

MINUTES

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

August 28, 2018

West Hawai'i Civic Center, Liquor Control Conference Room, Building B, Kailua-Kona, HI

MEMBERS PRESENT: Mr. Craig Takamine, Chairperson
Mr. William Boswell, Jr., Vice-Chairperson
Mr. David De Luz, Jr.
Mr. Nestorio Domingo
Mr. Leningrad Elarionoff
Mr. Eric Scicchitano
Mr. Kenneth Sugai
Mr. Keith K. Okamoto, Manager-Chief Engineer, Department of Water Supply (ex-officio member)

ABSENT: Ms. Kanoë Wilson, Water Board Member
Mr. Bryant Balog, Water Board Member
Director, Planning Department (ex-officio member)
Director, Department of Public Works (ex-officio member)

OTHERS PRESENT: Mr. Craig Masuda, Deputy Corporation Counsel
Mr. John Mukai, Deputy Corporation Counsel
Mr. Will Rolston
Ms. Dianna Derosa
Mr. William Abshire
Mr. Harold Murata
Mr. Max Dible
Mr. Jeff Zimpfer, National Park Service

DEPARTMENT OF

WATER SUPPLY STAFF: Mr. Kawika Uyehara, Deputy
Ms. Nyssa Kushi, Information and Education Specialist
Mr. Kurt Inaba, Engineering Division Head
Mr. Richard Sumada, Waterworks Controller
Mr. Daryl Ikeda, Chief of Operations
Mr. Eric Takamoto, Operations Division
Mr. Clyde Young, Operations Division

1) CALL TO ORDER – Chairperson Takamine called the meeting to order at 10:00 a.m.

2) STATEMENTS FROM THE PUBLIC:

Mr. William Rolston

W. Rolston: Thank you for hearing me. I know you guys are probably pretty tired of me. Thank you for having the meeting here in Kona. It's very close to home. I really appreciate the Water Department. When I worked here in County, they had the most engineers, which is what I was used to working at (indiscernible), so I appreciate what they do. It's very technical. I wish I did work in the Water Department, so I was lucky to work seven years with them on this wind farm. The meeting today is about the minimum contract energy; and since I was co-creator of the Request for Proposals and co-creator of that Power Purchase Agreement and one member of the three-member evaluation team, which included Julie Myhre and Clyde Young, I saw the whole thing. So if you're asking me if there is a number, there is. And I make myself available to you if you have any questions on where that is in the contract. Also, there is a video out there where the Water Department is presenting at the NELHA gateway and talks about a contract energy number. So that is public record. I guess, also if you guys dig deep into it like if you are saying maybe there isn't a number that the Water Department has to live up to, it's all in the evaluation forms that you guys have the record of. That's the first item we rated every bidder on. And we rated the one that won because they could provide 75 percent. One guy wanted to provide 87 percent but he only had one wind turbine, and one wind turbine is not enough redundancy, as you guys know, to make a good wind farm. So, I guess, to me, all the statements, all the contract energy stuff, to me, is all there. You're gonna find it when you dig. And then the only thing I can say is it was by far the best project I did when I was at County. It's kind of why you see me showing up so many times. It feels bad to work on something seven years and then maybe not see it live up to what you had hoped. When we first went to the wind farm, it was destroyed. There was plywood, wind turbines, Jacobsen turbines out of Minnesota, crushed, and we knew there was good wind regime. We put up modern ones and we built it exactly to what the specifications that I wrote in the RFP are. And that's all I have to say, but my final thing is that you guys are really good engineers, all of you. I respect you, and if I came back to County, I would definitely want to work with the best engineers because you guys handle what is most precious to the island, so all due respect, you guys are doing the best. Thank you.

3) APPROVAL OF MINUTES:

ACTION: Mr. Boswell moved for approval of the Minutes of the July 24, 2018, Water Board Public Hearing on the Power Cost Charge and Minutes of the July 24, 2018, Regular Meeting; seconded by Mr. Sugai and carried unanimously by voice vote.

4) APPROVAL OF ADDENDUM AND/OR SUPPLEMENTAL AGENDA - none

5) CONTESTED CASE HEARING:

Water Service Account No. 91005050-11

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 will be Dianna Derosa's appeal of the amounts shown due and owing on Account No. 91005050-11, which are associated with the meter reading date of February 21, 2018, and consequently, the appeal of any proposed shut off resulting from failure to pay said amount.

This hearing is being set pursuant to Ms. Derosa's request on July 5, 2018, for the hearing to be held at the August 28, 2018, Water Board Meeting in Kona.

(The following is transcribed verbatim.)

C. MASUDA: Okay, Mr. Chairman. At this time, we will start the Contested Case Hearing. We would like to call up Dianna Derosa. Ms. Derosa, if you may. Mr. Chairman, for the Board's information, I spoke to both parties outside moments ago, explaining the procedure for the Contested Case Hearing. I explained to Ms. Derosa that as the appellant, she has the opportunity to go first. She can make a statement to you or she can just proceed directly into her case. Ms. Derosa also has one witness with her, William Abshire. He is sitting in the back. Ms. Derosa may call him as a witness if she chooses to do so. Usually you have the witness exclusion rule in a normal court setting; but in this kind of setting, I don't think it's necessary, unless the Board wants to have it.

CHAIRPERSON TAKAMINE: It's fine.

C. MASUDA: Okay, so just proceed. Ms. Derosa informed me that she is very nervous, so I will be helping her along as best as I can, while still being fair and impartial to the Board and to Mr. Mukai, who is representing the Department. The procedure is going to be, as with all Contested Cases, Ms. Derosa has a chance to put on her case in chief, through witnesses, or with her own testimony. Mr. Mukai has the opportunity to cross-examine her or her witnesses. Ms. Derosa has an opportunity, then, to do a rebuttal, questioning of her witnesses or her own statement, followed by Mr. Mukai will put on his case in chief with his witnesses; and as their witnesses are called, Ms. Derosa will have opportunity to cross-examine Mr. Mukai's witnesses. Mr. Mukai, then, of course, will have opportunity to do his own rebuttal questioning. At the end, we'll have closing statements from both sides and if the Board has sufficient information, then they'll have a ruling at that point. And for Ms. Derosa that this is the oral ruling that she is given today. Later on, we will ask for forms of the order for the written ruling and she will have opportunity to contest what is in the written ruling and submit her own form should she choose to do so. At that point, we'll have that filed and both sides can file their appeal to the Circuit Court, should they wish to further appeal this matter. So Mr. Chairman, if there are no questions from the Board, I think we're ready to proceed.

CHAIRPERSON TAKAMINE: Please proceed.

C. MASUDA: Ms. Derosa, you can proceed, so it is your turn to present your case.

(Ms. Derosa was sworn in by the Secretary.)

D. DEROSA: Okay. Um, I own a farm by myself; and my pipeline from the highway to my farm, and it's quite a long way. It goes through a couple of properties; and previously, I had a lot of problems with my pipeline. It breaks. Pigs can go on it, and there's trees falling on it and everything. On December 15, I had purchased new pipe to redo my pipeline. It was Schedule 40, the best the stores sell; and after I put it in, or I should say, William put it in, and he used to work for the Kona Irrigation Supply--after it was put in, my next bill came to \$2,360.00. I don't know what happened. I know my pipes were in correctly and they did not leak. I don't know why because that's an awful a lot of water. My highest, I think, water bill, when I had pipes break, was around \$500.00. I don't have that money. I don't lie. I don't cheat people. And I'm not saying anybody did that, but, you know, I don't know what happened, but I didn't use the water. So, I have papers here--my invoices for the pipes; and finished on December 15.

C. MASUDA: Mr. Chairman, if I may. (Chairperson Takamine indicated to go ahead.)
Ms. Derosa, when you say December 15, what year?

D. DEROSA: Oh, seventeen.

C. MASUDA: 2017?

D. DEROSA: Yes.

CHAIRPERSON TAKAMINE: Is there anything further, Ms. Derosa?

D. DEROSA: Um, not really, no.

CHAIRPERSON TAKAMINE: Thank you.

C. MASUDA: Ms. Derosa, other than providing the appellant's own testimony or statement, a lot of times, appellants can call witnesses.

D. DEROSA: Okay.

C. MASUDA: You have Mr. Abshire here. Would you like Mr. Abshire to speak?

D. DEROSA: Yes, I would.

C. MASUDA: Okay. Prior to doing that, as we spoke about, Mr. Mukai now has, as you just testified, has a chance to cross-examine you.

D. DEROSA: Okay.

C. MASUDA: So he can ask you a few questions at this point.

D. DEROSA: Okay.

J. MUKAI: Ms. Derosa, my name is John Mukai, and I represent the Department of Water Supply; and I just have a few questions for you. When you talk about the piping system from the meter to your house, how far is that? Can you tell the Board roughly how far?

D. DEROSA: Well, we put in, um...

W. ABSHIRE: May I answer that for her?

J. MUKAI: Sure.

W. ABSHIRE: It's pretty close to half a mile.

J. MUKAI: Okay so we have about a half of mile of piping, right?

D. DEROSA: Right.

J. MUKAI: Okay now, the piping that was put in, did the Board of Water Supply put in the piping in for you?

D. DEROSA: No.

J. MUKAI: No. Did the Board of Water Supply buy the piping for you?

D. DEROSA: No.

J. MUKAI: Okay, so you realize that under the Rules, and I would ask that the Board take judicial notice of Rule 3-17, you purchased the piping and installed it. Is that correct?

D. DEROSA: Um, well, William installed it. I bought it, yeah.

J. MUKAI: So you bought it.

D. DEROSA: Uh huh.

J. MUKAI: Okay. And, um, you also realize that if something goes wrong with the pipe, that the Board of Water Supply, they're not going to come fix it. You know that, right?

D. DEROSA: Um hum. Oh yeah.

J. MUKAI: Yes?

D. DEROSA: Um hum.

J. MUKAI: In fact, when there are leaks in the pipe, isn't it true that you have someone to repair it at your expense, is that right?

D. DEROSA: Um hum.

J. MUKAI: Is that a yes?

D. DEROSA: Correct.

J. MUKAI: Okay, now, you would agree with me that people should take responsibility for their actions?

D. DEROSA: Absolutely.

J. MUKAI: And you would agree with me that people should take responsibility for their inactions. Is that fair?

D. DEROSA: Correct.

J. MUKAI: Okay, so for example, if I make a mistake and I do something wrong or I just make a mistake, it's not fair that someone else should pay for my mistake. Is that fair?

D. DEROSA: That's fair.

J. MUKAI: Okay. If you look at Exhibit J, you see the water bill?

D. DEROSA: Yes.

J. MUKAI: Okay, so this is the bill that you are contesting right now, correct?

D. DEROSA: Correct.

J. MUKAI: After this bill, the following bill that you had, did it go back to normal? Do you remember?

D. DEROSA: After this bill?

J. MUKAI: Yes.

D. DEROSA: Yes.

J. MUKAI: Okay. So after this bill, everything was okay. It went back to normal.

D. DEROSA: Right.

J. MUKAI: Okay. You remember back in May 17, 2018, you were in a hearing, remember that?

D. DEROSA: Yes.

J. MUKAI: And you mentioned that you had just put in brand new pipes. Remember that?

D. DEROSA: Um hum.

J. MUKAI: Okay, is that a yes?

D. DEROSA: Yes.

J. MUKAI: Okay. And you also talked about having a lot of leaks. Remember that?

D. DEROSA: Yes. Prior to that.

J. MUKAI: You also talked about pigs walking all over your line.

D. DEROSA: Um hum.

J. MUKAI: Is that a yes?

D. DEROSA: Correct.

J. MUKAI: And you also talked about trees falling, correct? You would agree with me that pigs walking over the lines could damage your line, correct?

D. DEROSA: Correct.

J. MUKAI: You would agree with me that trees falling over the line could cause leakage, right?

D. DEROSA: Yes.

J. MUKAI: And leakage would lead to a higher water bill. Is that fair?

D. DEROSA: Yes.

J. MUKAI: Okay. Thank you, Ms. Derosa. I have nothing further.

C. MASUDA: Ms. Derosa, do you want to ask...make any further statements based upon questions that Mr. Mukai asked you?

D. DEROSA: Um, no.

C. MASUDA: At this time would you like to call Mr. Abshire and have him make a statement or ask him questions?

D. DEROSA: Yes, I would.

C. MASUDA: Mr. Abshire, you can come forward.

(Mr. Abshire was sworn in by the Secretary.)

C. MASUDA: Mr. Chairman. In the normal course of a Contested Case, the witnesses, excuse me, the proponent of that witness is charged with the duty of asking questions, specific questions to the witness. In this case, we will ask for some leeway on behalf of Ms. Derosa, so that Mr. Abshire can just make a statement; and then if Ms. Derosa wants to follow up with any questions, that she be allowed to do so at that time.

CHAIRPERSON TAKAMINE: Sure. Request granted.

J. MUKAI: And for the record, no objections.

W. ABSHIRE: Oh, so you want to hear...?

C. MASUDA: Yes.

W. ABSHIRE: Okay. I've been working for Ms. Derosa one day a week for quite a while; and she'd been having leaks in her line. Evidently, when she bought the property, whoever put the original line in used a combination of Schedule 40 and Class 200 pipe. So just knowing that Class 200 pipe, you'd almost have to look at it and it will break. No matter if a pig walks on it...a mongoose could walk on it and break it if it's in the right place. So I explained to her that we needed to replace it and so she went out and bought the pipe. She bought 1,300 feet, and we put that in; and I realized it wasn't enough. I also moved the pipe from on the ground to on top of the rock wall to make it just a little more safe. And then after that, she bought another 800 feet and we put in another 400 feet, so we got 1,700 feet of new pipe. We haven't had a leak since. But whoever put the original pipe in used the wrong pipe, and that's where the leaks were happening. So every time she would break one, I would go in and put a long piece of Schedule 40 in there; but there was no way to tell because they'd been in so long, there was no writing on the pipe anymore. You couldn't tell unless you broke it. And so, since we replaced the pipe, we've had no problems with it. But the thing is that the line is so long and so far away, that if you have a leak, it takes a long time for that water to register at the house that there's no pressure behind it. Most of the leaks were up about a third of the way down from the meter so that means two-thirds of that line was full of water, so it was leaking, leaking, leaking, and you wouldn't be able to tell for a long time until the water pressure went down at the house. That's pretty much it.

C. MASUDA: Ms. Derosa, is there anything else that you want to ask Mr. Abshire to talk about or testify to?

D. DEROSA: Yes. Do you have any experience putting pipes in?

W. ABSHIRE: Oh yeah. Lots of experience.

D. DEROSA: Can you explain your work?

W. ABSHIRE: Yeah, you take two pieces of pipe, some glue and some primer, and you stick them together. It's pretty much painless.

D. DEROSA: No...I believe you told me that you used to work for...

W. ABSHIRE: No, no, I worked for Kona Irrigation for a while, and I worked construction on the mainland for 25 years, underground, and that kind of stuff so I know what I'm doing. Pretty painless, putting pipe together.

C. MASUDA: Ms. Derosa, do you want to ask Mr. Abshire any more questions?

MS. DEROSA: Um, according to my papers here, the last time, 400 feet of pipe was finished on 12/15/17, correct?

W. ABSHIRE: Probably.

C. MASUDA: Nothing further?

D. DEROSA: Nothing further.

C. MASUDA: At this time, Mr. Mukai can have a chance to cross-examine.

J. MUKAI: Thank you. Mr. Abshire, my name is John Mukai.

W. ABSHIRE: Hi.

J. MUKAI: I have a few questions for you. Did you understand that after this large bill of \$2,000.00, that Ms. Derosa's water bill was reduced and went back to normal?

W. ABSHIRE: I couldn't tell you that.

J. MUKAI: Okay, she never told you that?

W. ABSHIRE: No.

J. MUKAI: Okay. She never told you that?

W. ABSHIRE: It was none of my business.

J. MUKAI: Okay. Do you know how a water meter works?

W. ABSHIRE: It lets water through it, spins, and registers water.

J. MUKAI: Correct. So all it does is register the water that's going out into the line. Is that fair?

W. ABSHIRE: Yes.

J. MUKAI: You understand also that the customer is responsible for the installation of the piping and transfer of the water?

W. ABSHIRE: I would tend to think that would be right.

J. MUKAI: Transfer of the water to the residence. Is that fair?

W. ABSHIRE: Yes.

J. MUKAI: And you understand, also, that it would be the consumer; and in this case, Ms. Derosa's responsibility to keep the piping in good repair and maintenance. Is that fair?

W. ABSHIRE: Yes.

J. MUKAI: Okay.

W. ABSHIRE: But she can't be held responsible for the bad workmanship of other people who put it in before she bought the house.

J. MUKAI: You understand that she did purchase the property, correct?

W. ABSHIRE: Evidently, yeah.

J. MUKAI: And the piping, obviously part of the easements, were for the waterline. Is that fair?

W. ABSHIRE: Um hum.

J. MUKAI: Is that a yes?

W. ABSHIRE: That's probably yes. Yeah.

J. MUKAI: Can you describe for the Board what the type of terrain is for a half a mile from the meter to Ms. Derosa's residence is, if you can describe it?

W. ABSHIRE: It's brutal. It's on a steep place...it's on the highway, and she lives on Rock Bottom Road so you have to come down the hill and it's all rock, it's all macnuts and wild fields there. Except when it gets to her place...when the actual waterline gets on her property, it's right up against the fence, it's nice and safe, and there's not a problem. It's not a really rocky area. It's the area above that is really wild.

J. MUKAI: Okay. That's fine. I have no further questions.

C. MASUDA: Ms. Derosa, you have a time to ask Mr. Abshire further questions based on the questions that Mr. Mukai just asked. Do you have any rebuttals/questions?

D. DEROSA: Um, well, when you talked about the terrain being rocky, that's why, previously, most of my line had leaks. But we haven't had that since.

W. ABSHIRE: Not since then. Not since I moved the line and replaced it with Schedule 40.

D. DEROSA: Which are better pipes.

W. ABSHIRE: Better place and better pipe.

D. DEROSA: And it hasn't leaked since.

W. ABSHIRE: No. Not once.

C. MASUDA: Okay. Ms. Derosa, do you have any further witnesses?

D. DEROSA: No.

C. MASUDA: At this time, since there are no further witnesses by Ms. Derosa, Mr. Chairman, we would like to now have Mr. Mukai proceed with his case in chief.

CHAIRPERSON TAKAMINE: Sure.

J. MUKAI: Prior to proceeding, Mr. Chair, and members of the Board, I respectfully ask that I move for a directed verdict, based on the testimony and evidence presented, that on appeal, there is nothing presented at the hearing today that would indicate any fault or...on behalf of the Board of Water Supply. There has been an admission of leakage after the bill that has been complained of, which is before you, everything went back to normal. It appears that it happened after the pipes were replaced or fixed by Mr. Abshire. Again, according to the Board's own Rules, Rule 3-17 and 3-27, Section 3, that the customer is ultimately responsible for the installation and the maintenance of the line that goes from the meter to her residence. So I think, as it stands right now, I respectfully ask that a directed verdict be entered.

CHAIRPERSON TAKAMINE: I'd like to ask a question. Can I ask a question to the Department before anything more?

C. MASUDA: Usually not, because we're in the middle of a Contested Case Hearing.

CHAIRPERSON TAKAMINE: Okay.

J. MUKAI: I think just based on what has been presented, um...

C. MASUDA: Mr. Mukai, I'm sorry, I interrupted you. You made your request.

CHAIRPERSON TAKAMINE: Okay, can I ask Ms. Derosa a question?

C. MASUDA: You may ask Ms. Derosa a question.

CHAIRPERSON TAKAMINE: Ms. Derosa, were you granted a leak forgiveness any time before or within the last three years before you had this large bill of \$2,350.00? Did the Department grant you any...?

D. DEROSA: Yes.

CHAIRPERSON TAKAMINE: Do you know what that amount was and what period of time that was?

D. DEROSA: I wouldn't know.

CHAIRPERSON TAKAMINE: Was it, do you believe it was in 2017, in 2016, or 15?

D. DEROSA: Probably in 15. I'm not positive.

CHAIRPERSON TAKAMINE: When did you acquire this home?

D. DEROSA: Ten or twelve years ago.

CHAIRPERSON TAKAMINE: Okay. But it was within the three years from the time of the large bill?

D. DEROSA: Yes.

CHAIRPERSON TAKAMINE: Okay.

L. ELARIONOFF: Can I ask questions?

CHAIRPERSON TAKAMINE: Can the Board ask Ms. Derosa their questions?

C. MASUDA: If it's in the nature of for the Motion of a directed verdict.

L. ELARIONOFF: Well what I'm trying to say is I have a problem in my mind that what has been presented is not complete, and I would like to clarify some of the questions I have for you guys.

CHAIRPERSON TAKAMINE: Okay. So if not, then we're gonna deny your motion so we can continue this.

J. MUKAI: Okay. Fine. Okay, I'll call Mr. Darren Okimoto.

(Mr. Okimoto was sworn in by the Secretary.)

J. MUKAI: Okay, Mr. Okimoto, at some point on or about March 8, 2018, you remember meeting with Ms. Derosa?

D. OKIMOTO: Yes.

J. MUKAI: And can you describe for the Board what the purpose of the meeting was and what you talked about?

D. OKIMOTO: I was just asked by the Customer Service ladies in the office to meet with Ms. Derosa to go over where her meter was, verify the meter reading, and to see if there was any movement to the meter which would indicate a leak at present time in the event.

J. MUKAI: Okay. When you looked at the...let me ask you this...take a look at Exhibit A. Now, for the ease of the Board, I would ask if Mr. Okimoto could show you on his Exhibit A if you could describe and show the Board where on Exhibit A is the water meter. If you can point it out to the Board.

D. OKIMOTO: Basically, the meter is up on the highway and the property is here. It's hard to see on here.

J. MUKAI: And if you could show the Board, not only where the meter is located, but also where Ms. Derosa's property is located.

D. OKIMOTO: The highlighted parcel below is Ms. Derosa's. Where the house is, I'm not sure.

C. MASUDA: Mr. Chairman, at this point, I notice that there's two pieces of paper attached and there's only one piece of paper attached to Exhibit A. We ask that the non-TMK map be retrieved and not be presented unless the exhibit...

J. MUKAI: Or we submit this as a supplemental exhibit for the Board.

C. MASUDA: That would be Exhibit O.

J. MUKAI: Now, Mr. Abshire testified that the piping distance is about a half a mile. Is that fair?

D. OKIMOTO: It's quite a way. Like I said, I don't know where her house is exactly on the property.

J. MUKAI: Okay. Take a look at Exhibit B.

C. MASUDA: You know, Mr., I'm sorry, I'm gonna interrupt at this point. I don't think all the members got to see the newly numbered Exhibit O.

CHAIRPERSON TAKAMINE: Oh, sorry.

C. MASUDA: If you could pass Exhibit O.

CHAIRPERSON TAKAMINE: Or if you can't see it...it's a bad copy.

J. MUKAI: So, Mr. Okimoto.

D. OKIMOTO: Yes.

J. MUKAI: If you could take a look at Exhibit B, can you describe for the Board what this represents?

D. OKIMOTO: Ms. Derosa's meter is the second meter on the left.

J. MUKAI: And it appears, and if you could take...turn to the next exhibit, that would be Exhibit C, can you describe for the Board what Exhibit C is?

D. OKIMOTO: Showing the waterlines running down the hill.

J. MUKAI: Okay, so it's not a straight line that's easy, right? Is that correct?

D. OKIMOTO: Correct.

J. MUKAI: Okay. When you looked at Ms. Derosa's piping, did it look new?

D. OKIMOTO: Not by the meter box. Not new pipe.

J. MUKAI: The water meter, itself, would you compare it to something like an odometer in a car?

D. OKIMOTO: Correct.

J. MUKAI: And so what the meter does, can you describe for the Board what exactly the meter does?

D. OKIMOTO: It registers water passing through the meter.

J. MUKAI: And into the customer's piping system. Is that fair?

D. OKIMOTO: Yes.

J. MUKAI: Fair to say if pigs walk over the waterlines, it could cause damage and eventual leakage?

D. OKIMOTO: Yes.

J. MUKAI: And have you seen pigs causing damage to waterlines before?

D. OKIMOTO: I haven't seen it, but I've heard of it. Common.

J. MUKAI: What about trees?

D. OKIMOTO: Common. Trees, rocks.

J. MUKAI: In fact, Ms. Derosa said that the tree fell, and it broke the line. Would that contribute to a high water consumption rate?

D. OKIMOTO: Yes.

J. MUKAI: And suppose, and Ms. Derosa talks about having pigs walk over the line. Now if pigs walked over the line, it could cause damage and eventual leakage, correct?

D. OKIMOTO: Yes.

J. MUKAI: Okay, now, you understand that Ms. Derosa's following bill was...do you know if it went back to normal or would you not know? Do you know that?

D. OKIMOTO: I think it did.

J. MUKAI: Okay. Based on...can you describe for the Board what your position is at the Department of Water Supply?

D. OKIMOTO: District Supervisor.

J. MUKAI: How long have you been with the Board of Water Supply?

D. OKIMOTO: Twenty-seven years.

J. MUKAI: Okay. Based on your experience, what do you think happened in Ms. Derosa's case?

D. OKIMOTO: Leakage and repair of the pipe.

J. MUKAI: And you understand also if there is a leak in the piping system, that the customer is ultimately responsible for payment, is that correct?

D. OKIMOTO: Correct.

J. MUKAI: Okay. Okay, thank you, Mr. Okimoto.

C. MASUDA: Ms. Derosa, you have a chance to cross-examine Mr. Okimoto. Would you like to ask him any questions?

D. DEROSA: Yes, I would. Um, when you came to look at the pipe, you said it wasn't new.

D. OKIMOTO: Um hum.

D. DEROSA: It was new. I don't know how you tell. There was no dirt on the pipes. It was white, white. Mr. Abshire put them in, and he can verify after they were put in, so could it be that maybe you weren't looking at the right one?

D. OKIMOTO: There is a possibility; but according to the meter numbers and readings, and so forth, that was the proper meter.

W. ABSHIRE: Can I throw something in real quick? The first line that came out of the meter-- did not replace it with Schedule 40. When I cut it, I knew it had not leaked. It was fine, so we started from 20 feet out and went down. So if you look from the meter and you look down, the first piece of pipe that you see is an old pipe. New pipe from that point on.

C. MASUDA: Ms. Derosa, do you have any other questions of Mr. Okimoto?

D. DEROSA: None that I can think of.

C. MASUDA: Do you have any rebuttal?

J. MUKAI: No.

C. MASUDA: Thank you, Mr. Okimoto, you're excused. Next witness. I'm sorry, Mr. Chairman, do you mind if I...?

CHAIRPERSON TAKAMINE: Go ahead. No, go ahead. I prefer to have you...

C. MASUDA: Okay. We call Mr. Calvin Uemura.

(Mr. Uemura was sworn in by the Secretary.)

J. MUKAI: Mr. Uemura, could you state your name for the record?

C. UEMURA: Calvin Uemura.

J. MUKAI: And where do you work?

C. UEMURA: Department of Water Supply.

J. MUKAI: And what is your position at the Department of Water Supply?

C. UEMURA: Water Service Program Supervisor.

J. MUKAI: And how long have you worked at the Water Supply?

C. UEMURA: Seventeen years.

C. UEMURA: And just briefly, can you describe your job duties for the Board?

C. UEMURA: I'm responsible for customer billing, which means meter reading and the bill processing for the Department.

J. MUKAI: Okay. Now, we're here to talk about Ms. Derosa's account; and can I ask when the first time Ms. Derosa's account came to your attention?

C. UEMURA: Actually, the first time it came to my attention is when we received a letter from an attorney's office.

J. MUKAI: Okay. And that would be Exhibit K. Is that correct?

C. UEMURA: Correct.

J. MUKAI: And then after that, what did you do? And let me direct your attention to Exhibit E. Can you describe for the Board what it is you did after receiving this letter?

C. UEMURA: After receiving the letter, I did a quick investigation, reviewed the customer's usage and the billing amount for the period noted in the letter.

J. MUKAI: What does Exhibit E tell you about Ms. Derosa's account?

C. UEMURA: Generally, the account had high...well, between 80 and 90 thousand gallons and then a spike in the February bill to 407 thousand.

J. MUKAI: And can you describe for the Board what Exhibit E is?

C. UEMURA: Exhibit E is the usage history from our customer billing system. It records the date the meter was read, number of days elapsed, usage in thousands of gallons, so the seven that you see there represents 7,000 gallons, average daily use, and the total amount of the bill.

J. MUKAI: Okay. Can you take a look at Exhibit G and can you describe for the Board what Exhibit G is?

C. UEMURA: Exhibit G is, as the title indicates, is customer account comments. We log on to each individual account, actions with the customer or requests about that account. It also, in this case, logs the meeting that Mr. Okimoto met with Ms. Derosa.

J. MUKAI: Okay, now on March...on or about March 2, she claimed, hey this is not my bill; and who is it that directed Mr. Okimoto to meet with Ms. Derosa?

C. UEMURA: The request was put in by the Customer Service Reps at the Kona Office.

J. MUKAI: Okay. And did anything come about after that meeting with Mr. Okimoto that you can tell the Board?

C. UEMURA: Pretty much what is logged there is Mr. Okimoto met with the customer, and at the same time, confirmed the reading on the meter.

J. MUKAI: When you talk about the readings on the meter, is it fair to say that the meter is kind of like an odometer on a car?

C. UEMURA: Correct.

J. MUKAI: And what does that mean, if you can translate that to the Board?

C. UEMURA: Basically, your positive displacement meter measures how much water flows through the water meter; and it only records when water actively flows through the meter.

J. MUKAI: Okay. Can you take a look at Exhibit D? If you can explain...what is this?

C. UEMURA: This actually is a photocopy of two different pieces of information. The top one which looks like and is a meter tag. That is what our field personnel use to tag that meter when it is removed from the meter box. It records the meter number, the date removed, the location, account number; and this one was removed because we had requested a bench test. And then also the reading on the meter at the time of removal and then by the individual who removed it. The bottom tag is the meter test results from our testing facility in Hilo; and basically, again, that records the date the test was done, the meter number, the reading that the Meter Room observed on the meter, and in those small blocks, that represents the percent of accuracy out of the three flow tests done by the Meter...so the one-fourth represents a quarter-gallon flow test, the two represents the two-gallon flow test, and the fifteen represents the fifteen-gallon flow test. And below that are the corresponding percentage of accuracy.

J. MUKAI: Okay, so, Mr. Uemura, would the meter test show that at some point in time, there was a large amount of water that went through the meter?

C. UEMURA: The meter test indicates that the amount water indicated on the odometer, or the meter reading, was recorded accurately.

J. MUKAI: Okay. Now, at some point in time, you were present at a hearing on this very case. Remember that? I'm talking about May 17, 2018?

C. UEMURA: Yes. Correct.

J. MUKAI: And, for the record, I have attached transcripts of that hearing as Exhibit N. And you were there, right?

C. UEMURA: Yes.

J. MUKAI: And Ms. Derosa was there?

C. UEMURA: Uh, no, it was by phone call.

J. MUKAI: Okay, so Ms. Derosa participated via telephone?

C. UEMURA: Correct.

J. MUKAI: Again, Ms. Derosa talked about the next bill she got after Exhibit J was \$60.00. Remember her testifying to that?

C. UEMURA: Yes.

J. MUKAI: Okay, and she also talked about having a lot of leaks from her old pipe. You remember that testimony?

C. UEMURA: Yes.

J. MUKAI: Okay. Again, did you understand that the meter, for the distance between the meter, through over half a mile of property, and into Ms. Derosa's property was not a straight line? You understood that?

C. UEMURA: Yes.

J. MUKAI: In fact, Ms. Derosa talked about pigs walking over the lines. Correct?

C. UEMURA: Correct.

J. MUKAI: Again, pigs walking over the lines could cause leakage. Correct?

C. UEMURA: Correct.

J. MUKAI: And leakage would result in an abnormally high reading at the meter. Correct?

C. UEMURA: Correct.

J. MUKAI: Same thing if a tree fell on the line. Wouldn't it potentially cause an unnaturally high reading?

C. UEMURA: Yes.

J. MUKAI: So, you understood, and I think the Rules provide, is the person who receives the water from the meter responsible for the piping and its maintenance?

C. UEMURA: Yes.

J. MUKAI: Okay. And so, for example, at my house, if my connecting pipe from the meter breaks, you're not gonna come and fix it for me, right?

C. UEMURA: It would be the home owner's responsibility.

J. MUKAI: Okay, so I would have to fix it, right?

C. UEMURA: Correct.

J. MUKAI: And I would have to keep those pipes in repair and in good...maintain it properly. Is that fair?

C. UEMURA: Fair. Correct.

J. MUKAI: So, the same thing would apply in Ms. Derosa's case, correct?

C. UEMURA: Yes.

J. MUKAI: Based on your experience in the Water Supply, what do you think happened in Ms. Derosa's case?

C. UEMURA: This type of usage, generally, it's some sort of leak. A leak would be defined as broken pipe, or leaky toilet; but something that was causing an abnormally high usage.

J. MUKAI: And the fact that her next bill went down to \$60.00, as she claims, what does that tell you?

C. UEMURA: That, actually, there was an ongoing history of leaks, even prior to the large event.

J. MUKAI: And the fact that it came back down to normal, then, what does that tell you?

C. UEMURA: There's not as much water leaving the system right now, which could be more than likely a leak or a leak being repaired.

J. MUKAI: Okay. Okay, thank you, Mr. Uemura, I have nothing further.

C. MASUDA: Ms. Derosa, do you want to ask any questions of Mr. Uemura?

D. DEROSA: Um, well, all the leaks I had, from pigs to trees, to whatever...happened before I put the new pipes in. I have not had a leak since we put the new pipes in...December. And there

were times when I did have leaks, I think big leaks, little leaks, and none of them came to the amount I was charged. So, I'm wondering if I have all these big leaks, which I did, and I paid for new pipes, so...and replaced them; and after we had the new pipes, there has been no leakage. It was all before. I don't know. I forgot what I was trying to say. It's um...you keep mentioning all these leaks and those happened prior to us putting in the new pipes. And I keep track of it.

C. MASUDA: Ms. Derosa, do you have any more questions for Mr. Uemura?

D. DEROSA: I'm sorry, I'm not very good at this.

C. MASUDA: Would you like to take a moment to see if you can formulate a question for Mr. Uemura?

D. DEROSA: Um, I can't remember what it was...I'm dealing with (indiscernible), and I have a problem sometimes remembering. Um, and anything like this, where it's...I'm saying something, and I forget what I was going to say. I don't remember what it was.

C. MASUDA. So, at this point, are you done with Mr. Uemura? This may be your last chance to ask him questions. You'll have another opportunity at the very end to make a statement; but for Mr. Uemura, do you have any questions?

D. DEROSA: Um, I guess not.

C. MASUDA: Board, do you have any questions of Mr. Uemura? I'm sorry, do you have any rebuttal?

CHAIRPERSON TAKAMINE: You guys have any questions?

L. ELARIONOFF: For him?

CHAIRPERSON TAKAMINE: Yeah.

L. ELARIONOFF: Yes, definitely.

CHAIRPERSON TAKAMINE: Go ahead, Leningrad.

L. ELARIONOFF: Um, the meter, this is a 3/8 (sic) or 5/16?

C. UEMURA: 5/8's.

L. ELARIONOFF: 5/8's. Okay, so it's kind of big, yeah. So, how long does it take for a 5/8's line to leak 407,000 gallons? How many hours?

C. UEMURA: I don't know. I'm not an engineer. Basically, without knowing; and this is, again, not an engineer...just from my own personal dealings with customers who have leaks, leaks are not static, meaning it opens and it continuously leaks. And so for us, we're looking at a

60-day period. We don't know whether it was 30 days, the entire 60 days, or even a week where this has occurred.

L. ELARIONOFF: That's exactly my point. My point is that if somebody stole the water, they would have to do it in a period of time, so how much water can be taken out of a 5/8" nipple in...?

C. UEMURA: The meter is rated at 20 gpm.

L. ELARIONOFF: Which means?

C. UEMURA: I calculated that once. It's over a million gallons in 60 days.

L. ELARIONOFF: A million gallons in 60 days. So this is about 15 or 14 days would take to come up with 407,000 gallons?

C. UEMURA: Um, I wouldn't...

L. ELARIONOFF: You got engineers in the room. You nodded your head?

C. UEMURA: Too many variables to answer that question, to be honest.

L. ELARIONOFF: Okay. That's all.

CHAIRPERSON TAKAMINE: Any other questions?

N. DOMINGO: I have.

CHAIRPERSON TAKAMINE: Go ahead Nestorio.

N. DOMINGO: This is for Mr. Uemura. When I look at this Exhibit C and D, and my first impression is that all this exposed pipe, they are asking to be damaged of some sort; and my question is, don't we, the Water Department, should have like a Code or Standard that we can impose on the customers because this is very long. My calculations about two thousand plus feet, and half a mile is what they said; and all this is exposed to...above rock or above ground pipes. You are really asking for something to happen. So, isn't there any...if you build a house, is there a uniform building code that you enforce and shouldn't that be also applicable to this system?

C. UEMURA: The Department's Rules and jurisdiction ends at the meter. So no, we don't have any rules or requirements for the customer after the meter. I believe that would be with the Department of Public Works' plumbing division.

CHAIRPERSON TAKAMINE: Any other questions?

N. DOMINGO: I have another question.

C. MASUDA: Of Mr. Uemura?

N. DOMINGO: Yes. My other question is I look at this bench test that you have here. It doesn't tell me anything. Is it good, is it bad? I mean I was looking at it--test flow, gallon per minute...is that 1/4, 2, 15, before repair 93, 99, 98.9. Does that say it's good or bad? That's where I'm really struggling.

C. UEMURA: So basically, the meter itself has to test within, and I apologize because I cannot give you the specific AWWA standard that meters that have to test to be acceptable for the Department to use. But in this case, the 1/4-gallon test, in other words when a quarter gallon of measured water was flowed through that meter, it only...93% of that quarter gallon was recorded on the register. When they did the 2-gallon test, 99% of that two gallons was recorded; and again, the 15-gallon test - 98.9 percent. So the meter was reading accurate and actually to the point of less than 100% so at the slower rates, it wasn't recording the full amount of water. It was actually recording less water than actually flowed through the meter. So this meter, I know, like I said, I don't know the specific range--that's left with our Meter Room; however, I do know that 93% would be too slow for us to put back in the ground.

N. DOMINGO: That's really what I'm trying to find here--the conclusion of the bench test.

C. UEMURA: I guess, basically, the meter was reading accurate enough to record the 407,000 gallons; and in interpreting this, it might even have been slightly less than 407,000. Did I answer the question?

N. DOMINGO: Was it good, was it bad, was it acceptable, was it satisfactory to you?

C. UEMURA: Yes.

N. DOMINGO: Okay.

C. MASUDA: Mr. Chairman. Any other questions? Any other witnesses?

J. MUKAI: No.

C. MASUDA: Okay. Ms. Derosa, at this time is what they call the summation, or the closing so do you have any closing or summary remarks you want to make to the Board?

D. DEROSA: All I can say is that I know that the pipes were put in by the 15th of December...brand new pipes. Since then, I've had no leakage; but it was recorded that in two months I used that \$2,350.00 dollars of water and there's no way I can possibly think of where it was going. We don't have any lines going in different places. It's just my lot and we used to have spigots every hundred, I don't know how many feet, there were several, that people could open and use it, but those are all gone. Um, and I know I could not have used it. I don't know what happened. It could be an error on a person, or on machine; but I did not use it. I never

water my lawn. I never water my trees. I take very short showers because I believe in conservation. Um, and my pipes right now are heavy enough to withstand the trees and everything falling. Before, they were 20 years old, maybe, I'm not sure; but they were very thin, and I kept replacing them and obviously it never really worked so we replaced it all. But I don't owe you any of it. Uh...where's if you tested and put in a new meter there. I know. I'm not quite sure which day. It was brand new.

W. ABSHIRE: Can I throw something in?

C. MASUDA: Mr. Chairman. Move to ask that it be allowed.

CHAIRPERSON TAKAMINE: Yes.

W. ABSHIRE: This is my...possibly...nobody knows for sure. Could have broken at night. Like I said, there's a lot of line. If it broke way up high, you wouldn't know it for days because it's only this lady and another older man living in that house and they don't use that much water. They wouldn't know for a long time because they would still have pressure from the line. Okay, so this could have been going on for a while and they wouldn't have known it until they realized, hey the water pressure is down, and they give me a call and I go over there and I fix it. So that's something to take into consideration.

D. DEROSA: And, yes, but I have not called you since the new pipes went in.

W. ABSHIRE: No, no, this is...I was talking about when it broke, before we fixed it.

C. MASUDA: Ms. Derosa, are you finished with your summation?

D. DEROSA: I think so.

C. MASUDA: Okay, Mr. Mukai, prior to us bringing closing argument, I would ask that the Board receive into evidence, Exhibits A to O that were submitted previously; and Exhibit O was submitted today, should there be appellant review. Ms. Derosa, do you have any objection to the exhibits being brought before the Board?

D. DEROSA: No.

C. MASUDA: Do you have any exhibits of your own that you want to bring before the Board?

D. DEROSA: I have my, um, two bills from purchasing the pipes.

C. MASUDA: Okay. If you want to hand that to Doreen. Do you have any objection?

J. MUKAI: For the record, can I have a description of what the document is?

C. MASUDA: It appears to be purchase of materials from Kona Irrigation Supply Ltd.

J. MUKAI: Dates?

C. MASUDA: 9/29/17 and 12/8/17, it appears that items were purchased.

J. MUKAI: Okay. Submit that.

C. MASUDA: Mr. Chairman, I'm gonna ask that our Secretary for the Board's hearing today mark these later on as Plaintiff's 1 and 2.

CHAIRPERSON TAKAMINE: Okay.

C. MASUDA: You have no objection to the publication?

J. MUKAI: No.

CHAIRPERSON TAKAMINE: Can I ask if there is any proof of installation date? Any sort of records?

C. MASUDA: You can...at this point, it's part of the...go ahead.

CHAIRPERSON TAKAMINE: Ms. Derosa, do you have any records or any proof of installation date? I would assume it's maybe not one day, but it's a period of time when the entire line was replaced? Do you have any proof of when the work was done and over what period of time?

D. DEROSA: Um...no.

W. ABSHIRE: Um, the pipe?

CHAIRPERSON TAKAMINE: Yeah.

W. ABSHIRE: 1,300 feet was put in, in a 24-hour period. We put in the first 700 feet one day and came in the next day and put in the other 600 feet; and then she had to order more pipe because I didn't feel it was enough. I wanted to get away from the nasty area.

J. MUKAI: What day was that?

W. ABSHIRE: That was in September, as far as the date goes.

CHAIRPERSON TAKAMINE: When was the final completion of the installation done?

W. ABSHIRE: According to Dianna, it was 12/15 is when we completed it. We did the really bad area with the 1,300 feet, and I told her I think we should extend it a little bit more.

CHAIRPERSON TAKAMINE: That's all the questions I had.

C. MASUDA: Based upon those questions, Mr. Mukai, do you have any questions?

J. MUKAI: Yes, Mr. Abshire, I have a couple of questions for you. You mentioned that you said according to Ms. Derosa, it was 12/15. Is that correct?

W. ABSHIRE: That's what her receipt says.

J. MUKAI: Okay, do you have a billing invoice that shows completion of the project?

W. ABSHIRE: Not at all. I only help her out one day a week for five hours and that's all.

J. MUKAI: Did you get any building permit or anything that would reflect the exact day that the work was installed and completed?

W. ABSHIRE: Nothing.

J. MUKAI: Okay. Do you have anything...any handwritten notes that say on December 15, I installed and completed the work on Ms. Derosa's property?

W. ABSHIRE: Nothing.

J. MUKAI: Okay. Thank you.

C. MASUDA: Ms. Derosa, based upon Mr. Mukai's question, do you have any other statement or questions?

D. DEROSA: Um, he did the work and I paid for it. And it was an honor system, and we've never had any problem with that. There was no reason for us to keep track of it. I had no clue this was going to happen.

CHAIRPERSON TAKAMINE: Is it okay if Leningrad...

C. MASUDA: Yeah, we're being ultra-casual and accommodating some...Mr. Elarionoff, go ahead.

L. ELARIONOFF: Okay, for the gentleman, in the final arguments, you came out and said that the piping had broken at night.

W. ABSHIRE: No, I said it could have. Nobody knows.

L. ELARIONOFF: Yeah, you said it could have. And this is after all the repairs.

W. ABSHIRE: No, no, no. After the repairs, no breaks.

L. ELARIONOFF: Uh...

W. ABSHIRE: I'm talking about the original break, which is why she wanted me to go fix it. We'd been talking about the fact that it needed to be replaced, okay. When I replaced that pipe, I didn't see any real bad breaks. As a matter of fact, I didn't see any.

L. ELARIONOFF: And you completed the repairs in September?

W. ABSHIRE: No, I put in the first 1,300 feet in September.

L. ELARIONOFF: And the second one?

W. ABSHIRE: In December. Another 400 feet.

L. ELARIONOFF: Okay, see, so in the final argument, you still said it may have broken at night.

W. ABSHIRE: Well, if you're talking about four hundred and some-odd thousand gallons worth of water, it would have had to have broken at some point in time. Could have been broken in the afternoon, in evening, nobody knows.

L. ELARIONOFF: Right. The point I'm trying to make is that if it did break, you the repair man would have known about it. It would not have been it *could* have broken.

W. ABSHIRE: No, no, no, I would not have known about it. The house is here; the line is way up here. She wouldn't have even known about it for days because of all the line pressure.

L. ELARIONOFF: My exact point.

W. ABSHIRE: But this was all before I put in the new pipe. Once we put in the new pipe, we haven't had any breaks, okay. So she got around to say I want new pipes. So we put them in.

L. ELARIONOFF: The question we have on the table is the meter reading for the 407,000 gallons.

W. ABSHIRE: Yes.

L. ELARIONOFF: So you're saying that when you said it may have broken at night, you're never talking about the 407,000 gallons?

W. ABSHIRE: Thing is, 407,000 gallons of water would have left a heck of a trace; and I've never seen any big marsh--407,000 gallons anywhere. And I've been up and down that hill many, many, many times. And there is no evidence of that much water. You would see if it was streaming out, you would...it would cut through the grass--it would leave a trail. You would see something. You would see some mud, you would see some rocks. You would see something.

L. ELARIONOFF: Well that's why I asked that other gentleman about how much water would leak in that.

W. ABSHIRE: Yeah. But there's no signs of anything like that.

L. ELARIONOFF: Well, I don't know what the terrain is like so I cannot tell you how it would be.

W. ABSHIRE: It's nasty. Really nasty.

CHAIRPERSON TAKAMINE: Okay. I think we're done with the questioning. Thank you.

C. MASUDA: Okay. At this time, Mr. Chairman, you have everything before you so it's time for you to decide unless you want to have...

J. MUKAI: Closing statements?

C. MASUDA: I thought you made yours. I'm sorry. Go ahead. Skipping ahead. Mr. Mukai does have opportunity to make a closing statement.

N. DOMINGO: I have one other question of...

CHAIRPERSON TAKAMINE: We're done with questioning already.

J. MUKAI: Okay. Thank you, Mr. Chairman and members of the Board. This is not a case of watering the lawn or showers. This clearly reflects, based on the evidence presented, that this was a leak, which was eventually repaired because based on the billing pattern, which began with the Exhibit J, which showed an abnormally high billing amount of \$2,350.00, the following bill went back down to \$60.00. This is a case where we've had testimony that the meter reads water that flows out of the meter. Based on the Board's Rules, the customer is responsible for the piping system and its maintenance and repair. It's like an odometer. Like if I leave for a vacation and I come back and my car has another 5,000 miles on it, I'm not gonna run and say oh something's wrong with the odometer. I'm gonna find out what happened, who drove my car. This is the same thing. And in this case, the Board actually went and took the meter and tested it; and based on the Board's testing of the meter, it was accurate and may have, in fact, underreported the actual amount of water. So, we would submit that based on the evidence presented, based on Board's Rules 3-17 and 3-27(3) that the appeal of Ms. Derosa be denied.

CHAIRPERSON TAKAMINE: Well, if I can call for a Motion to deny the appeal of Ms. Derosa.

W. BOSWELL: So move.

CHAIRPERSON TAKAMINE: Moved by Bill.

D. DE LUZ: Second.

CHAIRPERSON TAKAMINE: Seconded by David. Any discussion?

L. ELARIONOFF: Can you repeat the Motion please?

CHAIRPERSON TAKAMINE: The Motion is to deny the appeal by Ms. Derosa. David?

D. DE LUZ: Just a comment. It's just unfortunate that this particular situation, as far as the circumstances, you know, based on what we've been told today, and looking at the usage and what seems to be abnormal and normal use, evidently, there was a problem from the meter...excuse me...after the meter to the house. To the extent of what the repairs are, again, it's very unfortunate that...the Rules are clear. It is the property owner's responsibility for that portion. And if I recall correctly, there was a one-time adjustment made prior within a three-year period, again, which is in the Rules. Whether they're adequate or not, that's what we have to make our decision on, based on all the facts. The only thing I would hope to encourage is the Department work out in a payment plan with the party that could somehow financially be able to get her whole again as far as with the Department. But based upon the evidence performed, unfortunately, this is just a very unfortunate situation.

CHAIRPERSON TAKAMINE: Anybody else?

L. ELARIONOFF: Yeah, for me, as far as I'm concerned, preponderance of evidence said that the water did go through the meter. From testimony, I understand that there were no leaks. So if there were no leaks and the water went through the meter, it went to the house. There's no alternative, unless someplace in there, there was a theft involved where somebody cut the line and stole the 407,000 gallons. But there's no indication of that.

CHAIRPERSON TAKAMINE: Unfortunately, all we have is the data provided to us today. And so based off of that, that's why we're gonna vote on denying. But we do feel for you, Ms. Derosa.

L. ELARIONOFF: Call for the Motion.

CHAIRPERSON TAKAMINE: Okay. Any more discussion? (none) All in favor?

BOARD MEMBERS: Unanimous ayes.

CHAIRPERSON TAKAMINE: Any opposed? (none) Motion carried. Thank you.

C. MASUDA: Mr. Chairman, I would ask Mr. Mukai to prepare the Form of the Order, which will be sent to Ms. Derosa for review and comment.

(Ms. Derosa and Mr. Abshire left the meeting at 11:13 a.m.)

6) SOUTH KOHALA:

A. LĀLĀMILO WIND COMPANY - ANNUAL COMMITMENT TO PURCHASE BY DWS:

Chairperson Takamine stated that today, the Board will make a determination regarding Lālāmilo Wind Company’s assertion that the Department purchase at minimum, 8,000 Mwh per calendar year.

The Board anticipates convening an executive meeting, closed to the public, pursuant to Hawai‘i Revised Statutes, Sections 92-4 and 92-5(a)(4), for the purpose of consulting with the Water Board’s attorney on questions and issues pertaining to the Water Board’s powers, duties, privileges, immunities and liabilities with regards to the request made by LWC and its obligations under the Power Purchase Agreement.

Chairperson Takamine entertained a Motion to enter into Executive Session.

ACTION: Mr. Boswell so moved; seconded by Mr. De Luz and carried unanimously by voice vote. (The Board entered Executive Session at 11:15 a.m. and ended at 11:35 a.m.)

Chairperson Takamine stated that no oral testimony would be allowed at this time, and he called for a Motion finding that the DWS has adhered to the terms and conditions of the Power Purchase Agreements, including the first and second amendments.

MOTION: Mr. Boswell so moved; seconded by Mr. Scicchitano.

Chairperson Takamine asked if there was any discussion. There being none, he called for the Motion.

ACTION: Motion was carried unanimously by voice vote.

(Mr. Rolston left the meeting at 11:38 a.m.)

7) NORTH KONA:

A. JOB NO. 2018-1082 HONOKŌHAU DEEPWELL REPAIR – REQUEST FOR ADDITIONAL FUNDS:

The contractor, Beylik Drilling and Pump Service, Inc., is requesting additional funds for the additional work required for a motor shroud. The description of additional work and associated fees are as follows:

ITEM	DESCRIPTION	AMOUNT
1.	12” x 60’ motor shroud	\$26,350.00
2.	12”Ø x 1”T shroud hanger assembly	\$1,350.00

3.	Shroud motor centralizer	\$1,350.00
4.	Freight charges	\$2,000.00
5.	Labor for fabrication of motor shroud, hanger assembly, and centralizer	\$3,900.00
6.	Labor for shroud installation	\$1,500.00
	TOTAL	\$36,450.00

Original Contract Amount: \$ 119,000.00

Original Contingency amount: \$ 11,900.00

1st Additional Contingency request: \$ 24,550.00

Total Revised Contract Amount: \$ 155,450.00

The Manager-Chief Engineer recommended that the Board approve an increase in contingency of **\$24,550.00** to Beylik Drilling and Pump Service, Inc., for JOB NO. 2018-1082, HONOKŌHAU DEEPWELL REPAIR. If approved, the total revised contract amount shall be **\$155,450.00**.

MOTION: Mr. Boswell moved for approval of the recommendation; seconded by Mr. Sugai.

The Manager-Chief Engineer provided some background on this project. There was a separate material bid for the spare pump and motor; and the time that bid was put out, the understanding was that the shroud was not needed. Upon further evaluation, and after learning more from Brown and Caldwell on where that pump and motor is expected to be positioned in the casing, which will probably be in the perforated portion, a shroud would be better to provide proper cooling for the motor. The Department is now asking for additional funds to accommodate the need to install a shroud.

Mr. De Luz asked if the Department's recommendation is based on the consultant's report and the contract being updated with current information for this particular job.

The Manager-Chief Engineer replied that was correct.

Mr. Elarionoff noted from the Minutes of the last meeting, Page 15, third paragraph from the bottom, the very last line states, "...premium manufacturer for the standard equipment and the streamline equipment, including the shroud, would be around the same cost." In this one, there is no additional cost. He asked what the difference is.

The Manager-Chief Engineer stated that when the original material bid was put out for the spare pump and motor unit, if the Department had known it would be in the perforated portion, it would have ordered the whole assembly, including a shroud. However, at that time, it was not thought to be needed. At this particular stage in this repair project, the Department would rather put in a shroud and be safer, knowing it may not have proper cooling without one.

Mr. Inaba added that during the last meeting, there was a cost comparison between slim lines with the shroud to larger motors. That comparison was between two different motors.

ACTION: Motion was carried unanimously by voice vote.

8) MISCELLANEOUS:

A. DEDICATIONS:

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

1. GRANT OF EASEMENT AND BILL OF SALE

SUB. No. 15-001498

Grantor/Seller: Reba Mae Silva

Tax Map Key: (3) 8-1-016:013

Facilities Charge: \$5,350.00, Date Paid: 6/8/2018

Final Inspection Date: 5/16/2018

Water System Cost: \$65,000.00

2. GRANT OF EASEMENT

(For Fire Hydrant and Water Meter)

Grantor: Waiaha Ridge LLC

Tax Map Key: (3) 7-5-017:045

Facilities Charge: \$5,500.00, Date Paid: 11/16/2017

3. GRANT OF EASEMENT

(For Water Meter)

Grantor: Willow Plaza, LLC

Tax Map Key: (3) 1-5-007:069

Facilities Charge: \$220,000.00, Date Paid: 8/20/2018

Final Inspection Date: To be announced

Water System Cost: \$76,760.00

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. Boswell moved for approval of the recommendation; seconded by Mr. Sugai.

Mr. Inaba updated Number 3, Final Inspection Date, which should be August 27, 2018.

ACTION: Motion was carried unanimously by voice vote.

B. RESOLUTION NO. 2018-01, APPROVING RECEIPT AND EXPENDITURE OF MONIES FOR THE CONSTRUCTION OF DEPARTMENT OF WATER SUPPLY CAPITAL IMPROVEMENT PROJECTS (FUNDED BY THE DRINKING WATER STATE REVOLVING FUND):

DWS is submitting a loan application to fund Capital Improvement Projects with the Drinking Water State Revolving Funds (DWSRF). One of the prerequisites for the loan is a Resolution approved by the Water Board. This Resolution authorizes the Manager-Chief Engineer or the Deputy to execute loans and/or grants with the State Department of Health for up to \$7,000,000.00.

The Manager-Chief Engineer recommended that the Water Board adopt DRINKING WATER STATE REVOLVING FUND RESOLUTION NO. 2018-01, subject to the approval of Corporation Counsel.

MOTION: Mr. Boswell moved for approval of the recommendation; seconded by Mr. Sugai.

Mr. Elarionoff asked what it meant by “Be it Resolved that the Manager-Chief Engineer and the Deputy are hereby authorized to reduce and replace...” on Page 2.

The Manager-Chief Engineer replied it means to draw down. It is basically a revolving fund loan to cover what they call programmatic financing so instead of financing one specific project for a dollar amount, the Department of Health gives a total amount to use over various projects. As the money is used, it will be drawn down to reduce that \$7,000,000.00. The authorization by this body is to enter this program to utilize these funds. After that, the Department will get into a formal contract.

In response to Mr. Sugai’s question of whether the other islands are participating, the Manager-Chief Engineer replied they are utilizing this State Revolving Fund.

Chairperson Takamine asked what some of the more recent projects were that this fund was utilized for and what the benefits are.

Mr. Inaba stated that the Waimea Water Treatment Plant Upgrades and the Pi‘ihonua-Kukuau project were done individually; however, the new concept is to basically have a pot and have a list of projects. Each project needs approval to be on the list; but based on that, the Department can prepare one agreement and each project qualifies as the Department starts drawing down and submits requests for the loans.

The Manager-Chief Engineer added that the use of these funds is a benefit to the Board and its customers/rate payers by utilizing this source of funding which comes with a very low interest rate. It gives the opportunity to finance over a term at a great interest rate instead of providing cash for an entire project up front.

Mr. Sugai asked how repayment is figured out.

Mr. Sumada replied that repayment is usually over 20 years so once the money is borrowed or spent, an amortization schedule is set up where payments are made to the State twice a year.

Mr. De Luz asked how the balance sheet represents the revolving fund and if it impacts the Department's ability to get bond funding.

Mr. Sumada replied that the SRF loans show up in long-term debt.

Mr. De Luz asked if that meant only the amount borrowed and not the total revolving amount.

Mr. Sumada replied that was correct. Only the amount issued for the Department's projects shows.

Mr. De Luz asked if the debt reserves on the project are modified based on that long term.

Mr. Sumada replied that was correct.

Mr. Domingo asked why they are not all grants, which do not need repayment.

Mr. Uyehara explained that historically, it has been for loans but the Department has recently received grant portions for some of the projects through this SRF.

ACTION: Motion was carried unanimously by roll call vote (Ayes: 7 - Messrs. Sugai, De Luz, Boswell, Scicchitano, Elarionoff, Domingo, and Chairperson Takamine; 2 absent: Ms. Wilson and Mr. Balog).

C. MONTHLY PROGRESS REPORT:

Mr. Inaba reported that there are three projects out for bids now: Ka'ie'ie Mauka Facility Improvements; Wai'aha Water System Improvements - Transmission; and Waikoloa Reservoir No. 1 Earthquake Repairs. He noted a correction to the first project, which shows the bid opening on September 6, but it was pushed back to the 11th due to the office closure during Hurricane Lane.

Mr. Elarionoff asked about North Kohala Hala'ula Well Development Phase 2 where it indicates plans are being updated based on comments. He asked what those comments were.

Mr. Inaba replied that when plans come in from the consultant, the Department reviews and makes comments, although he could not say what specific comments were made to these plans. The engineer reviewing the plans would have more specific information. The same would go for the second project Mr. Elarionoff asked about, under South Kohala, the Puakō Waterline Replacement, shown as "plans revised and resubmitted."

In response to Mr. De Luz's question about the recent advent of natural disasters and rain, and potential claims made to FEMA, the Manager-Chief Engineer stated it is still in process and he would provide more detail under his report later in the Agenda.

D. REVIEW OF MONTHLY FINANCIAL STATEMENTS:

Mr. Elarionoff asked about consumption, shown on the first page, lacking from prior year, except for Ka'ū, and wondered what singled out Ka'ū.

Mr. Sumada replied that the Department compiles the consumption based on what is billed, but he was not sure about that difference.

The Manager-Chief Engineer stated he would have it looked at by Engineering and Operations to figure out the cause and report back to the Board.

Mr. De Luz thanked the Department for the last Audit Report and asked if the Department is in a new audit phase for the next year.

Mr. Sumada replied the auditors are currently conducting their field work for the Fiscal Year 2018 audit report. They will issue their report either December or January and make a presentation to the Board either February or March of next year.

Mr. De Luz asked about the rising interest rates and if the Department adjusts up or down if there is any impact to the debt service or if income is based on certificates of deposits. He wondered if there was any significant impact either way. It seems like there is a variance of "X" amount and then it is brought to the Board's attention.

Mr. Sumada replied that interest rates impact what the Department does with its spare cash.

E. 2018-2020 HAWAI'I COUNTY CHARTER COMMISSION:

Per letter of August 1, 2018, from Douglass Shipman Adams, Chair of the Hawai'i County Charter Commission to Craig Takamine, Chair of the Water Board, the Charter Commission seeks input from the Water Board as to how the County Charter affects its role and operations within the County, and any proposals it may have to amend the Charter.

Chairperson Takamine asked if anyone had comments.

Mr. De Luz stated that he believed the Charter's language was purposely intended to be the way it is to be able to create flexibility and a sense in time; in other words, what occurs now may be different 20 or 30 years prior or ahead, which is why the Department has Rules and Regulations that help if there are any necessary tweaks to how things are run. Although personally, he would like to see changes to the Charter, he thought it would constitute tweaking to the point where it creates more unintended consequences than it would resolve. Therefore, he would leave it status quo; and if the Department has issues, they can either be addressed per policy procedure or in the Department's Rules and Regulations.

Chairperson Takamine stated this was not something the Board needed to vote on. There were no further comments.

F. **MANAGER-CHIEF ENGINEER'S REPORT:**

The Manager-Chief Engineer to provide an update on the following:

1. North Kona Wells - ten wells are operational out of fourteen. The four in various stages of repair are: Honokōhau, Hualālai, Wai‘aha, and Palani. At this point, it looks like Honokōhau is going to be priority to get on line first. As mentioned previously, a gyroscopic alignment study was done; and thanks to Board action today, the Department will proceed with getting the shroud and has the well contractor standing by. Once the shroud comes in, installation of the new pump and motor will commence. Hualālai, Wai‘aha, and Palani wells are not quite as firm as far as their timeframes; however, they continue to be a high priority for completion.
2. Hawaiian Ocean View Well – the well is up and running and is being monitored closely. This well has additional supplemental monitoring equipment installed for additional tracking. It has been running well, even with the challenges faced in the area. The Department will continue its monitoring of Hawaiian Ocean View Well.
3. East Rift Zone Update – The Manager-Chief Engineer noted there was nothing to report as far as the lava is concerned since it has stalled. Because this report item contained reference to East Hawai‘i, he provided an update on the effects of Hurricane Lane on the Department’s systems. He thanked the Operations and Engineering personnel for their efforts during the storm. The Department had some situations in Pepe‘ekeo, Ka‘ie‘ie (on the Hāmākua side of Pāpa‘ikou), Laupāhoehoe, and in Hilo town. They all have been managed, except for Ka‘ie‘ie because the waters have not receded completely and personnel cannot conduct a full assessment yet. For now, the Department is hauling water to that system and waiting to see if the line was impacted from surface flows. Regarding FEMA, the Department is going to report all it has to them. They are putting some urgency on that and want the information by tomorrow. The Department will get them best estimates as much as it can by tomorrow. There are some things with Ka‘ie‘ie that will not be known for sure until getting into the affected area to assess the damage. There was a rumor that came into Civil Defense that the Department was shutting off the water in Hilo because of the rain. It is amazing how fast rumors spread.

Mr. Sugai asked if there were breakages in the lines.

The Manager-Chief Engineer replied some were assumed to be breaks in the line, like the one in Ka‘ie‘ie. Hopefully, that is all it is and not the entire intake washed away because that would be a bigger concern. For the break in Hilo that Mr. Inaba mentioned, there are lines that go across country and are not easily accessible because they are not on a County dedicated road. It is suspected to be a main break, but it is not

exactly known where or how bad. Fortunately, the water was rerouted around that section.

Going back to the report on the North Kona deep well repairs, Mr. Domingo asked if the Department might be able to implement some of Brown and Caldwell's recommendations, such as a bigger casing to allow sufficient flow or a gyroscopic alignment test.

The Manager-Chief Engineer replied those recommendations are all being incorporated; however, the Department cannot increase the casing size of the existing wells.

Mr. De Luz asked how much more capacity would be in the system once the wells are all operational and if there might be a direct correlation to revenue reported in Mr. Sumada's Financial Statements.

The Manager-Chief Engineer replied that as far as pumping capacity and more revenue, that may not necessarily be the case because consumption is consumption. It is just that the Department would have the ability to provide continuous water service.

Mr. De Luz asked if these last four wells, to some degree, are adding to the redundancy.

The Manager-Chief Engineer replied that was correct because the Department is currently meeting the needs with the ten wells on line. In response to Mr. De Luz's question if there have been any limitations on subdivisions or future development because of the wells being down, he replied that it has not been used as a factor in land use applications.

Mr. De Luz stated the reason he asked is because the island is in a growth spurt, and it is encouraging to hear that the Department is doing its best to accommodate that.

The Manager-Chief Engineer agreed. The Department is actually reducing some capacity but in exchange for better redundancy. At the same time, Engineering staff is working on additional infrastructure improvements like additional wells such as the Wai'aha No. 2 (North Kona Well No. 2) which will help the Department move water around more efficiently and have more redundancy of the transmission as well.

Mr. De Luz asked about the Waimea Water Treatment Plant, confirming that it is the Department's only surface source, and if there has been any increase in bacterial count since the new treatment system has been online.

The Manager-Chief Engineer replied that there has not been any increase and the system is doing what it was designed to do.

Mr. Elarionoff asked what the Department's level of confidence is that the shrouds will work in the well repairs. He has had a "sore stomach" about the situation with the wells and asked for a percentage of confidence that can be leaned on.

The Manager-Chief Engineer and Chairperson Takamine indicated they have a good level of confidence, and Chairperson Takamine added that he has a lot more now from when this situation began. Some of the things being implemented since the Brown and Caldwell's report have left him feeling much more confident.

G. **CHAIRPERSON'S REPORT:**

1. Chairperson Takamine thanked staff's efforts during the last storm. The storm almost felt like it would never end, and the volume of water over East Hawai'i was at record levels. He thanked staff for their efforts after hours in managing the operations of the Department, and their presence at the Emergency Operations Center. Those are the behind-the-scenes situations that the Board does not always realize. He thanked everyone for their hard work in making sure the water continues to flow.

He stated that he would like to see the process of electing the Board's 2019 Chairperson and Vice-Chairperson earlier than December and asked that elections be scheduled for November. If, for some reason there is no quorum, it could be continued to December. He also asked that the Manager-Chief Engineer's and Deputy's evaluation and compensation process be agendized for October and November and that the Department provide the same (updated) information to the Board as was requested last year.

2. Site visit to Waimea Water Treatment Plant (WWTP) - at its July 24, 2018, meeting, the Board voted to approve a limited meeting for a site visit to the WWTP pursuant to Hawai'i Revised Statutes §92-3.1(a)(1), as public attendance at the site would be dangerous or impracticable due to its status as an active construction site.

Chairperson Takamine asked if there is an opportunity to set the site visit to the Waimea Water Treatment Plant. Discussion followed regarding the meeting venues set for the rest of the year. The Manager-Chief Engineer recommended September or October for the site visit to Waimea. Noting that those two months are scheduled for Hilo, Mr. Masuda was asked if were possible to change the meeting place to Waimea. Mr. Masuda noted it would only require giving timely notice of the place of the meeting. The Chairperson will work with the Department to on meeting venues in Waimea, based on availability, for either September or October.

9) **ANNOUNCEMENTS:**

1. **Next Regular Meeting:**

The next meeting of the Water Board will be September 25, 2018, 10:00 a.m. - **location to be determined.**

2. **Following Meeting:**

The following meeting of the Water Board will be October 23, 2018, 10:00 a.m. - **location to be determined.**

10) **ADJOURNMENT**

ACTION: Mr. Boswell moved for adjournment of the meeting; seconded by Mr. Sugai and carried unanimously by voice vote.

(Meeting adjourned at 12:15 p.m.)

Recording Secretary