Souza?

CHAIRPERSON MUKAI: Sure.

MS. LUGO: Or we take from the case? Okay. Mr. Souza, I understand correctly you initially had a leak that you called a plumber to come fix?

MR. SOUZA: Yes, it was a hard time to get that. Um, the reason being, most people can call a plumber using a TTY or, you know... or most people can call a plumber using the regular telephone. But if I use a TTY or a video phone, people tend to hang up on me. So I got... it was frustrating for me, and I had a hard time getting one. Luckily, my cousin is a plumber, and he knew how to work with that. And I was for 30 years on the Mainland, and then we came back home, where I was raised, in Honoka'a, for retirement. And I remember on the Mainland that the Water Department had responsibility for deaf folks. They would repair their toilets and this and that, and they also provided deaf people a list of deaf-friendly plumbers that were aware of the situation, and they could go ahead and show that to their folks when they wanted a plumber. So it's very hard to do things.

MS. LUGO: Okay. Understanding the challenges, based on the application that you submitted to receive a leak adjustment, it looks like you got the high reading on your bill on February 16, (2011), and two days later, a plumber came and did the repairs. Is that correct?

MR. SOUZA: Correct.

MS. LUGO: Okay, great. And on your next bill, there was... I'm sorry, let me back up. You received an adjustment for that high bill. Okay? Is that correct?

MR. SOUZA: Yes.

MS. LUGO: Okay.

MR. SOUZA: But I still don't agree with it.

MS. LUGO: Okay. On the next bill, there was another... it's called a 'high reading,' and at that time, you realized that your plumber had been negligent, or otherwise made a mistake and not adjusted the water level when he did the repairs. Is that correct?

MR. SOUZA: Correct.

MS. LUGO: Okay.

MR. SOUZA: And I'd also like you to understand that my cousin, who did the work, is not a licensed plumber. He's a jack-of-all-trades. And he was willing to come and do the plumbing work because I called several plumbers, and no one was willing to come out to our home.

MS. LUGO: Okay, so to clarify, today, although I believe you've been making payments on the payment plan that was offered for that portion of your bill which received the leak adjustment, you're also challenging *that* amount that is due on the payment plan, as well?

MR. SOUZA: Can you say that again, please?

MS. LUGO: Okay. Well, Mr. Souza, you said that you signed a payment plan for the first bill, okay, which was just a portion of what you were originally billed, because you received a leak adjustment. Although you signed that, and have been making the minimum payments, you are challenging, or contesting, that today?

MR. SOUZA: Correct.

MS. LUGO: Okay. I don't have any other questions at this time. I think I'll just start by calling my first witness, since the other side didn't make an opening statement. And I think at this point, just for the Board's understanding, I think you have a basic understanding of what the issue is. So I'll just call my first witness, if that's okay?

CHAIRPERSON MUKAI: Sure.

MS. LUGO: I'd like to call Cris Hudman.

MR. MASUDA: Any exhibits from the party?

MS. LUGO: Yes. I've provided Mr. Souza with a copy of my exhibits and at this time, I'd like to pass them out to the Board.

SECRETARY: (*administering oath to Ms. Hudman*) Do you swear or affirm that you will accurately and truthfully testify in all matters before the Board?

MS. HUDMAN: Yes.

MS. LUGO: Good morning. Can you please state your name and job title, for the record?

MS. HUDMAN: My name is Cris Hudman, and I'm Customer Service Supervisor.

MS. LUGO: How long have you been in that position?

MS. HUDMAN: Approximately 10 years.

MS. LUGO: And as part of your job as Customer Service Supervisor, are you required to be familiar with the Rules and Regulations of the Department of Water Supply?

MS. HUDMAN: Yes.

MS. LUGO: As part of your job, do you also get involved when a customer has a dispute over a water bill?

MS. HUDMAN: Yes.

MS. LUGO: Based on the Department's Rules and Regulations, what options does the customer have if they believe they have received an excessive bill?

MS. HUDMAN: Can you repeat that?

MS. LUGO: Okay. According to the Rules, and maybe I should be more clear, what options does a customer have if they believe they have an excessive bill – and I'll be more specific – due to a leak?

MS. HUDMAN: Okay, they have the option to investigate but... The Department will investigate, number one, of why the customer has a high usage. Then, the option that the customer has is that once we've determined that the high usage was due to a leakage, they have the option to apply for an adjustment.

MS. LUGO: Okay. And I'm gonna refer you to what's marked as Exhibit One, which is Rule 3-10. Is this the Department's rule that sets forth the process for applying for and receiving a leak adjustment?

MS. HUDMAN: Yes.

MS. LUGO: Does the rule also identify two other situations where an adjustment might be warranted? And I'm looking specifically...

MS. HUDMAN: Yes. One is for a faulty meter. If the meter test results prove to show that the meter is malfunctioning more than with 102 percent or over, that we can adjust that. The second thing would be criminal act by the third party, of course, supported by a police report.

MS. LUGO: Okay, so as identified in Rule 3-10, other than a faulty meter or water leak, or a criminal act, do the Rules provide for any other basis upon which an adjustment may be made to a water bill?

MS. HUDMAN: No.

MS. LUGO: Around February of 2011, did you become aware that Mr. Souza's water meter had registered what the Department refers to as a 'high reading'?

MS. HUDMAN: Actually, I was notified February 16, (2011), when we took the reading.

MS. LUGO: Okay, after you were notified in the course of your discussions with the meter readers and/or with Mr. Souza, did you become aware that this high reading was due to a toilet leak?

MS. HUDMAN: The information that I got from the meter readers was that it took several days before they determined it was due to a toilet leak. What we initially did was, they tried to contact Mr. Souza by knocking on his door and ringing the doorbell. There was evidence that someone was at home. They heard the TV on. They also heard the washing machine was on. So they were trying to contact him immediately to tell him that his water... well, that he had excessive usage.

MS. LUGO: Okay, and then after it was determined that the excessive usage was due to a leak, did you inform him (about) the Department's provision for an adjustment to the bill, based on the leak?

MS. HUDMAN: Okay, being that the meter readers did go to his home initially, they weren't able to contact him. But when they went back to the office, the office girl tried to call him on the phone, and that's when they informed him that he did have a leakage.

MS. LUGO: Okay. Was he informed about the provision in the Rules for applying for a leak adjustment?

MS. HUDMAN: Well, it took several days. First, we had to help him determine where the leakage was, and once that was determined and it was repaired, then I did have a conversation with him on the phone. And I did tell him about the leakage adjustment.

MS. LUGO: Okay, so looking at Exhibit 5, 4, excuse me. This is the application and agreement for an adjustment of water leakage that was submitted by Mr. Souza?

MS. HUDMAN: Yes.

MS. LUGO: Okay.

MR. MASUDA: Hold on, hold on, hold on. Record should reflect that I stopped the proceedings to let the interpreter catch up. Okay, are you ready to proceed, interpreter? Okay, go ahead.

MS. LUGO: Okay, so Exhibit 4 is the application for a leak adjustment, submitted by Mr. Souza. And can you explain what the rules provide for in terms of how often an adjustment, based on a leakage, is allowed to one customer?

MS. HUDMAN: A leakage adjustment is allowed once every three-year period.

MS. LUGO: Okay, one adjustment for every three-year period.

MS. HUDMAN: Yes.

MS. LUGO: And that's based on the Rules?

MS. HUDMAN: Yes.

MS. LUGO: So the leak adjustment was granted, and a repayment plan on the remaining balance owed was offered. Is that correct?

MS. HUDMAN: Yes.

MS. LUGO: And looking at Exhibit 5, is this a copy of the letter that you sent to Mr. Souza, detailing the payment plan agreement, and the adjustment that was made?

MS. HUDMAN: Yes.

MS. LUGO: Okay. Do you want to briefly just explain for the Board what you've outlined on the second page of Exhibit 5, which is a reflection of the adjustment that he received?

MS. HUDMAN: Yes. The reference that I made here is actually... if you look at the leakage adjustment form, the calculation is brought forward to this date, just so Mr. Souza can understand what kind of adjustment that we gave him. That \$569.43 is an adjustment that was granted to him up to the

time of repair. So the subsequent leakage of... after this, he was granted another 46,000 gallons as part of his adjustment. Okay, so that's where that \$569.43 came.

MS. LUGO: And let me just interrupt you right here. The normal practice is to grant the adjustment up to the date that the repair is made. Is that right?

MS. HUDMAN: Yes.

MS. LUGO: Okay, and you offered an additional three days, and I interrupted you, but can you explain why that is, please?

MS. HUDMAN: Okay, we gave an additional three days' adjustment for Mr. Souza, which equals to 10,000 gallons, because if you take his daily average times three, it's approximately... well, 9-point whatever, but we round it up to 10,000 gallons. The reason we gave that to him was because he wasn't able to turn off the valve at his meter to get that... until he got a plumber, so we... well... the day of his repair... these three days reflect the day of his repair, where the plumber was finally able to turn off the customer's valve for him, and do the full repair.

MS. LUGO: Okay, so the leak adjustment was granted; a repayment plan was entered into, which requires him to pay a minimum of \$28.00 a month. That's paying the delinquent balance.

INTERPRETER: For interpreter, please repeat the number a month?

MS. LUGO: A minimum of \$28.00 a month, towards the balance of \$335.72, which was what was owing after the adjustment was applied. Now, the subsequent billing cycle, when Mr. Souza's meter was read again, was the result back to normal, or how would you characterize it?

MS. HUDMAN: Well, at the time of repair, it was back to normal. I had the meter readers monitor his usage for a couple of days after. So it dropped back to normal.

MS. LUGO: Okay, but the subsequent billing cycle, which would be... the billing cycles are every two months.

MS. HUDMAN: Every two months. Right.

MS. LUGO: And the standard practice is for the meters to be read just a day or a couple days prior to when the bills are going to go out. Is that correct?

MS. HUDMAN: Yes.

MS. LUGO: Okay. So the first high reading we have in February. In April, when the meter was read again... and let's look at Exhibit 3... did you notice another... that there was another, what would be characterized as a high reading, based on his average usage?

MS. HUDMAN: I expected that to be a little high, except not for this amount.

MS. LUGO: Okay.

MS. HUDMAN: The reason is, his repair date was a couple days after the first read(ing), which is the 202,000 gallons. So out of the 114,000 gallons, he had an adjustment of 46... yeah, 46,000 gallons was also adjusted as part of this leakage period.

MS. LUGO: Okay, after he received his bill, or... I think maybe Mr. Souza was notified that there was another high reading, did he contact you, or you contact him? I believe you had a conversation with him?

MS. HUDMAN: Yes.

MS. LUGO: And in the course of the conversation, did he indicate to you that the plumber who came and did the initial repair hadn't adjusted the water level, which resulted in the continued leak?

MS. HUDMAN: Well, I got a letter from him.

MS. LUGO: Okay. Is that Exhibit 6, I believe? Exhibit 6, a letter on May 26, (2011)?

MS. HUDMAN: Yes. Okay, if you read the letter, in the first sentence, it says "another \$339.08 was added (to) the new bill after the plumber forgot to adjust the water level after he fixed the original leak."

MS. LUGO: What did you inform Mr. Souza about the availability of any adjustment or anything the Department could do about that bill?

MS. HUDMAN: Okay, as far as the... I would say, the negligence of the plumber, we have no provision for an adjustment.

MS. LUGO: And a leakage adjustment is, as you previously stated, only offered once every three years?

MS. HUDMAN: Yes.

MS. LUGO: Okay. Did you have an opportunity to speak with the County's Equal Opportunity/Americans with Disabilities Act coordinator, Teri Spinola-Campbell, regarding this matter?

MS. HUDMAN: Yes.

MS. LUGO: And did you seek her advice about this, or what?

MS. HUDMAN: The reason I contacted Teri is Mr. Souza, the Department personnel, and also Teri Spinola-Campbell met at the HR conference room. And that was in March, when he initially had his leakage. And because Teri was involved in that meeting, I thought that it was just right, that because he had another complaint, to notify her what was going on with his account.

MS. LUGO: Did Teri Spinola-Campbell state to you, or is it your understanding that in... as a result of that meeting, did she advise that the Americans with Disabilities Act would require for an adjustment to be made to the water bill?

MS. HUDMAN: No.

MS. LUGO: According to...

INTERPRETER: Could you repeat that last question and response?

MS. LUGO: I'm sorry; I can make it more clear. My question was, basically, did Teri Spinola-Campbell advise the Department of Water Supply that an adjustment to the bill would be required under the Americans with Disabilities Act?

MS. HUDMAN: No.

MS. LUGO: According to the Department's Rules, who bears the responsibility to detect and fix a leak, at the point from the Department's meter... in pipes beyond the Department's meter?

MS. HUDMAN: It is the customer's responsibility.

MS. LUGO: So at this point, although Mr. Souza has been making payments on the delinquency from the first bill in February...

MS. HUDMAN: Yes.

MS. LUGO: ...He has not been making payments on the subsequent bill that he received, which was for... it shows it was 114,(000) gallons on Exhibit 3, but a part of that received an adjustment. There is a portion of his bill that is currently delinquent. Is that correct?

MS. HUDMAN: Yes.

MS. LUGO: And it's due to this non-payment that he received a shut-off notice, which is Exhibit 8. Is that right?

MS. HUDMAN: Yes.

MS. LUGO: And the discontinuation of water service in this situation is consistent with what the Rules of the Department provide. Is that right?

MS. HUDMAN: Yes.

MS. LUGO: Okay. Do you believe that the Department's Rules and Regulations governing bill adjustments and the discontinuation of water service have been applied to Mr. Souza fairly, and in the same manner in which they would be applied to any other customer of the Department?

MS. HUDMAN: Yes.

MS. LUGO: Okay, thank you. No other questions of my witness at this time.

MR. MASUDA: At this time...

MR. SOUZA: I have some complaints about her testimony.

MR. MASUDA: Okay, that was what I was just going to say. At this time, it's time for Mr. Souza to cross-examine the witness. So you can ask questions of the witness. Later, you'll have time during your closing arguments to comment on the witness's statements, but this time is to ask questions of this witness.

MR. SOUZA: You mentioned that on the first day, they... when the meter readers went to my home, they rang the doorbell, and they heard the washing machine on. I believe that's correct. But the lady here was sleeping... my wife... and I was outside for something. Common sense might have been to call on the phone, and for 10 years that I've been back living here, I've told each department that I'm deaf, and that should be flagged, and they have my phone number. And it seemed like they didn't have that information. And the second day, you mentioned that they called. Um, they didn't call; a woman came. And she rang the doorbell. And I have a list of the telephone missed calls (sic) that I did show you, Cris, and some people. And it shows the missed calls, and there's no call from the Department of Water. I still have that listing. I have that available. Then, I remember a second woman came to the house, and she said: "You have a leak." And that was the second day, and I said, you know, "Why didn't you call me on the first day to give me the warning?" I mean, that's common sense. And she said, you know, "I don't know..." I said I can't hear the toilet, and the lady said I hear the toilet. And you know, the second lady had told me that, but the first day, no one mentioned that. The valve was broken. You mentioned that... the valve was broken. You mentioned your (tests already?) It couldn't turn it off, but it was broken.

MR. MASUDA: Mr. Chairman, if I may?

CHAIRPERSON MUKAI: Yes.

MR. MASUDA: I remind Mr. Souza again, this is time for him to ask questions, or cross-examine the witness. And he'll have a chance to give his rebuttal or his closing statement later.

MR. SOUZA: I apologize; I misunderstood. Okay. So do you remember the first day that people came to my home, and the people did not call me the first day, right? The lady came to my home.

MS. HUDMAN: I'm trying to review some notes that we discussed on March 3rd, when we had the meeting, so... Okay, we read your meter on February 16th, and approximately at 9:32, they rang the doorbell. I guess they called out and no one came. And the following day, at 8:30 a.m., the meter readers went to your residence and spoke to you at that time. And, um...

MR. SOUZA: Yeah.

MS. HUDMAN: Okay, and I got the written...

MR. SOUZA: They did not call, as was previously mentioned.

MR. MASUDA: I'll instruct the witness to answer the questions that Mr. Souza asks.

MR. SOUZA: Okay.

MS. HUDMAN: Yeah, I'm sorry; they did not call at the... They went to read the meter.

MR. SOUZA: Okay. Do you remember my telling you that the valve was broken, and it was stuck? But in the testimony, you said I wasn't able to turn it off, or it was mentioned that I wasn't able to turn it off. But do you remember my telling you that it was broken?

MS. HUDMAN: No, not with me. It was with the Waimea office.

MR. SOUZA: I did mention that on the phone. And the plumber can testify as well.

MS. HUDMAN: Yeah, but that conversation wasn't with me; it was with the Waimea office.

MR. SOUZA: Hmmm. Let me think about that. Ah, I thought I was talking to you. Um, at the first meeting we held with, um, Teri and those folks, I said the valve was broken. I remember saying that. I don't know if the interpreter mentioned that correctly in her voicing at that time, at that meeting, or not.

MS. HUDMAN: I remember that conversation. And I think Mr. Billy Yamamoto, who is the field supervisor from Waimea, responded to you on that.

MR. SOUZA: Can you repeat who responded, please? I'm not understanding that.

MS. HUDMAN: His name is Billy Yamamoto, the field supervisor in Waimea.

MR. SOUZA: Okay. So what about him again? Sorry.

MS. HUDMAN: He spoke about the valve being broken, and Mr. Yamamoto responded to you on that.

MR. SOUZA: Okay, yes.

MR. MASUDA: Any further questions on cross-exam?

MR. SOUZA: Okay, you also mentioned that... she did call? *Interpreter clarifying before I speak.* I remember with the second water bill, you mentioned that you called me about it, but I don't recall any

call *from* you. I feel that I got the bill, and I called *you*, and that I was the one that placed the call. I remember when we spoke that you were quite vague, and said sorry, you know, we have a one-time adjustment. You know, it's like, wow, so... I guess that's just my issue -- that I called *you*, rather than the other way around. Because again, I don't have that the Department of Water Supply called me on my missed calls.

MS. HUDMAN: Okay, on the second leakage, I believe you had called me. This was after I received that letter from you. You had requested that, you know, um, that the Department provide additional adjustment to your bill. Because the plumber had...

MR. SOUZA: I didn't request a second adjustment. I just wanted a warning or something. I just, you know... I guess my issue is that, um, it was... I was not warned until the bill cycle was over, and I received the bill, that it was still high. I guess I just would want... I wanted to be warned prior to that.

MR. MASUDA: Okay, hold on, one at a time. Mr. Chairman, you had something?

CHAIRPERSON MUKAI: No.

MR. MASUDA: Again, I would advise Mr. Souza, this time is for cross-examination, of questions. Not for statements.

MR. SOUZA: I'm sorry. I'm not used to this process. I apologize.

MR. MASUDA: Does Mr. Souza have anymore questions of this witness?

MR. SOUZA: I guess not.

MR. MASUDA: Is there any redirect by the Department?

MS. LUGO: I just have one, maybe two, questions. The meters, as you stated in your prior testimony, are typically read one or two days before the bill goes out. Is that right?

MS. HUDMAN: Yes.

MS. LUGO: Okay, that's it. No further questions.

MR. MASUDA: Mr. Chairman, if I may?

CHAIRPERSON MUKAI: Sure, go ahead.

MR. MASUDA: For both of the parties, Mr. Souza as well as the Department's representative, is there any objection to the Board receiving those exhibits as evidence? Or in other words, is there any question as to the authenticity of those documents?

INTERPRETER: Asking who?

MR. MASUDA: Asking both.

INTERPRETER: Um, he's not sure he understands.

MS. LUGO: So I will just make it more concrete.

MR. MASUDA: Yes.

INTERPRETER: Okay, good. Yes.

MR. SOUZA: Sorry, I'm a little bit confused. I realize now I really should've had a lawyer, and this is very formal. I didn't expect the formality of it, and you know, I wasn't notified that I could've brought a lawyer until this morning when I arrived. So...

MR. MASUDA: So my question, Mr. Souza, is... Is he challenging *not* what's stated in the documents, but those are documents that are not forged, or the authenticity of the documents. I'm not asking if he's agreeing with what the documents say, but they are what they purport to be.

MR. SOUZA: Yes. Yeah, at a quick glance, everything seems fine.

MR. MASUDA: Thank you.

MS. LUGO: So, with no objection from Mr. Souza, I'd like to offer Exhibits 1 through 9 into evidence.

MR. MASUDA: Mr. Chairman, are you accepting the exhibits?

CHAIRPERSON MUKAI: Accepted.

MR. MASUDA: Okay, is there any...

MS. LUGO: The Department doesn't have any other witnesses, and I'm sorry, I'm not sure the appropriate procedure for this, but I had wanted to call Teri Spinola-Campbell, who is the County's Equal Employment... Equal Opportunity officer and Americans with Disabilities Act coordinator as a witness, but she is off island. So I obtained a declaration from her, and I just wanted to bring that to the Board's attention, as attached as an Exhibit... Exhibit 9. And that is just to offer above... her input as the County's employee who is charged with ensuring compliance with the Americans with Disabilities Act.

MR. MASUDA: Mr. Chairman, if I may?

CHAIRPERSON MUKAI: Sure.

MR. MASUDA: Does Mr. Souza have any rebuttal witnesses?

MR. SOUZA: No, not at this time.

MR. MASUDA: So, if there's no rebuttal witnesses, Mr. Chairman, I don't believe that the Department has any further witnesses, either. Is that correct?

MS. LUGO: That's right. Thank you.

MR. MASUDA: At this time, Mr. Chairman, it is normal procedure to receive closing arguments, with the Appellant going first.

CHAIRPERSON MUKAI: Okay.

INTERPRETER: The Appellant being...?

MR. MASUDA: Yes, I'm sorry. Mr. Souza goes first.

INTERPRETER: Thank you.

MR. MASUDA: Maybe this will help. Mr. Souza, the closing argument is also known as the summation, or the summary of your case. So if that helps you in any way... what is the closing arguments... That's what they mean – the summary.

INTERPRETER: Yes, we got that. Thank you.

MR. SOUZA: I still would like to bring forward my complaint, based on the \$1,000.00, based on the three reasons I stated earlier. I feel that it's not fair. I don't have access to all of (these) lawyers and rules and things, so I just feel that it's not fair.

MR. MASUDA: Is that your Statement, Mr. Souza?

MR. SOUZA: Yes.

MS. LUGO: Okay, thank you, members of the Water Board. The Department's position is, basically, that Mr. Souza received an adjustment to his bill, due to the leak, as provided for under the Rules. There was some subsequent leakage in the following billing cycle, due to the negligence of his plumber. That's an issue for Mr. Souza to take up with his plumber, but there's no other provision under the Rules for an adjustment that the Department can provide. As was stated in the testimony, you can receive a leak adjustment only once every three years, and there is no other adjustment that can be offered, under what is provided in the Rules. The Department believes it has been fair, and treated Mr. Souza as it would any other customer, but its position is that it would be unfair to other customers of the Water Department to offer any special accommodation above what's been offered already. And that wouldn't be allowed for under the Rules. So we're asking the Department to uphold the... Well, I think the issue that's really before the Board is the shut-off notice. Assuming Mr. Souza pays the delinquency that's there, which isn't actually \$1,000.00; it's quite a bit less than that, given the adjustment that was made. And I won't speak for the Department in this regard, but I'm sure further payment plans could be offered. We're asking the Board to uphold the action that the Department has taken to this point, as fair and consistent with what's provided for in the Rules.

MR. MASUDA: Any rebuttal?

MR. SOUZA: This is hard. I still hold my complaint; I still feel that it's unfair. You, as hearing people, have laws to protect you against this kind of thing, and I do not. And I just don't feel that's fair. I would rather go to jail.

MR. MASUDA: At this time, Mr. Chairman, given that there have been closing statements, as well as rebuttal, it's time for deliberations by the Board.

CHAIRPERSON MUKAI: So, when do we get to ask questions on anything?

MR. MASUDA: You get to ask questions now.

CHAIRPERSON MUKAI: Okay, I'd like to make a statement. Well, first of all, I know it's very difficult to come before us with your situation, and I know you keep referring to an attorney, but I've been on the Board almost five years, and in all the hearings I've heard, no one's ever brought their own private attorney. So it's not... by any means, not a requirement, or not to me, necessary. I know it seems like a court of law here, but it's necessary to have an attorney here. Are there any questions (from) the Board members?

MR. TANIGUCHI: I have a question, just on procedure. He was given notice of the high usage at the time of reading, right?

MS. LUGO: Sorry, is that a question for the Department?

MR. TANIGUCHI: Yeah, it can be answered by the Department.

MS. HUDMAN: He was notified, yes.

MR. TANIGUCHI: Just like anybody else would? But he got it by phone?

MS. HUDMAN: He got it by...

MR. TANIGUCHI: Normally, it's in the mail?

MS. HUDMAN: Yes.

MR. TANIGUCHI: Okay.

CHAIRPERSON MUKAI: Any other comments?

MR. MEIERDIERCKS: On the second billing, where it went up, it was high again. Did somebody give him specific notice that it's also high, or they didn't notice it was high, because the previous one was high?

MS. HUDMAN: We did notify him via telephone.

MR. MEIERDIERCKS: Okay, so not like the first time, where somebody actually went up to the house and contacted him in person? They were just... The second one, they would just call on the phone? They didn't go to the house like they did in the previous one?

MS. HUDMAN: I believe, because of the first incident, that he prefers telephone calls, they called the Waimea office, and the office girl called him, for he needed notification.

MR. SOUZA: No. The Waimea... Sorry, no. The Waimea office did not call me. You know, I just found the bill, and I called Cris once I found the bill. And again, I have the listing of the calls. I have them, you know, a list, and it's not there.

CHAIRPERSON MUKAI: Any further comments, any questions? I have a comment. You know, the Department of Water Supply... the responsibility of the Department of Water Supply is to provide water to the consumers. You know, all these references about the Americans with Disabilities Act, Communications Access... Actually, I was on the website cruising, just now, and the ADA is applicable to public places. What happens at private residences... My understanding... Again, I'm not an expert, but all these things that were cited with regards to ADA, the Disabilities and Communications Access Board... is applicable to public places, not an individual's home. So again, I think in regard to all those comments and those references, keep in mind that we're dealing with a private residence here. And again, the Board... the Water Department, is only required to provide water to the consumer. What happens from the meter in, the Commission of ADA and other boards are not applicable to private residences. The other thing is the billing statements. And that's within our jurisdiction, with regards to... for instance, pertaining to these agencies, again, to me, I don't believe they're applicable. Yes, sir?

MR. KANESHIRO: I have a question on the telephone... On this telephone, you know, you just type in the messages, and the messages come out on the telephone... so do you need to have...?

MR. SOUZA: Let me explain my telephone, if you like. Uh, we've gone now to using what they call a 'video phone,' and so how it works is, that when my phone rings, I see a light flashing, and I go to my television, which has an interpreter pop up. It's sort of an operator/interpreter/intermediary, and if I'm not home, then I do have an answering machine, and they will put the time and the message, and missed call. So I have a listing of all of those. And I didn't see any from the Water Department. Um, the last meeting, I did bring that listing as evidence when I met with Cris, so...

MR. KANESHIRO: So if you call someone, like he mentioned about, you know, calling a plumber, and if the plumber does not have this type of telephone, there's no communication?

MR. SOUZA: No, no. Sorry, I didn't fully explain that. So, the telephone works as such. I have the video phone and the video access. The other end of the phone call acts like a regular phone call, because you're hearing the interpreter's voice just as you're hearing it now. And the interpreter pops up on to the screen, and you hear the interpreter's voice on your regular telephone, so there's not a need for special equipment or anything. It's just like a regular phone call, from your perspective.

MR. KANESHIRO: The reason why I asked this question is that, you know, he had a suggestion that we have a list of plumbers, who will contact these hearing impaired... And I thought that was a good idea. But the thing is, if his telephone reacts with a regular telephone, then I can't understand why the plumber wouldn't answer the phone.

MR. MASUDA: Mr. Chairman, if I may interrupt? I would remind the Board that the hearing today concerns the water billing.

MR. KANESHIRO: Yeah, all right.

CHAIRPERSON MUKAI: Thank you, Craig. Any other questions, or any other comments?

MR. TANIGUCHI: I'd like to make a quick comment, if I may, for Mr. Souza's sake, from my personal experience. I recently got a high usage notification in the mail. And I didn't think I had a leak, because I couldn't hear it, either. But it was on my outside toilet, so obviously, the leak... I had to have that fixed. But it's not only people that cannot hear that have leaks. I had it, got it fixed, and so, you know... But I just wanted to make that point that it's not just people who cannot hear leaks; they might not be able to see it or hear it, and I had to pay the higher bill.

CHAIRPERSON MUKAI: Mr. Meierdiercks, did you have a question?

MR. MEIERDIERCKS: Yeah, I'm just wondering, considering that the billing cycles... There's two billing cycles with higher readings. Um, in this situation, I would wonder if the Board would consider this, these two cycles, as the same leak situation? He did make an attempt to have it repaired, and he's not capable of determining if it's repaired or not. He said that the plumber had repaired it, and in actuality, it wasn't. And to me, it looks like a continuation of the same leak. Anyway, I don't know if that's a consideration for the Department to take in or not. I don't know.

MR. MASUDA: That's not your Motion at this time?

MR. MEIERDIERCKS: No, no. I'm saying that, to me, could be considered as one leak, and not two separate leaks, even though it has two billing cycles, but the same situation was in, you know, both billing cycles. The same problem, with the same leak.

MANAGER-CHIEF ENGINEER: Mr. Chairman.

CHAIRPERSON MUKAI: Yes, Mr. Pavao?

MANAGER-CHIEF ENGINEER: I would tend to agree with Mr. Meierdiercks. And I think that we can consider it the same leak, and we can combine it... We did?

MS. HUDMAN: We did.

MANAGER-CHIEF ENGINEER: Oh, we did.

CHAIRPERSON MUKAI: Oh, it was done.

MR. MEIERDIERCKS: Oh.

MS. HUDMAN: We did.

MR. MEIERDIERCKS: Oh, okay.

MS. HUDMAN: Up to the date of the repair, and this is why... if you look at the leakage adjustment application... we did address the leakage period.

MR. MEIERDIERCKS: Oh, okay. So it would be two billing cycles?

MS. HUDMAN: Yes, but what is disputed is the one after. Out of 114,000 (gallons), we added 46,000 gallons as part of his leakage adjustment. So the remaining balance of 68,000 gallons – that's the portion that he had, I guess, he had the plumber come back and he forgot to adjust the (water) level.

MANAGER-CHIEF ENGINEER: I think that's what they're trying to say, Cris. Can we combine what happened after the repairs, due to the plumber's inability to fix it correctly? If it's up to me, let's go ahead and do it.

INTERPRETER: Can the interpreter just catch up Mr. Souza first?

MR. MASUDA: Yes. *(Long pause)* Okay?

MR. MEIERDIERCKS: Just for the Board's clarification...

MR. MASUDA: Yeah, for clarification, you folks can ask the Department how much it will be actually, in terms of dollars and whatever.

MR. MEIERDIERCKS: Right. So, I'm just considering, as a Recommendation, for the two billing periods, 2/16/2011 and 4/18/2011, which had the very high average daily consumptions: the 2/16, that's 202,000 gallons?

MS. HUDMAN: Yeah.

MR. MEIERDIERCKS: And then, the other one is 114,000 gallons... be considered as the same leak, and whatever the Department Rules have as, I don't know what it is, it's not a compensation, but...

MR. MASUDA: An adjustment.

MR. MEIERDIERCKS: An adjustment, to make for a single leak. Because some... he may not catch... He may catch it on the first one, but there'll still be an overage on the second billing, which would be the same leak?

MANAGER-CHIEF ENGINEER: Mr. Chairman, I think...

CHAIRPERSON MUKAI: Mr. Pavao?

MANAGER-CHIEF ENGINEER: The Department is willing to go by Mr. Meierdiercks's Recommendation, which I think is fair and equitable. What we can do is combine the two leaks, because of the inability to fix the leak to begin with, which continued. The Department would consider it one leak, and make the necessary adjustments, which would reduce the financial responsibility of Mr. Souza.

MS. LUGO: Can I just add something?

CHAIRPERSON MUKAI: Sure.

MS. LUGO: Just for the clarification of the Board, in case it wasn't already clear? Of the 114,000 gallons in that second billing cycle that we're referring to on 4/18, 46,000 gallons of that was included in the amount that received the leak adjustment. Just so we all know what portion the adjustment was initially applied to.

CHAIRPERSON MUKAI: Okay, thank you.

MR. TANIGUCHI: So is that the same percentage as our first leak?

MS. HUDMAN: Yes.

MR. TANIGUCHI: So, it's just like you did it already, then, right?

MS. HUDMAN: I'm sorry?

CHAIRPERSON MUKAI: No, no, no, no.

MR. TANIGUCHI: No?

CHAIRPERSON MUKAI: I think my understanding is that if, after the supposedly "fixed" date, then the adjustment is not gonna be applicable, right? Because my understanding is, that what was applicable was the plumber came in and fixed it. Henceforth, he's being billed the entire amount. It's not part of the adjustment, correct? The leak adjustment?

MR. TANIGUCHI: No. She adjusted 46,000.

CHAIRPERSON MUKAI: No, but the bill is 114,000 (gallons), and normal use is 14,000. So, I'm thinking if you included everything, it's talking about adjusting 300,000 gallons.

MR. TANIGUCHI: No, but you don't adjust the whole amount. What percentage do you adjust?

MS. HUDMAN: Fifty percent of the overage. So you take their average, previous average billing, you minus that from the leakage...

CHAIRPERSON MUKAI: Oh, so it is...

MS. HUDMAN: And it is 50 percent... Yes.

CHAIRPERSON MUKAI: Oh, so she is already doing it. Okay, I gotcha.

MANAGER-CHIEF ENGINEER: So, Cris, is it true that even after the first, what we thought was a repair... even that leakage, *beyond* that, was already given to him as a credit?

MR. TANIGUCHI: Yeah, 46,000 out of the 114.

MS. HUDMAN: Out of this, only 46,000 was adjusted, you know, of the 114,000, but the 68,000 is an occurrence after the leakage...

CHAIRPERSON MUKAI: Oh, so it wasn't included.

MANAGER-CHIEF ENGINEER: Okay, so can we include that in the leakage?

MS. HUDMAN: That's what I said; it's up to you folks.

MANAGER-CHIEF ENGINEER: Okay, if it's up to me... again, based on what Mr. Meierdiercks said, and I agree with him, let's treat this as one leak, and give him the maximum adjustment we can.

MR. MEIERDIERCKS: Do I need to make a Motion, or a Statement, and then we can vote on it?

MR. MASUDA: Yeah.

CHAIRPERSON MUKAI: You can make a Motion, yeah?

MR. MASUDA: Yeah.

MR. MEIERDIERCKS: Motion that the billing, 2/16/2011 of 202,000 gallons be combined with the billing for 4/18/2011 of 114,000 gallons, to be determined as a single leak amount, and be adjusted as (if) it was a single leak for those two combined billing cycles. Would that be... Does that sound correct?

CHAIRPERSON MUKAI: Okay, moved by Bob. Is there a second? Okay, seconded by Mr. Kaneshiro. Okay. Discussion.

MR. TANIGUCHI: Mr. Chair?

CHAIRPERSON MUKAI: Mr. Taniguchi.

MR. TANIGUCHI: Clarification.

CHAIRPERSON MUKAI: Sir?

MR. TANIGUCHI: You adjust 50 percent of the overage...

MS. HUDMAN: Yes.

MR. TANIGUCHI: Over the average, right?

MS. HUDMAN: Yes.

MR. TANIGUCHI: So, you adjust it 46,000 of the 114,000?

MS. HUDMAN: Yes.

MR. TANIGUCHI: And then, how much did you adjust off the 202?

MS. HUDMAN: The 202 we adjusted...

MR. TANIGUCHI: Because the difference between the 114 and the 68, I mean, the 48, is the 114, right?

MS. HUDMAN: Okay...

MR. TANIGUCHI: That's the total.

MS. HUDMAN: Mr. Souza's average was 14,000 gallons. Dollars amount is \$65.42, okay? So, if you take the 202, you minus 14, that's 188,000 gallons. So 50 percent of the 188 is 94,000 gallons, or equivalent to \$477.33. Now, on the 46,000 gallons, we had to pro-rate that for the number of days up to the time that we took another reading, just to make sure that we covered the leakage period as he stated.

MS. LUGO: Can you say for them when the leakage period ended for the adjustment?

MS. HUDMAN: The leakage period ended on 2/18, when his plumber went to fix it, okay? But we took a reading on March 15th, because I had the meter readers monitor his usage, just to make sure that he's back down to normal. So, at that time, we took a reading where we calculated that his average at

that time, of the 46,000 gallons, was 6,000 gallons. So, if you take the difference, it's 40,000 gallons. So we gave him an additional 20,000 gallons of adjustment, which is equivalent to \$92.10, \$92.00. So, if you add the \$477.33, plus the \$92.10, it will give you \$569.43.

MR. TANIGUCHI: So, how many total gallons did you adjust?

MS. HUDMAN: We adjusted...

MR. TANIGUCHI: 150?

MS. HUDMAN: We adjusted 114,000 for the two periods.

MR. TANIGUCHI: Oh, so you only gave 20, not 46,000, yeah?

MS. HUDMAN: For what?

MR. TANIGUCHI: The adjustment.

MS. HUDMAN: Oh, you still have to give the 50 percent allowance.

MR. TANIGUCHI: Right.

MS. HUDMAN: Out of the 46,000 gallons.

MR. TANIGUCHI: The first one was 94, right? Out of 188. That's half.

MS. HUDMAN: Yes.

MR. TANIGUCHI: Okay, the second one you said was 46.

MS. HUDMAN: No, the leakage period was 46,000 gallons.

MR. TANIGUCHI: Oh, so you took half of that?

MS. HUDMAN: Yeah, and then you minus his average use, which is equivalent to 6,000 gallons, so the difference is 40, divided by this 20,000.

MR. TANIGUCHI: So we adjusted a total of 114,000 gallons already...?

MS. HUDMAN: Yes.

MR. TANIGUCHI: ...which is the same percentage that you would have done, if that was the whole leak period?

MS. HUDMAN: Exactly.

MR. TANIGUCHI: Or what Mr. Meierdiercks is recommending?

CHAIRPERSON MUKAI: No, no, no, no.

MS. HUDMAN: He's recommending something else.

CHAIRPERSON MUKAI: You're adding, like, 50,000 gallons more on the adjustment.

MR. TANIGUCHI: Where is *that* from?

CHAIRPERSON MUKAI: No, no. Look, wait, what's happening is that the adjustment is up until the plumber, this friend, who fixed the leak. That's what the 50 percent adjustment is being... But

subsequent to that, till the end of the billing cycle, we're charging 100 percent. So what Mr. Meierdiercks is... The Motion on the floor is that we include the 114,000, plus the 202,000, less 14,000 per month. That's 28,000, which is the average monthly use, so the adjustment is gonna be based on about 280, 290,000 gallons, versus the previous one, which is about 230,000 gallons, or somewhere around there. Basically, we're adding 50,000 gallons more water, based on Bob's Motion, around... you know, give or take 5,000 gallons. So it would significantly reduce the amount in question.

MR. MASUDA: That is the Motion on the floor.

CHAIRPERSON MUKAI: That's the Motion that's on the floor. I'd like to make a comment. Bob?

MR. MEIERDIERCKS: Okay, finish your comment, and I have one more.

CHAIRPERSON MUKAI: That offer by the Department is very gracious, because to me, once somebody goes in and fixes it, whether it's a licensed contractor or it's a friend, it's that person's responsibility. So for the Department to even put this on the table, that's a very gracious offer, because if I was... If I hired a plumber and he didn't fix it, and I'd hold a bill, I'd sue the plumber. So this is a very gracious offer, what the County is doing. Mr. Meierdiercks?

MR. MEIERDIERCKS: No, just a question for Corp. Counsel. Anybody looking at this... just by looking at the two numbers, could see that this... To me, anybody looking at this over a period of time would say, okay, this is still the same leak because it follows two months. Yes, it should've been fixed, but I'm saying that to me, or anybody looking at this, a book-keeper or whatever you wanna call it, this is the same period where the same incident is happening. Whether it's two month, four months... but it's a continuation. So I'm just asking for a comment.

MR. MASUDA: I'm the... Hold on. I don't get to comment. I only get to advise you on issues of law.

MR. MEIERDIERCKS: Okay, well.

MANAGER-CHIEF ENGINEER: If I may comment, Mr. Meierdiercks. I think your rationale is perfectly fine, and I can justify... I can justify doing what you recommend and still be confident that we're complying with our Rules.

MR. MEIERDIERCKS: That's my question, yeah. I just wanna be within the Rules of the Department, and what I'm clarifying is, is this one leak and not *two* leaks, and covering the two periods I stated in my Motion?

MANAGER-CHIEF ENGINEER: I feel comfortable that we are conformant to our Rules by combining the two, and consider it one leak.

CHAIRPERSON MUKAI: Question from Mr. Kaneshiro?

MR. KANESHIRO: I just wanted to... Bob may have said it, and I think it's correct because the thing is contiguous. You have one month, the second month; it's still high. So you can consider it as one leak. But if it was one month, and it went low, then went up again, then you'd be two leaks... So, I think that's correct.

MR. MASUDA: Mr. Chair, if I may?

CHAIRPERSON MUKAI: Sir?

MR. MASUDA: This is the part where I can get involved, you know. Okay, so if I understand your Motion correctly, it's gonna be 102,000 plus 114,000...

MR. MEIERDIERCKS: 202...

MR. MASUDA: Yeah, 202,000 plus the 114,000, minus 28,000. Correct?

MR. MEIERDIERCKS: Correct.

MR. TANIGUCHI: So it's 288.

MR. MASUDA: So it's 288, and what does that translate into a dollar amount, if I can ask the Department?

MR. TANIGUCHI: You gotta divide that by 2, right? So it's 144.

MR. MASUDA: Yep.

MR. TANIGUCHI: It comes to \$576.00.

MANAGER-CHIEF ENGINEER: Roughly.

MR. TANIGUCHI: Divided by 2 is 144, and you multiply by 4. It comes out to \$576.00.

MR. MASUDA: Is it part of your Motion that payment be received within a certain time period?

MR. MEIERDIERCKS: Um, I think there's Rules with the Department already that takes care of that, that I don't have to put that in there. I don't... I mean, there *is* a payment schedule that the Department can set up for him to make payments, because it is a leak. So they fall under that specific... That could be part of the Rules, yes. And that would be consistent with any payment plan that's...

CHAIRPERSON MUKAI: Okay, coming back, we need an Amendment, right, to the Main Motion?

MR. MASUDA: No.

CHAIRPERSON MUKAI: Okay, any further discussion on the Motion on the floor, which is to include these two billing cycles as a single leak? (*Pause*) Hearing none, call for the question. All those in favor of the Motion on the floor, please signify by saying Aye. (*All Ayes*) Opposed, Nay? Okay, Motion is carried.

MR. MASUDA: All right. Okay, now we've got to go back to the...

MR. MEIERDIERCKS: Shut-off.

MR. MASUDA: Yes.

CHAIRPERSON MUKAI: Oh, we have to decide the shut-off, too?

MR. MASUDA: No, no.

CHAIRPERSON MUKAI: That's up to the Department, right? Now we're talking about the Findings, right?

MR. MASUDA: Yeah.

CHAIRPERSON MUKAI: Okay, any further discussion in regards to Mr. Souza's issue with his situation? Okay, hearing none, we are ready for the question. How do I word the...

MANAGER-CHIEF ENGINEER: You need to go into the Finding of Fact and...

CHAIRPERSON MUKAI: How do we do that wording? I can't remember. Sorry. This is before... I can't remember. Sorry, I'm spazzing.

MR. MASUDA: Okay. You've already... Let me do a summation for you.

CHAIRPERSON MUKAI: Thank you very much.

MR. MASUDA: You're already finding that for the periods of February 2, 2011 through April 12, 2011, that those leakages, which is 202,000 gallons and 114,000 gallons, are considered one leak, and an appropriate adjustment being applied. Okay? What that translates, if you divide that into half, is an amount of \$576.00. Okay? So far, that is your Findings of Fact.

CHAIRPERSON MUKAI: Okay.

MR. MASUDA: As far as the law, the law is gonna be based on... Excuse me, Rule 3-10 and 3-11, so that's gonna be your Conclusions of Law. The question you have to ask now is, who do you want to prepare the Form of the Order?

CHAIRPERSON MUKAI: You?

MR. MASUDA: No, it's not up to me. It's up to the Chair to decide.

CHAIRPERSON MUKAI: I think it's our legal arm to do it for us.

MR. MASUDA: It's up to you.

MANAGER-CHIEF ENGINEER: Yep.

CHAIRPERSON MUKAI: Yes, so be it.

MR. MASUDA: Okay.

CHAIRPERSON MUKAI: So be it. I've been watching "Harry Potter" so... Okay, so what's next?

MR. MASUDA: Okay, so now's the Motion, and then, as far as the shut-off, you're gonna do what?

CHAIRPERSON MUKAI: I think it's in the hands of the Department, right?

MANAGER-CHIEF ENGINEER: If we can administer the payment plan successfully, the shut-off will not occur.

MR. MEIERDIERCKS: Right.

MR. MASUDA: Actually, you should ask Mr. Souza... if he agrees to that...

CHAIRPERSON MUKAI: Right, is Mr. Souza okay with what we're proposing?

MR. SOUZA: Yes. So what's the amount gonna be, then? I'm not sure.

MS. HUDMAN: We have to calculate that.

MR. SOUZA: Okay... but roughly?

MS. HUDMAN: Can I just make a statement?

MR. SOUZA: Can I add anything?

MS. HUDMAN: Oh.

MR. SOUZA: I just have a brief comment.

MR. MASUDA: Uh...

CHAIRPERSON MUKAI: We already had closing remarks, so...

MR. MASUDA: Yeah, and he kinda does it at his peril...

MR. SOUZA: Okay, that's fine.

MR. MASUDA: Okay, so part of the Order of the Board will be that appropriate billing and payment plan be applied.

CHAIRPERSON MUKAI: Anything else?

MS. HUDMAN: Can I just add a statement?

CHAIRPERSON MUKAI: I think we're kinda all done already so... Anything else? This is close to the world record. Hearing is closed.

(Chairperson Mukai closed the hearing at 12:53 p.m.)

ADJOURNMENT

ACTION: Mr. Meierdiercks moved to adjourn; seconded by Mr. Taniguchi. Motion carried unanimously by voice vote. Chairperson Mukai adjourned the meeting at 12:54 p.m.

Acting Secretary-Administrative Assistant

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

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