

**MINUTES**

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

November 23, 2021

Via Zoom/Host Location: Department of Water Supply, 345 Kekūanaō‘a Street, Suite 20, Hilo, HI

MEMBERS PRESENT: Mr. William Boswell, Jr., Chairperson  
Mr. Eric Scicchitano, Vice-Chairperson  
Mr. Michael Bell  
Mr. David De Luz, Jr. (10:02 a.m.)  
Mr. Steven Hirakami  
Ms. Julie Hugo  
Mr. Benjamin Ney  
Mr. Kenneth Sugai  
Mr. Keith K. Okamoto, Manager-Chief Engineer, Department of Water Supply (ex-officio member)

OTHERS PRESENT: Mr. J. S. Yoshimoto, Assistant Corporation Counsel  
Ms. Keyra Wong, Deputy Corporation Counsel  
Ms. Elizabeth “Britt” Bailey, Deputy Corporation Counsel  
Ms. Lerisa Heroldt, Deputy Corporation Counsel  
Ms. Alicia D. Wills  
Ms. Ann Hajnosz, Harris & Associates  
Ms. Karyn Johnson, Harris & Associates

Department of Water Supply Staff

Mr. Kawika Uyehara, Deputy  
Ms. Candace Gray, Waterworks Controller  
Mr. Kurt Inaba, Engineering Division Head  
Mr. Gregory Goodale, Chief of Operations  
Mr. William O’Neil, Jr., Water Service District Supervisor II  
Mr. Eric Takamoto, Operations Division  
Mr. Warren Ching, Energy Management Analyst  
Ms. Kathleen Isherwood, Water Service Program Supervisor  
Mr. David Mellom, Credit and Collection Clerk II

- 1) CALL TO ORDER – Chairperson Boswell called the meeting to order at 10:00 a.m. A roll call was taken for Water Board Members in attendance. Seven (7) members were present: Mr. Bell, Mr. Hirakami, Ms. Hugo, Mr. Ney, Mr. Scicchitano, Mr. Sugai, and Chairperson Boswell. (Note: Mr. De Luz joined the meeting at 10:02 a.m.)
- 2) STATEMENTS FROM THE PUBLIC - none
- 3) APPROVAL OF MINUTES:

ACTION: Mr. Ney moved for approval of the Minutes of the October 26, 2021, Public Hearing on the Power Cost Charge and the Minutes of the October 26, 2021, Regular Water Board Meeting; seconded by Mr. Scicchitano. There being no discussion, a roll call vote was taken. Motion carried by roll call vote:

Ayes -- 7 (Mr. Bell, Mr. Hirakami, Ms. Hugo, Mr. Ney, Mr. Scicchitano, Mr. Sugai, and Chairperson Boswell); and one absent - Mr. De Luz.

- 4) APPROVAL OF ADDENDUM AND/OR SUPPLEMENTAL AGENDA - none
- 5) CONTESTED CASE HEARING (NOTICED FOR 10:00 A.M.):

**Water Service Account No. 002-50001000-11**

The above Contested Case Hearing is to take 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 Alicia Wills' appeal of the proposed Shut-off Notice for Account No. 002-50001000-11 and the Department's Findings of Fact, Conclusions of Law and Decision after the Administrative Hearing held on September 29, 2021.

This hearing is being set pursuant to Ms. Wills' request of October 19, 2021, for the hearing to be held at the November 23, 2021, Water Board Meeting.

*THE FOLLOWING TRANSCRIPTION IS VERBATIM*

CHAIRPERSON BOSWELL: Moving forward into the Contested Case Hearing. So Ms. Wills, I'm sorry, Alicia...would that be better, or Ms. Wills?

MS. WILLS: Alicia is fine. I'm sorry, I'm not able to get my video to work so I'm just gonna to have to join you by voice.

CHAIRPERSON BOSWELL: That will work out, so we need you to state your name for the record please.

MS. WILLS: Alicia Wills.

CHAIRPERSON BOSWELL: Thank you. So Alicia, we give you the opportunity to make an opening statement. An opening statement is a general overview of what each party intends to prove in their presentation of the case; not the entire presentation.

MR. YOSHIMOTO: Mr. Chairman?

CHAIRPERSON BOSWELL: Yes sir.

MR. YOSHIMOTO: Hi, this is J Yoshimoto. If I could make a brief announcement prior to Ms. Wills beginning with her opening statement?

CHAIRPERSON BOSWELL: Okay.

MR. YOSHIMOTO: Okay, I just want to apprise Ms. Wills and members of the Board that today's contested case hearing is to take 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 issue involved in this hearing, as mentioned earlier, involves the shut-off notice for the account number referenced by the Chair. Again, this hearing is set pursuant to Ms. Wills' request and this is her opportunity to have her contested case hearing. I just wanted to say that for record, Mr. Chairman. She can proceed. Thank you.

CHAIRPERSON BOSWELL: Okay, could you give us your opening statement, please, Alicia?

MS. WILLS: Hello. We had a phone discussion about this situation with the water leak. It was determined that there was a leak which I was unaware of for a very long time. The person that your Department was reaching out to was not in their office the entire year of 2020 for COVID. This was my accountant, who was receiving our bills. I believe I was on auto draft and my payments were being deducted monthly so I wasn't really checking my water meter very often. I do know that the water meter was changed at one time because it wasn't registering water. There appears to be a leak which leaked out millions of gallons of water--more water than I've used the entire time I've had my contract with the Water Department. But I was unaware, which...it's a strange situation because any time I have a water leak, I immediately lose water pressure. I understand that nobody was sent to my home because of COVID restrictions, telling me that there was a big leak, that you guys were trying to reach my accountant or...I was aware of another leak that happened in July; and we immediately repaired that leak, but I didn't apply for an adjustment to my water bill because I was still unaware of the water leak that happened--I'm not even sure when that leak happened because I just see that there are three bills where one amount was very large and then the amount was less than the last reading, and then less than the last reading. I'm just here to ask you guys if you would consider making an adjustment to my amount owed because I never asked for an adjustment, even though your rules state that it's 30 days after the leak is fixed. I just wasn't aware of a leak until July, which we immediately fixed. But I didn't apply for an adjustment at that time because I wasn't expecting it to be so much water. But it really wasn't that leak that was the issue. It was the leak that I'm not even sure when occurred; and I'm not even sure...I'm not even absolutely positive that it was valid because my meter did have to be changed, which I was also not aware of, and if the meter had to be changed, how is it not possible that the meter didn't or wasn't calculating the correct amount of water use because the amount of water that was said to have leaked out...I don't know where it would have gone; and if it was in the same leak, then our entire street would have been a little swamp area.

CHAIRPERSON BOSWELL: Alicia?

MS. WILLS: Yes.

CHAIRPERSON BOSWELL: Can I remind you, you're gonna have a huge opportunity to discuss the details. It's coming up right away where you're gonna find yourself repeating a lot of this. If you could keep it to a general statement would be appreciated.

MS. WILLS: Okay. Well, the general statement is that I'm just here to ask if you would go beyond what is stated in your policy and regulations and allow an adjustment to my bill.

CHAIRPERSON BOSWELL: Thank you very much for that. I would like move forward now and ask who is representing the Department of Water Supply to make their opening statement.

MS. BAILEY: Good morning Chair and members of the Board. I'm Deputy Corporation Counsel, Britt Bailey, and Keyra Wong for the County of Hawai'i Department of Water Supply. We understand that the Board Members, as well as Ms. Wills, have received copies of our Witness List as well as our Supplementary Exhibit List; and we are ready to proceed today. First off, I'd like to thank you for the opportunity to present our case, supporting the Department of Water Supply's decision to deny Ms. Wills' request for reconsideration of the shut-off notice for Account 002-50001000-11. The Department will present the testimony of Ms. Kathleen Isherwood and Mr. David Mellon as well as documentary evidence to support its decision of September 29, 2021, in which the Department properly denied Ms. Wills' request for reconsideration of the shut-off notice. At the outset, Counsel for the Department recognizes Ms. Wills is appealing the administrative hearing and subsequent denial resulting from the shut-off notice

of September 7, 2021. That said, the primary issue, as Ms. Wills has just stated, appears to be her request that she be permitted to apply for adjustments under Section 3-10 of the Rules and Regulations of the Department of Water Supply. As a housekeeping matter, I just want to, because we're in a COVID situation, I do have Exhibits that I will be presenting to Ms. Isherwood as well as Mr. Mellom. If admitted into evidence, the State does have a sealed envelope. We will be placing those Exhibits, if the Board approves them being submitted into evidence, we will be placing these in the envelope, sealing them, and then we can leave them here so that they are part of the record. Thank you.

CHAIRPERSON BOSWELL: Alright. Thank you very much. Alicia, do you have a witness that you'd like to bring forward today?

MS. WILLS: I have no witness.

CHAIRPERSON BOSWELL: Okay. Then I'm gonna ask you do you solemnly swear or affirm that the testimony you are about to provide is the truth, the whole truth, and nothing but the truth?

MS. WILLS: I do.

CHAIRPERSON BOSWELL: Thank you.

MR. YOSHIMOTO: Mr. Chairman, before we proceed, one more thing...this is Mr. Yoshimoto again. Just want to say, for the record, that because Ms. Wills is the Appellant, she has the burden of proof; and this burden of proof is via preponderance of the evidence, which means more likely than not or more probably than not, so that will just provide notice to the parties and the Board. Thank you.

MS. WONG: Excuse me, Mr. Chair? This is Keyra Wong, Deputy Corporation Counsel. If I can just make a brief statement just to put on the record?

CHAIRPERSON BOSWELL: Okay.

MS. WONG: I did have a conversation with Ms. Wills this morning to see if we could attempt to resolve the matter. It wasn't resolved, but I think she had assumed that I was the attorney for the Board. So I just wanted to make clear, myself and Ms. Bailey, we represent the Department of Water Supply. Mr. Yoshimoto represents the Board. I have had no contact with the Board Members, and I solely represent the Department so I just wanted to put that on the record. Thank you.

CHAIRPERSON BOSWELL: Thank you. So at this point, Alicia, we are prepared for you to have direct examination of the Department of Water Supply. And I'm sorry, if my reading sounds a little bit stoic, I'm following a script and adapting to it as we go. Do you have questions for the Department of Water Supply Counsel?

MS. WILLS: The only question that I have is that if I was unaware that I only had 30 days to submit the documentation required in the proof of repair when there was a leak, I only had 30 days, how would I be able to make a request for consideration to adjust my bill and that I've never asked for an adjustment in the entire seven years that I've had all of my water accounts? That's it.

CHAIRPERSON BOSWELL: Thank you. And at this point, if Counsel is available to cross-examine Alicia?

MS. BAILEY: This is Britt Bailey. I'd just like to clarify that that is the end result of her direct or does she have more?

CHAIRPERSON BOSWELL: Have you finished your statement, Alicia?

MS. WILLS: I'm not even really sure what else I can say because like, if the burden of proof is on my end, how can I prove? I didn't see the meter that was repaired. I wasn't even aware the meter was repaired. I didn't take photographs of my water usage. I realize I'm just...what else can I say? So I have nothing else to say.

CHAIRPERSON BOSWELL: So, Counsel, do you have cross-examination of the witness?

MS. BAILEY: Yes Sir.

CHAIRPERSON BOSWELL: Thank you.

MS. BAILEY: Ms. Wills, when did you first become aware of high water consumption at your property?

MS. WILLS: I realized that we had a leak in July of 2020, and we immediately repaired that leak; and then I received a phone call from my husband who is on the mainland, and he told me that Mr. Mellom had been trying to get in touch with us and had not been able to; that he had left a few messages with our accountant, Ron Roberson, who did not relay any messages to us and I inquired with Mr. Mellom if there was such a large amount of water that was continuously leaking, why would they not just shut the waterline off if they were unable to reach us, and he said that due to COVID policies that they were not shutting off any water accounts and I just questioned why maybe the crew just didn't come to my address and ask if they were not able to reach us because there was no contact with our accountant, who is no longer our accountant because he's not...he's now closed. I realize that COVID was a difficult year for a lot of people, so my first realization that I had high water usage was my first phone call with Mr. Mellom, which was already 30 days after the repair of the leak in July. So it was already too late for me to apply for an adjustment to the account. I yield.

MS. BAILEY: Ms. Wills, isn't it true that you just stated that you first became aware of the high consumption on your July 2020 bill?

MS. WILLS: I first became aware of the high consumption when I had a phone call with Mr. Mellom because the leak that my sons repaired, I didn't realize that it was that high of an amount of water loss, which, you know, I had no way of knowing. A vehicle ran over the line and punctured and a rock punctured the line; but because there was a leak that we recognized immediately because the water pressure went down, we immediately fixed the leak in that same day. And I was not aware that I even had high water consumption because my accountant was not in contact with me because his office was shut down the entire year of 2020. But after of March of 2020, there was no contact.

MS. BAILEY: When did you have contact with Mr. Mellom for the first time?

MS. WILLS: It was after July. I believe it was like September or October.

MS. BAILEY: Did you request an adjustment to your water bill at that time?

MS. WILLS: I requested an adjustment...I asked him if I could, and he explained to me the process and then I spoke with my neighbor, who is an attorney, and he submitted a request of an adjustment, which was denied. It was denied because it was already after the 30 days that the water leak was repaired.

MS. BAILEY: And isn't it true, Ms. Wills, that you requested an adjustment in March of 2021?

MS. WILLS: If that is when you received the paperwork, that is when I requested the adjustment. I think that he submitted one and then I submitted one after he submitted one.

MS. BAILEY: Ms. Wills, the Counsel for the Department will be providing additional documentary evidence; but isn't it true that you authorized Ron Roberson to be your agent for Account 002-50001000-11, TMK No. 3-2-9-004-059?

MS. WILLS: I don't know that I authorized him to be my agent. I just was going to be working out of the country for a time and I wanted to have my bills paid by the accountant.

MS. BAILEY: Isn't it true that you contacted the Department of Water Supply and had your bills and billing statements sent to Mr. Ron Roberson?

MS. WILLS: It probably is true. I don't know that I contacted you, but I may have just...I may have contacted you with email or updated my account record. It is true. Mr. Roberson has always been a very good accountant, very responsible; but during the year of COVID, it just shut down his office.

MS. BAILEY: So that's the cross-examination I have. Ms. Wong may have additional cross-examination.

MS. WONG: I have a couple of questions, Mr. Chair.

CHAIRPERSON BOSWELL: Okay.

MS. WONG: Thank you. Ms. Wills, after you had contacted the Department to update your contact information to Mr. Ron Roberson, when did you contact the Department for any...did you ever contact the Department to update it after that?

MS. WILLS: I work seven days a week, and it's not something that was at the forefront of my mind.

MS. WONG: So would it be fair to say...

MS. WILLS: I don't know...I don't think that I remembered contacting Mr. Roberson. I actually was trying to contact Mr. Roberson all through the year of twenty...twenty-one. We even had back taxes that did not get filed and paid because his office was completely closed. So I was trying to get in touch with him, but I was not able to reach him. But I did not contact the Water Department to switch my account back over. I overlooked the detail.

MS. WONG: So is it fair to say that you changed your account contact information well after that in October of 2020?

MS. WILLS: I don't recall when I changed my contact information with Mr. Roberson. I went away to Europe the year before COVID, in 2019; and that is most likely whenever I changed my statements to be sent to him while I was gone. I returned to the mainland and then...at the very end...June, I was back in Europe working and I was there for an extended period because of COVID but I was able to return to the mainland in September, which is probably whenever I spoke with Mr. Mellom.

MS. WONG: Okay, and isn't it true that Mr. Mellom was able to establish contact with your husband because he had filed an email address from you online?

MS. WILLS: I don't know. I do know that he got in contact with my husband, but it was not long before I returned to the United States and Hawai'i.

MS. WONG: No further questions, Mr. Chair.

CHAIRPERSON BOSWELL: Alright, thank you. Alicia, you have this opportunity now to redirect your examination back to the Department. Do have any questions back to them at this time?

MS. WILLS: I understand you guys have policies. My question is that how might I be able to apply for an adjustment to my bill, even though I was unable to do it in the specified time allotted to do that?

CHAIRPERSON BOSWELL: Okay, thank you. At this point, if I understand correctly, we're gonna move forward to the Board Members and allow them to ask questions of the Appellant. Is that correct?

MR. YOSHIMOTO: Mr. Chairman, yes, the Board can ask questions. My understanding is we're still on the Appellant's case. She's still presenting her case. Is that correct?

CHAIRPERSON BOSWELL: Well, from my document here, that was the Appellant's redirect back to the response from the direct examination from the Department, and I may have misunderstood that.

MR. YOSHIMOTO: Okay, okay, so, yeah, the Board can ask questions at this time in terms of the testimony that was provided by the Appellant, and then after that, we're gonna proceed with the Department's case. Is that your understanding?

CHAIRPERSON BOSWELL: Yes, correct.

MR. YOSHIMOTO: Okay, that sounds good.

CHAIRPERSON BOSWELL: Okay, Board Members, I don't think many of you have been involved in these. I've been involved in several of them through the years. Think out your questions and please ask Alicia any questions that you may have for her.

MR. HIRAKAMI: I have a question. The last bill that we are able to see is the period ending 7/2020. That's where this amount totaled to \$18,000.00. Since that date to the present, has the water bill been current? Have you used water and have you paid for the water?

MS. WILLS: Yes I have and I've been making all of the bills. There was an amount where I received a large amount. I left it unpaid for several months, but I was still making the monthly...I mean, not the monthly, but the...it's not quarterly...it's the every two-month payment; and then I realized that some of the water from the one leak that my sons repaired wasn't really in question so I just recently paid that.

MR. HIRAKAMI: Okay. One more question. When you returned the checks, when you cancelled the checks...the two checks totaling \$13,000.00, you were aware that there was a leak at that time when you returned the check because the amount was huge?

MS. WILLS? I've never written a check for \$13,000.00 so when was that returned?

MR. HIRAKAMI: It says returned check 7/2/2020 and there was a return check charge of \$20.00 on that. And there was one returned check charge on 5/28/2020, and those are the ones that I see--the 5/28/2020 and the return check 7/2/2020. So on 5/28, where you cancelled the check, were you aware of the water leak?

MS. WILLS: No I wasn't and were these checks...they must have been checks, then, that Ron Roberson paid, because in five...or maybe my husband wrote those checks to try to just pay off the balance? Why they were returned or cancelled, I'm not aware because 5/28/2020, I was in France, working. Is it possible for you to see who signed the check that was returned? I mean, most of the...most often, I'm always set up on auto draft so it's possible if it was auto draft return, that maybe there is a balance amount that they just don't pay over. But on those two checks, I wasn't aware of the water leak.

MR. HIRAKAMI: Yeah, it shows that the amounts were fully credited so the bills got paid but then I see that it just might be an automatic return check but it might be a bank dispute or something like that. But the bills were paid on time, but they were returned on 5/28 and 7/2 on \$13,050.00, and there was a \$20.00 return check fee for each of them, that's why we came up to that balance, so...

MS. WILLS: I would imagine that that was probably more money than I had in my account and so it wasn't paid because they were set up on auto draft.

MR. HIRAKAMI: I have a question for the Department. The...Ms. Wills...Alicia Wills asked that why didn't the Department shut the water off. Normally, because of COVID we weren't shutting it off for non-payment of bills, I understand; but is it the Department's practice to shut off water meters that obviously have leaks?

MS. BAILEY: Thank you for the question. I'll defer to Ms. Isherwood to answer that question.

MS. ISHERWOOD: During COVID, we were not shutting off water for non-payment of water bills.

MR. YOSHIMOTO: Mr. Chairman, Mr. J Yoshimoto...if we could have Ms. Isherwood sworn in.

CHAIRPERSON BOSWELL: I'm sorry. I didn't hear you.

MR. YOSHIMOTO: Oh yeah, if we could have Ms. Isherwood sworn in because she's giving testimony to the Board.

CHAIRPERSON BOSWELL: Yes we can. Do you solemnly swear or affirm that the testimony you are about to provide is the truth, the whole truth, and nothing but the truth?

MS. ISHERWOOD: Yes.

CHAIRPERSON BOSWELL: Thank you.

MS. ISHERWOOD: Mr. Hirakami, may I ask you to repeat your two-part question?

MR. HIRAKAMI: What was that? Were you asking me to restate the question?

MS. ISHERWOOD: Yes sir.

MR. HIRAKAMI: Oh yeah, okay. I was uh...Alicia said that she kind of would expect the Water Department to shut off the water if there was obviously a big leakage. And she said that the Water Department wasn't shutting off on the water because of COVID, but I know the Department's policy was we wasn't shutting off water for non-payment of bills because of the COVID and we had kind of like an exemption during that time but I don't know the Department's policy on shutting off water if we

experience a huge consumption of water that is not taken care of so I just kind of wanted to ask that of the Department.

MS. ISHERWOOD: So during COVID, the Department was not shutting off water due to non-payment. In Ms. Wills' case, if you're asking because of her huge leakages, we will show later that we did go above and beyond to try to contact her; and there was even one portion where we had closed the water valve so that there wasn't any more loss of water usage. But in her case, you know, we're not just gonna shut off the water and then we have any kind of damages onto her property that we don't know about.

MR. HIRAKAMI: Thank you. That answered my question.

MR. NEY: Yes, Mrs. Wills, this is Benjamin Ney--Board Member. You know, I'm sorry about your situation. I'm a plumbing contractor. We've dealt with these issues before and they are time sensitive. So...and I've tried to help clients with getting hold of the Water Department, stuff like that; but the Department has never bent the rules for anybody that has had the situation because one concern I do have is it would create a precedent of allowing you exemption or special consideration, we would be in the position to then have everyone come and say, hey, that's preferential treatment. That's my concern with deviating from our policies there. One thing I do encourage you to do is be as proactive about either turning the water off when you're not around; there are different monitoring systems you can put out by your meter that would shut off your water in the event that the flow meter; in the event that something were to break. But the Department's responsibility ends at the meter. Anything upstream of that is solely your responsibility. I will encourage the Department to make sure we're explicit about the time sensitivity when it comes to resolution of the issue for the adjustment, but I do have very much concern because if we do adjust this, this is gonna fall on every other rate payer. The Department doesn't have ancillary revenue streams. We derive our revenue from selling water, and this would be absorbed cost by every other rate payer if we were to provide this adjustment. I would encourage you, if there is a recurring issue with water leaks, I tell people you need to be more proactive about monitoring your meter; get someone to go up there and look at it; but that responsibility does fall on you as the homeowner. So with that, I'll wrap it up if any other members have questions.

MR. DE LUZ: Mr. Chair? Oh sorry, go ahead.

MR. HIRAKAMI: Go ahead, David.

MR. DE LUZ: Thanks Steve. Mr. Chair, if I may?

CHAIRPERSON BOSWELL: Yes David.

MR. DE LUZ: So, well, you know, the rules, unfortunately, are very specific in this regard; and we, as a Board, need to manage this particular matter based on our Rules. We do not have the ability in the proceeding to change rules. We do, however, have the ability to request, and again, this is a request, that the...and I do believe that on behalf of the Department of Water Supply, that Deputy Corporation Counsel Wong made a good faith effort to resolve the issue. That is what I would highly suggest is please go back to the table and see if you can come up with some type of way to do that because if you're gonna be asking this Board to be able to bend the rules, unfortunately, the response will be we are not able to do that. It saddens me. I understand, well, I cannot understand, but I appreciate the situation you're in. It's just it's very unfortunate circumstances. But the remediation here is really to see...and of course, you know, the good faith has to be on both parties; but otherwise, this Board will have to take action on the recommendation to terminate or shut off service. Again, it's with heavy heart, but those, unfortunately, we have to deal with, and circumstances.

CHAIRPERSON BOSWELL: Thank you. Any other questions of the Appellant?

MR. HIRAKAMI: Yeah, Mr. Chair, in a compromise situation, not forgiving the \$18,000.00 but perhaps for her to keep the water on, to create a payment plan so that we can spread the \$18,000.00 over, say, six payments--that will cover a year? Or something like that so that, I think the issue is, you know, she pays the \$18,000.00 or she gets the water shut off, yeah, so I think that rather than shutting the water off, if she agrees to a payment plan that would be spread over a year, if she would be agreeable to that, I think that would be a compromise.

CHAIRPERSON BOSWELL: Okay, I would like to bring something up. Thank you, Steve. This portion of this process was for us to ask questions. There's gonna be two more opportunities for the Board to speak--once after Counsel has provided their witnesses and their cross-examination, and then we'll have one more time then again for the Board to make a decision at that time. I think in the third calling is when we can discuss any solutions or remedies or things we want to add to the story; but right now, we're staying pretty much to the facts. And if that's all the questions that we have of the Appellant, then I would like to have the Department to call their first witness.

MS. BAILEY: Thank you Chair. At the outset, again, Deputy Corporation Counsel, Britt Bailey, on behalf of the Department, being that this is an appeal from the September 29, 2021, Administrative Hearing, there were Findings of Fact, Conclusions of Law that were submitted, as well as a transcript that are part of our Exhibits A and B. At this time, the Department would like to place Exhibits A and B into evidence.

CHAIRPERSON BOSWELL: Acknowledged. Are you gonna be calling any witnesses?

MS. BAILEY: Yes sir.

CHAIRPERSON BOSWELL: Okay.

MR. YOSHIMOTO: Mr. Chairman, prior to your ruling on the request for admission, we should ask Ms. Wills if she has any objections to the request.

CHAIRPERSON BOSWELL: So noted. Alicia, do you have any objections to that request?

MS. WILLS: The...is it...are you able to see that I just recently paid over \$6,000.00?

CHAIRPERSON BOSWELL: So, Ms. Wills, we did receive all of the testimony. The Board Members did. And the findings--the facts and findings. We received all that about a week ago, so we've had the opportunity to review a pretty extensive...obviously, you've spent a lot of time explaining the situation in detail and then so we have seen all of that.

MS. WILLS: Correct. Okay, so it's not \$18,000.00 now. It's about half of that. But one of the...maybe the lady with Kathy (referring to Ms. Bailey) said that the valve was shut off. When was the valve ever shut off because my water has still been going this entire time. And I do appreciate you guys not shutting water off; but the amount of water that leaked, that is stated to have leaked out, I don't see how it could have or where it even was leaking. And how do we know that it's not the meter itself that had to be replaced?

MR. YOSHIMOTO: Mr. Chairman, would you like me to assist?

CHAIRPERSON BOSWELL: Yeah, I'm not sure that we're staying on the track of the protocol that I'm seeing in front of me, so yes, please.

MR. YOSHIMOTO: Okay. So Ms. Wills, the Chairman is requested, currently, by the Department's Counsel to admit Exhibits A and B that they submitted. You should have a copy of that. And so the Chairman is asking if you have any objections to the submission of those Exhibits into evidence.

MS. WILLS: I have no idea...sorry, I'm not familiar with all this...with these proceedings.

MR. YOSHIMOTO: No worries. So you have an opportunity to say either you're fine with it or you object; and if you do object, you then state the reasons for that, and then the Chairman would make a ruling on the request. So it's...you're fine with that?

MS. WILLS: Yes.

MR. YOSHIMOTO: Okay, go ahead, Mr. Chairman.

CHAIRPERSON BOSWELL: Thank you. Can we move forward with admitting that into the proceedings? So I would like to ask the Department to call its first witness. Who would that be?

MS. BAILEY: Ms. Kathleen Isherwood.

CHAIRPERSON BOSWELL: Ms. Isherwood, do you solemnly swear or affirm that the testimony you are about to provide is the truth, the whole truth, and nothing but the truth?

MS. ISHERWOOD: Yes.

CHAIRPERSON BOSWELL: Thank you very much. Proceed please.

MS. BAILEY: Please state your name, spell your last name, for the record.

MS. ISHERWOOD: Kathleen Isherwood. I S H E R W O O D.

MS. BAILEY: What is your occupation?

MS. ISHERWOOD: I am a Water Service Program Supervisor for the Department of Water Supply.

MS. BAILEY: Who is your employer?

MS. ISHERWOOD: Department of Water Supply.

MS. BAILEY: In your position, can you please describe your duties?

MS. ISHERWOOD: I supervise the Customer Service Section, the Billing Section, Credit and Collection Section, and the Meter Readers.

MS. BAILEY: As part of your duties as Water Service Program Supervisor, do you also oversee account records for consumers?

MS. ISHERWOOD: Yes I do.

MS. BAILEY: And are those account records also considered business records?

MS. ISHERWOOD: Yes.

MS. BAILEY: And do the business records of water consumers include billing statements?

MS. ISHERWOOD: Yes.

MS. BAILEY: And do the business records of water consumers include records of employees within the Department that contact water consumers via telephone?

MS. ISHERWOOD: Yes.

MS. BAILEY: Would the business records of water consumers include records of employees where...excuse me, do they also include records were water consumers, themselves, contact the Department of Water Supply?

MS. ISHERWOOD: Yes.

MS. BAILEY: Please describe, for the Board, the method that's used by the Department of Water Supply to verify the account holder when there is telephonic communication.

MS. ISHERWOOD: To make sure that we're speaking with our water account holder, we ask them to verify their mailing addresses and their phone number and their service address to their specific property.

MS. BAILEY: In your position, have you become familiar with the account records of Ms. Alicia Wills?

MS. ISHERWOOD: Yes I have.

MS. BAILEY: And specifically, have you become familiar with the Account 002-50001000-11 for Ms. Wills?

MS. ISHERWOOD: Yes.

MS. BAILEY: Why did you become familiar with the account record of Ms. Wills?

MS. ISHERWOOD: I was in an Administrative Hearing for Ms. Wills and I was also in the letter-writing to her first submittal from her attorney who requested for a partial leakage adjustment, which was denied.

MS. BAILEY: And what was the date that she first requested an adjustment to her water bills? (Ms. Isherwood looks through her notes) Would it have been March of 2021?

MS. ISHERWOOD: If that's the date that the attorney wrote the letter, then yes.

MS. BAILEY: And do Ms. Wills' account records include her billing statements?

MS. ISHERWOOD: Yes.

MS. BAILEY: Do Ms. Wills' account records include entries made when the Department has made contact or attempted to make contact with Ms. Wills?

MS. ISHERWOOD: Yes.

MS. BAILEY: And do Ms. Wills' records also include entries made when Ms. Wills has made contact with the Department of Water Supply?

MS. ISHERWOOD: Yes.

MS. BAILEY: How many consumer accounts does Ms. Wills have?

MS. ISHERWOOD: I believe a total of three.

MS. BAILEY: And again, Account No. 002-50001000-11, does that belong to Ms. Alicia Wills?

MS. ISHERWOOD: Yes.

MS. BAILEY: And is that account also attached to a specific piece of property?

MS. ISHERWOOD: Yes.

MS. BAILEY: What is the actual property address?

MS. ISHERWOOD: 29-3812 Kanna Road.

MS. BAILEY: When did the Department of Water Supply establish the Account 002-50001000-11 with Ms. Wills? (Ms. Isherwood looks through her notes) Do you believe it was in 2013?

MS. ISHERWOOD: I believe it was on that time, yes.

MS. BAILEY: At this time, I'm gonna hand Ms. Isherwood what's marked, for identification purposes, as Exhibit J. Ms. Isherwood, do you recognize Exhibit J?

MS. ISHERWOOD: Yes I do.

MS. BAILEY: Please describe for the Board, what is Exhibit J?

MS. ISHERWOOD: It is what we call our Account Comments where there's a communication between the Department and the Customer of anything that happens at the customer's property.

MS. BAILEY: Was this record, Exhibit J, was it made as part of the regular documents to the Department of Water Supply?

MS. ISHERWOOD: Yes.

MS. BAILEY: And was this record also kept in the course of regularly conducted business activity?

MS. ISHERWOOD: Yes.

MS. BAILEY: Does Exhibit J appear to be a fair and accurate copy of the Department's notations based upon a call from Ms. Alicia Wills on June 12, 2018?

MS. ISHERWOOD: Yes.

MS. BAILEY: Chair and Members of the Board, at this time, I would like to enter into evidence, request to enter into evidence, what is marked for identification purposes as Exhibit J.

CHAIRPERSON BOSWELL: I'm sorry, I was muted. Alicia, do you have any objections to that being admitted?

MS. WILLS: I do not. I have no idea what it is. I'm assuming it's to please contact Ron Roberson.

CHAIRPERSON BOSWELL: The Exhibit J is a detailed record of dates the person making the communication and the comments that were made. It's in the information package that we received.

MS. WILLS: 2018? I don't have any objection.

CHAIRPERSON BOSWELL: Okay. We'll accept that.

MS. BAILEY: Thank you.

MS. WONG: I'm sorry, Mr. Chair, this is Keyra Wong, Deputy Corporation Counsel, if I may interject?

CHAIRPERSON BOSWELL: Okay.

MS. WONG: Can we just confirm that Ms. Wills does have a packet of the Exhibits? That she has received them? I just want to make it clear on the record because we had mailed it to her.

MS. WILLS: You probably mailed it to me but I have to apologize because I work in agriculture. I work seven days a week, and I have no idea where any of that information is. And I'm...

MS. WONG: Ms. Wills?

MS. WILLS: Because it's very difficult to even keep up with everything that I'm doing. But I see that this is going really nowhere and I don't want to waste your time all day, plus I still have things to do so I suppose that, okay, you cannot make an adjustment to my water bill, even though I've never requested one from any of my accounts, that I recall. So just to save your time, how might I make this right?

CHAIRPERSON BOSWELL: Mr. Yoshimoto, could you speak on this? I see that the protocol is gonna be extensive. We're continually exposing Alicia to the same questions; they aren't going in her favor, obviously, and I don't prefer to see the emotional distress that we're seeing, so...I don't know if we can accelerate any of this or do we need to stay on track and just keep our conversations limited so that we don't drag the timeline out on this? But we should try to find something to get this on a correction.

MS. YOSHIMOTO: Thank you Mr. Chairman. You know, Ms. Wills requested this hearing. She has her rights to have this hearing today. At the same time, she also has a right...it's up to her how she wants to proceed with it. She has different options, I guess, at this point. So that's entirely up to her. I understand the concerns raised by the Chair. At the same time, the Department is still putting on its case so the better question to ask would be what...how does Ms. Wills want to proceed in light of what's happened thus far. One option is to proceed with the hearing as we're going now. If she wants to end the hearing at this point and, um...but the Board also has to weigh in. As far as whether the Board has heard enough evidence based upon the submissions, to be clear, the Department has not submitted, I don't think, all of its exhibits that it has intended to. That needs to be received into evidence. So what I'm trying to say is there's a way to finish the hearing without going through all of the witnesses, so to speak, but that's

up to the Department how they want to proceed as well and we should hear from Mrs. Wills as far as her thoughts on this as far as how we move forward.

CHAIRPERSON BOSWELL: Alicia, there's a strong desire for you to have your rights as their directive for you; but at this point in time, if you would like to make a statement on the direction you would like to take, we would be more than interested in having you speak.

MS. WILLS: Thank you. I appreciate that. And I can see that according to the rules and the guidelines, I am the person who is responsible for this water leak and not being more aware, so, I don't want to waste your day presenting all your evidence because the evidence is that, bottom line, I was really responsible; and my hope was just that you could make a consideration that it was the COVID year and that the person who was being contacted didn't get in touch with us; didn't get in touch with me. I was...I have...maybe you would consider visiting the property owner at their place rather than just submitting things in writing because when people are working a lot, a lot of times, things get overlooked, and that obviously falls...it's our responsibility, ultimately, so I don't know what else there is to present in this case.

MR. NEY: Request, and this is Ben, Board Member. Would it be easier if we could work out, like what Steve was saying, some...would it be more...I know it's not maybe financially feasible to pay the whole amount...

CHAIRPERSON BOSWELL: Ben, hold on a minute please. This is a legal proceeding, and we're a little bit out of context, so Alicia has the floor right now. There are opportunities later on in the conversation where the Board Members are going to discuss this again if we proceed forward per the protocols that were set. So we're asking Mr. Yoshimoto to converse with Alicia to determine if, or how this proceeding will continue on. If I understand Mr. Yoshimoto, he still needs all of the evidence accepted.

MR. NEY: Sorry. I'll withdraw. Thank you for the clarification.

CHAIRPERSON BOSWELL: No, that's fine. I understand everybody's passion to be compassionate, and I do too.

MS. WILLS: Let's submit the evidence please.

CHAIRPERSON BOSWELL: Is that acceptable to you, Mr. Yoshimoto?

MR. YOSHIMOTO: I'm sorry, Alicia, what did you say as far as the evidence is concerned?

MS. WILLS: You need to have it. Let's please submit the evidence that you have found.

MR. YOSHIMOTO: Okay, yeah, it's not me; but the Board is hearing the evidence being presented by yourself and the Department so we're still in the midst of that. I just have the concerns raised by the Chair and I just wanted to make sure that you understand your ability to take a position and state how you feel about this case. The key factor here, I guess, is if you want to proceed or continue with the hearing, then we can do so. It's up to the Department as far as how they want to present the evidence. Keeping in mind that this is your opportunity to have your appeal being heard. Again, I don't advise you. I advise the Board, but I also want to make sure that you have your rights heard today. So I guess what I'm asking is if, and it's really up to the Department, too, how they want to proceed, Mr. Chairman. I would suggest that you ask the Department if they have any thoughts on this question of how we're gonna continue with the hearing today. Yes?

CHAIRPERSON BOSWELL: Okay, Counsel, in light of Mr. Yoshimoto's comments and Alicia's comments, how do you see it that we can move this forward, find some closure for Alicia, not continue to have this be such an emotional situation that it's not fair to drag it out; but we defer to you, how would you like to proceed with this?

MS. WONG: Mr. Chair, Keyra Wong, Deputy Corporation Counsel. On behalf of the Department, in protecting the Department's responsibility today, I would say that unless the contested case hearing, the request is withdrawn, I have a duty to represent the Department and provide the Board with all the evidence on behalf of the Department and to do that, we need to submit exhibits through two of our witnesses and at that time, Ms. Wills will have the opportunity to cross-examine the witnesses and question the exhibits but that's the Department's position is that it is her (indiscernible)...although she does have the (indiscernible), in order to protect the Department and create a solid record, my responsibility would be to submit evidence through my witnesses.

CHAIRPERSON BOSWELL: So Alicia, it's still all in your court. You can make the decision, as Keyra stated, to withdraw the request or I can assure you, we have all the time in the world to have due process to do this. I just don't think it's fair to drag you through it. So it kind of comes up to you.

MS. WILLS: Uh... (long pause)

MR. YOSHIMOTO: Ms. Wills, do you need a few minutes to kind of gather your thoughts maybe and...?

MS. WILLS: Yes, that would be helpful.

CHAIRPERSON BOSWELL: Why don't we call a five-minute recess. Is that acceptable?

MS. WILLS: Thank you.

CHAIRPERSON BOSWELL: Thank you.

(RECESS: 11:03 a.m. to 11:09 a.m.)

CHAIRPERSON BOSWELL: (Noting that Ms. Wills returned to the meeting) Here she is right here. There we go.

MS. WILLS: Thank you. And I found my documents.

CHAIRPERSON BOSWELL: Yes.

MS. WILLS: Okay. Let's proceed. If you'd like to continue entering your evidence, your findings of fact.

MS. BAILEY: Chair, I just want to make clear that Ms. Wills would prefer to proceed with the evidentiary hearing, then?

MS. WILLS: Yes.

MS. BAILEY: And Exhibit J has been entered into evidence.

CHAIRPERSON BOSWELL: Agreed. Thank you.

MS. BAILEY: Why did Ms. ... those are...describe Exhibit J.

MS. ISHERWOOD: It's a record of a conversation or any happenings with the account holder, Ms. Wills, at the property; and it's a conversation of what she felt was happening with the accounts.

MS. BAILEY: And did Ms. Wills contact the Department of Water Supply on June 12, 2018?

MS. ISHERWOOD: Yes.

MS. BAILEY: And did she request that Mr. Ron Roberson be her agent for purposes of accepting mail and approving statements for Account 002-50001000-11?

MS. ISHERWOOD: Yes.

MS. BAILEY: What is the address Ms. Wills provided as her new mailing address for billing statements on June 12, 2018?

MS. ISHERWOOD: To change the address to c/o Ron Roberson, CPA, 8207 Ithaca Avenue, Suite B, Lubbock, Texas 79423, with a telephone number of (806) 791-3306.

MS. BAILEY: After that change was made on June 12, 2018, were mailings, including her billing statements, sent her, being Ms. Alicia Wills, sent to the address of Mr. Ron Roberson at that Texas address?

MS. ISHERWOOD: Yes.

MS. BAILEY: And for the period from June 12, 2018, through January 2020, did Ms. Wills' bills get paid in full?

MS. ISHERWOOD: Yes.

MS. BAILEY: At this time, providing Exhibits C through H, Ms. Isherwood, and marked for identification purposes, starting with Exhibit C, do you recognize Exhibit C?

MS. ISHERWOOD: Yes I do.

MS. BAILEY: What is Exhibit C?

MS. ISHERWOOD: It's a statement of the water bill.

MS. BAILEY: And which statement is that?

MS. ISHERWOOD: This is for the bill period from November 26, 2019, through January 23, 2020.

MS. BAILEY: And does Exhibit C appear to be a fair and accurate copy of the billing statement from Ms. Wills' Account 002-50001000-11?

MS. ISHERWOOD: Yes.

MS. BAILEY: And is that for bill date January 24, 2020?

MS. ISHERWOOD: Yes.

MS. BAILEY: And would this bill have been mailed and sent to the mailing address on record to Mr. Ron Roberson in Lubbock, Texas?

MS. ISHERWOOD: Yes.

MS. BAILEY: At this time, I'd like to place what's marked as Exhibit C into evidence.

CHAIRPERSON BOSWELL: Do you have any objections to that, Alicia?

MS. WILLS: I do not.

CHAIRPERSON BOSWELL: It's accepted?

MS. WILLS: It's accepted.

MS. BAILEY: Thank you. In regards to Exhibit C, under Meter Number in the top left, please describe those entries.

MS. ISHERWOOD: There was a meter change during this bill period. The meter that was existing there from November 26, 2019, up until January 10, 2020, it was not working properly so we had it changed out; put another meter number in there that went into her meter box from January 10, 2020, to January 23, 2020, for this billing statement.

MS. BAILEY: And then that the water meter; and I'm assuming it's the water meter ending in 217 that was replaced?

MS. ISHERWOOD: Yes.

MS. BAILEY: And then that the water meter was not working, was Ms. Wills charged for any water during the period of November 26, 2019, through January 10, 2020?

MS. ISHERWOOD: No, she was just charged for the Standby Charge.

MS. BAILEY: And is that Standby Charge the \$40.40?

MS. ISHERWOOD: Correct.

MS. BAILEY: And the meter that was placed on her property after January 10<sup>th</sup>, does that end in Number 681?

MS. ISHERWOOD: Yes.

MS. BAILEY: And currently, is the meter on her property, does it end in 681?

MS. ISHERWOOD: Yes.

MS. BAILEY: Does the bill at Exhibit C, the billing statement, does that include a notice of high water consumption?

MS. ISHERWOOD: Yes.

MS. BAILEY: And when would Ms. Wills have had to apply for adjustments pursuant to Rules and Regulations of the Department of Water Supply, Section 3-10, from submission of this bill to her?

MS. ISHERWOOD: Within 60 days. Repairs within 30 days and apply within 60 days after billing.

MS. BAILEY: Turning now to what's marked for identification purposes as Exhibit D, do you recognize Exhibit D?

MS. ISHERWOOD: Yes I do.

MS. BAILEY: What is Exhibit D?

MS. ISHERWOOD: It's a billing statement for her account from the bill period January 23, 2020, to March 24, 2020.

MS. BAILEY: And does Exhibit D appear to be a fair and accurate copy of the billing statement for Account No. 002-50001000-11 for that period that you just described?

MS. ISHERWOOD: Yes.

MS. BAILEY: At this time, we'd like to place Exhibit D into evidence.

CHAIRPERSON BOSWELL: Alicia, is that acceptable to you?

MS. WILLS: Yes, it's acceptable.

CHAIRPERSON BOSWELL: Accepted. Thank you.

MS. BAILEY: Turning to Exhibit D, does that include a previous balance for the January bill?

MS. ISHERWOOD: Previous balance, yes.

MS. BAILEY: And when I say January, I'm speaking of January 2020.

MS. ISHERWOOD: Yes.

MS. BAILEY: And was the bill for January 2020 paid in full?

MS. ISHERWOOD: Yes.

MS. BAILEY: And what were the charges for the period of that January 23, 2020, through March 24, 2020?

MS. ISHERWOOD: The current charges was \$6,664.80.

MS. BAILEY: Does that billing statement also include a notice of high consumption?

MS. ISHERWOOD: Yes it does.

MS. BAILEY: And when would Ms. Wills have had to apply for adjustments to what's marked as Exhibit D pursuant to the Rules and Regulations of the Department of Water Supply, Section 3-10?

MS. ISHERWOOD: Within 60 days of this billing.

MS. BAILEY: So that would have been approximately the end of May 2020?

MS. ISHERWOOD: Correct.

MS. BAILEY: Turning to Exhibit E, do you recognize Exhibit E?

MS. ISHERWOOD: Yes I do.

MS. BAILEY: What is Exhibit E?

MS. ISHERWOOD: It's a statement of her water bill for March 24 through May 20, 2020.

MS. BAILEY: And does it appear be a fair and accurate copy of the billing statement for Account No. 002-50001000-11?

MS. ISHERWOOD: Yes.

MS. BAILEY: On Ms. Alicia Wills from the period March 24, 2020, through May 20, 2020?

MS. ISHERWOOD: Yes.

MS. BAILEY: And would this bill have been placed in the mail and sent to the mailing address on record in Lubbock, Texas?

K. ISHERWOOD: Yes.

MS. BAILEY: At this time, I'd like to place Exhibit E into evidence.

CHAIRPERSON BOSWELL: Is that acceptable Alicia?

MS. WILLS: Acceptable, yes.

CHAIRPERSON BOSWELL: Accepted. Thank you.

MS. BAILEY: Turning to Exhibit E, does Exhibit E include a notice of high consumption?

MS. ISHERWOOD: No it does not.

MS. BAILEY: Describe for the Board why Exhibit E does not include a notice of high consumption.

MS. ISHERWOOD: Because the computer is already thinking that because she had the two previous high bills that this has become a normal amount of water at this stage for the account.

MS. BAILEY: And as of the end of the billing statement for Exhibit E, was the previous bill in the amount of \$6,664.80, was that paid?

MS. ISHERWOOD: Yes.

MS. BAILEY: And what was the total amount on the bill for period ending, or the bill date May 26, 2020?

MS. ISHERWOOD: \$6,365.74.

MS. BAILEY: And when would Ms. Wills have had to apply for adjustments pursuant Rules and Regulations of the Department of Water Supply, Section 3-10 for Exhibit E?

MS. ISHERWOOD: Within 60 days of the bill.

MS. BAILEY: Turning to Exhibit F, do you recognize Exhibit F?

MS. ISHERWOOD: Yes I do.

MS. BAILEY: What is Exhibit F?

MS. ISHERWOOD: It's a statement of a water bill from May 20 through July 21, 2020.

MS. BAILEY: And does Exhibit F appear to be a fair and accurate copy of the billing statement for Account 002-50001000-11, bill date July 23, 2020?

MS. ISHERWOOD: Yes.

MS. BAILEY: And would this bill have been placed in the mail and sent to the mailing address on record in Lubbock, Texas?

MS. ISHERWOOD: Yes.

MS. BAILEY: At this time, I'd like to place Exhibit F into evidence.

CHAIRPERSON BOSWELL: Is that acceptable, Alicia?

MS. WILLS: It's acceptable. Yes.

CHAIRPERSON BOSWELL: It's approved. Thank you.

MS. BAILEY: Turning to Exhibit F, the previous balance of \$6,365.74, describe what occurred with that payment.

MS. ISHERWOOD: That's a previous balance from her bill and it had not been paid. She was on automatic bill payment and it does show that that checks were returned for insufficient funds and there was a charge block on her account for previous balances that were paid and assessed \$20.00 return check fee from the Department.

MS. BAILEY: And then in regards to the previous balance of May 28, 2020, can you describe for the Board those entries?

MS. ISHERWOOD: So the May 28, that was also another returned automatic bill payment for insufficient funds that was returned and was assessed for a \$20.00 charge back fee.

MS. BAILEY: What was her balance forward for the billing date of July 23, 2020?

MS. ISHERWOOD: It was \$13,070.54.

MS. BAILEY: And what were her charges on her July 23, 2020, bill?

MS. ISHERWOOD: \$5,108.12.

MS. BAILEY: And does Exhibit F include a notice of high consumption?

MS. ISHERWOOD: Not it does not.

MS. BAILEY: And describe for the Board why was it not including notice of high consumption.

MS. ISHERWOOD: Because the computer is stating that she has had previous high consumption and is looking at that as her normal water usage.

MS. BAILEY: And if Ms. Wills had wanted an adjustment on the July 23, 2020, bill, when would she have needed to apply for that pursuant to the Rules and Regulations of the Department of Water Supply, Section-3-10?

MS. ISHERWOOD: Within 60 days of the bill.

MS. BAILEY: Turning to Exhibit G, do you recognize Exhibit G?

MS. ISHERWOOD: Yes I do.

MS. BAILEY: What is Exhibit G?

MS. ISHERWOOD: It's a statement of her water bill from July 21 through September 22, 2020.

MS. BAILEY: And does it appear to be a fair and accurate copy of the billing statement for Account No. 002-50001000-11, bill date 9/24/2020?

MS. ISHERWOOD: Yes.

MS. BAILEY: At this time, the Department would like to place Exhibit G into evidence.

CHAIRPERSON BOSWELL: Is that acceptable, Alicia?

MS. WILLS: It's acceptable, yes.

CHAIRPERSON BOSWELL: Accepted. Thank you.

MS. BAILEY: Turning to Exhibit G, what was the balance forward on Ms. Wills' account, Exhibit G.?

MS. ISHERWOOD: \$18,178.66.

MS. BAILEY: And did it also include the current charges as of September 24, 2020?

MS. ISHERWOOD: Yes it did.

MS. BAILEY: And what were those charges?

MS. ISHERWOOD: \$334.86.

MS. BAILEY: Turning now to Exhibit H, do you recognize Exhibit H?

MS. ISHERWOOD: Yes I do.

MS. BAILEY: And what is Exhibit H?

MS. ISHERWOOD: It's a statement of her billing for September 22 through November 23, 2020.

MS. BAILEY: And does Exhibit H appear to be a fair and accurate copy of the billing statement, bill date November 24, 2020, for Account No. 002-50001000-11?

MS. ISHERWOOD: Yes.

MS. BAILEY: At this time, I'd like to place Exhibit H into evidence.

CHAIRPERSON BOSWELL: Is that acceptable, Alicia?

MS. WILLS: Yes.

CHAIRPERSON BOSWELL: Accepted. Thank you.

MS. BAILEY: Please describe the balance forward of Ms. Wills' account for Exhibit H.

MS. ISHERWOOD: Previous balance is \$18,513.52.

MS. BAILEY: And where was this particular bill sent?

MS. ISHERWOOD: This, she had changed her address. It was sent to P.O. Box 333 in Hakalau.

MS. BAILEY: And the previous billing statements we've gone through, where were those bills sent?

MS. ISHERWOOD: They went to c/o Ron Roberson, CPA, in Lubbock, Texas.

MS. BAILEY: Turning now to Exhibit K, do you recognize Exhibit K?

MS. ISHERWOOD: Yes I do.

MS. BAILEY: What is Exhibit K?

MS. ISHERWOOD: Exhibit K is a call detail screen of the high reading call, the follow-up call was placed to the account of 50001000-11.

MS. BAILEY: And was this record made as a part of the regular practice of the Department?

MS. ISHERWOOD: Yes.

MS. BAILEY: And was this record kept in the course of your yearly conducted business activity?

MS. ISHERWOOD: Yes.

MS. BAILEY: And does Exhibit K appear to be a fair and accurate copy of the Department's notations based upon a call to Ms. Wills' designated agent, Mr. Ron Roberson?

MS. ISHERWOOD: Yes.

MS. BAILEY: At this time, I'd like to place Exhibit K into evidence.

CHAIRPERSON BOSWELL: Is that acceptable, Alicia?

MS. WILLS: Yes.

CHAIRPERSON BOSWELL: Accepted. Thank you.

MS. BAILEY: Ms. Isherwood, please describe to the Board the significance of Exhibit K.

MS. ISHERWOOD: One of our field crew workers went to verify the reading at the property. They noticed that there was 12 gallons per minute going through the meter. We spoke with Mr. Ron Roberson and he had stated that the amount of water coming through could be for new plantings but he wasn't sure but he would have someone to check on the farm site on the property. And we advised, also, Mr. Roberson, at that time, that this usage had been continuing from the last bill.

MS. BAILEY: Was this contact made with Mr. Ron Roberson in Exhibit K, is this sort of near the beginning of Ms. Wills' high usage?

MS. ISHERWOOD: Yes it was.

MS. BAILEY: And would this have been pursuant to the January bill or would this have been the March bill?

MS. ISHERWOOD: This would have been for going into the March bill.

MS. BAILEY: Turning now to what's been marked for identification purposes as Exhibit N, do you recognize Exhibit N?

MS. ISHERWOOD: Yes I do.

MS. BAILEY: What is Exhibit N?

MS. ISHERWOOD: It's a water shut-off notice for non-payment of bills that was sent to the customer.

MS. BAILEY: And does Exhibit N appear to be a fair and accurate copy of the shut-off notice sent to Ms. Wills on September 7, 2021?

MS. ISHERWOOD: Yes.

MS. BAILEY: Was the shut-off notice in compliance with the Rules and Regulations of the Department of Water Supply, Section 3-11(2)?

MS. ISHERWOOD: Yes.

MS. BAILEY: At this time, I'd like to place Exhibit N into evidence.

CHAIRPERSON BOSWELL: Is that acceptable, Alicia?

MS. WILLS: Yes.

CHAIRPERSON BOSWELL: Accepted. Thank you.

MS. BAILEY: At this time, Ms. Wong will be receiving testimony from Mr. Mellom.

CHAIRPERSON BOSWELL: Mr. Mellom, do you solemnly swear or affirm that the testimony you are about to provide is the truth, the whole truth, and nothing but the truth?

MR. MELLOM: Yes I do.

CHAIRPERSON BOSWELL: Thank you.

MS. WONG: I'm sorry, Mr. Chair, this is Keyra Wong, Deputy Corporation Counsel. I think if Ms. Wills has questions, she can ask Mr. Isherwood about the testimony that she just gave, before I move on to Mr. Mellom.

CHAIRPERSON BOSWELL: Okay. We got ahead of ourselves. Alicia, would you like to ask any questions back in response to that?

MS. WILLS: Did you receive any correspondence from Ron Roberson from the bills and statements and shut-off notices that were submitted to him?

MS. ISHERWOOD: No.

MS. WILLS: That's the only question.

CHAIRPERSON BOSWELL: Thank you.

MS. BAILEY: Chair, if I may redirect?

CHAIRPERSON BOSWELL: Okay.

MS. BAILEY: Ms. Isherwood, was there contact with Mr. Ron Roberson in March of 2020?

MS. ISHERWOOD: Yes there was.

MS. BAILEY: Nothing further.

MR. YOSHIMOTO: Mr. Chairman, so does Ms. Wills have any other questions or cross-examination for the witness?

CHAIRPERSON BOSWELL: Alicia, are you okay or do you have more you'd like to ask?

MS. WILLS: No, that's the only question was that they received any response from Mr. Roberson.

CHAIRPERSON BOSWELL: Thank you. No additional questions. Do we want to proceed with Mr. Mellom now?

MS. WONG: Mr. Chair, yes, permission to proceed?

CHAIRPERSON BOSWELL: Thank you. Mr. Mellom, do you solemnly swear or affirm that the testimony you are about to provide is the truth, the whole truth, and nothing but the truth?

MR. MELLOM: Yes I do.

CHAIRPERSON BOSWELL: Thank you. Please proceed.

MS. WONG: Thank you Chair. Mr. Mellom, would you please state and spell your last name for the record.

MR. MELLOM: My last name is Mellom; it's spelled M E L L O M.

MS. WONG: And who is your employer?

MR. MELLOM: My employer is the Department of Water Supply, County of Hawai'i.

MS. WONG: And what is your job title?

MR. MELLOM: Credit Collection Clerk II.

MS. WONG: Could you briefly describe for the Board, your job please, as a Credit Collection Clerk II?

MR. MELLOM: I monitor water service accounts for delinquency, I make phone calls to customers, I receive phone calls from customers in regards to delinquent accounts, I initiate shut-off notices, I write off some age receivables, I do payment plans and make payment arrangements for customers, I do transfers of balances from final accounts to open accounts.

MS. WONG: And when you make or receive these phone calls either to or from the customer, is it customary for you to keep a phone log?

MR. MELLOM: Yes it is.

MS. WONG: Is this record or phone log considered a record of the Department?

MR. MELLOM: Yes.

MS. WONG: How is information recorded in this log?

MR. MELLOM: It's a record of calls that customers make to the Department and calls that the Department makes to the customers.

MS. WONG: In your capacity as a Credit and Collection Clerk, did you become familiar with a water account for Ms. Alicia Wills?

MR. MELLOM: Yes.

MS. WONG: Is that account number 022(sic)-50001000-11?

MR. MELLOM: Yes it is.

MS. WONG: The phone call log that we previously discussed, is there one that's associated with her account?

MR. MELLOM: Yes there is.

MS. WONG: Turning your attention to what's been marked for identification purposes as Exhibit I, do you recognize this document?

MR. MELLOM: Yes I do.

MS. WONG: What is it?

MR. MELLOM: It is a call log for the water service for Alicia Wills, Account No. 50001000-11.

MS. WONG: Is this call log kept in the course of a regularly conducted business activity of the Department?

MR. MELLOM: Yes it is.

MS. WONG: And does Exhibit I appear to be a fair and accurate copy of a document that includes information and call history for Ms. Wills' account ending in -11?

MR. MELLOM: Yes it does.

MS. WONG: Mr. Chair, move to admit Exhibit I into evidence.

CHAIRPERSON BOSWELL: Sorry, I'm talking on mute again. Alicia, do you have any objections to Exhibit I?

MS. WILLS: No I don't.

CHAIRPERSON BOSWELL: Thank you. Accepted. Thank you.

MS. WONG: Thank you. Mr. Mellom, under the Notes column in the call history, there's a note column, all the way far to the right, what are you logging there?

MR. MELLOM: It's just a general description of the call. That's all.

MS. WONG: And under the second column, it says "logged by," there are entries made "D. Mellom." Is that you?

MR. MELLOM: Yes it is.

MS. WONG: And for this account record associated with Ms. Wills' account, how many times did you make entries on the call log?

MR. MELLOM: Looks like nine times.

MS. WONG: Okay. Starting August 3, 2020, could you describe what that call entry was for?

MR. MELLOM: I made a phone call and left a message at the number that we had on the account at that time.

MS. WONG: And whose number did you have on the account at that time?

MR. MELLOM: I think that was the number for Ron Roberson.

MS. WONG: So Mr. Ron Roberson?

MR. MELLOM: Yes.

MS. WONG: And why did you call him and not Ms. Wills?

MR. MELLOM: The account information was...well that was the only contact person available at that time on the account.

MS. WONG: Okay, and on August 3, 2020, when you made the call, were you able to talk to Mr. Roberson?

MR. MELLOM: No, I just left a message.

MS. WONG: Do you recall the substance of the message you left?

MR. MELLOM: It would have been...I would have called, stating my name, where I was calling from, I would have referenced the water service address for the customer I was calling in reference to, and I would have left my return number and asked for Ron to return my call.

MS. WONG: And what's the purpose of that call?

MR. MELLOM: I wanted to make contact because of the unpaid balance on the water service.

MS. WONG: Is it common practice for you to regularly call customers when their accounts are in arrears?

MR. MELLOM: Yes.

MS. WONG: Moving to the next entry, August 11, 2020, you called Mr. Roberson again and left a message?

MR. MELLOM: Yes I did. I'm sorry, was there a question?

MS. WONG: What was the purpose of that call on August 11, 2020?

MR. MELLOM: Well, I did not receive a call back so I made another attempt.

MS. WONG: And on September 2, 2020, again you called and left a message. Is that accurate?

MR. MELLOM: Yes.

MS. WONG: So is it accurate to say that between August 3, 2020, and September 2, 2020, you did not receive a call back from Mr. Roberson?

MR. MELLOM: That's correct.

MS. WONG: Okay, turning your attention to the next entry--September 29, 2020, it says under your note you added a phone number. Is that accurate?

MR. MELLOM: Yes.

MS. WONG: Can you describe the circumstances that lead to you adding a phone number to the account?

MR. MELLOM: Because I think I was getting desperate in trying to trying to contact somebody because the balance was getting large. I did a little kind of fishing for some information and I went online and I found an email address which I suspected belonged to Alicia so I sent a quick email hoping somebody would respond and it was Mr. Wills who ended up responding to that email, giving me a call; and he gave me an updated phone number. At that time, that phone number was for him.

MS. WONG: And who is Mr. Wills?

MR. MELLOM: I believe that is Alicia's husband.

MS. WONG: Turning your attention to what's been marked for identification purposes as Exhibit L, do you have Exhibit L in front of you?

MR. MELLOM: Yes I do.

MS. WONG: And do you recognize this document?

MR. MELLOM: Yes.

MS. WONG: What is it?

MR. MELLOM: It is a call log for that phone call dated September 29, 2020.

MS. WONG: And is that the phone call that you had with Mr. Wills?

MR. MELLOM: Yes it is.

MS. WONG: Does Exhibit L appear to be a fair and accurate copy of your notes based upon that phone call on September 29, 2020?

MR. MELLOM: Yes.

MS. WONG: Mr. Chair, move to submit Exhibit L into evidence.

CHAIRPERSON BOSWELL: Alicia, do you have any objections to that?

MS. WILLS: No, I don't.

CHAIRPERSON BOSWELL: Thank you. Accepted. Thank you.

MS. WONG: Thank you. Mr. Mellom, your notes say "Dr. Matthew Wills return call from email sent to an email address." Is that the email address you had found online?

MR. MELLOM: Yes it is.

MS. WONG: Why did you go looking for an email address online?

MR. MELLOM: Well, the balance was getting quite large and, like I said, I was getting kind of desperate to try to do something about it; and at that time, we were not allowed to disconnect services so I was just trying to find somebody to contact to try to do something about it.

MS. WONG: And in fact, Mr. Wills did call you.

MR. MELLOM: Yes.

MS. WONG: Going back to Exhibit I, there's a couple other entries. On March 10, 2021, there are two entries there. One says "received message" and the other says "called Alicia." Is it accurate that Ms. Wills called you, left a message, and that same day, you had returned her phone call around 2:27 p.m.?

MR. MELLOM: Yes, that's correct.

MS. WONG: And what did you tell her when you called her back?

MR. MELLOM: Well, off the top of my head, I think we spoke about the current situation of that account at the time, which had the returned payments and a balance of around \$18,000.00.

MS. WONG: At that time, did she let you know that she was out of the country?

MR. MELLOM: That she had been out of the country during that time, yes.

MS. WONG: Did you provide any other information to Ms. Wills about possible assistance she could seek?

MR. MELLOM: I would have offered a payment plan at the time or either offered some assistance. If she asked about possible assistance, I might have referred her to the County website because at that time, during the COVID time, there were different programs that were offering assistance to customers with utilities.

MS. WONG: As a prior to March 10, 2021, but between the conversation you had with Mr. Wills, you didn't have any other conversations with Ms. Wills?

MR. MELLOM: No.

MS. WONG: Did you have any other conversations with Mr. Wills?

MR. MELLOM: No.

MS. WONG: Turning your attention to what's been marked for identification purposes as Exhibit M, do you recognize this document?

MR. MELLOM: Yes. It's a call log for...dated October 12, 2020.

MS. WONG: And that would have been a log of a conversation you had with Ms. Alicia Wills on October 12, 2020?

MR. MELLOM: Yes.

MS. WONG: Okay, so you did have a conversation with Ms. Wills?

MR. MELLOM: On October 12.

MS. WONG: Okay. Does it appear to be a fair and accurate copy of your notes based on that phone call?

MR. MELLOM: Yes.

MS. WONG: Mr. Chair, move to admit Exhibit M into evidence.

CHAIRPERSON BOSWELL: Is that acceptable to you, Alicia?

MS. WILLS: Yes.

CHAIRPERSON BOSWELL: Accepted. Thank you.

MS. WONG: Thank you. Mr. Mellom, what was the purpose of that phone call?

MR. MELLOM: The purpose of the phone call was to discuss the past-due balance on the account.

MS. WONG: At that time, all of the billings were sent to Mr. Ron Roberson at the address in Texas?

MR. MELLOM: Yes.

MS. WONG: And whose responsibility is it to update contact information on an account?

MR. MELLOM: Well, the customer should inform us of their current mailing address.

MS. WONG: Mr. Me...um, did you ...ticipate in Administrative Hearing, September (indiscernible)?

MR. MELLOM: Can you repeat the question? You broke up there.

MS. WONG: Sure. Did you participate in the Administrative Hearing on September 29, 2021?

MR. MELLOM: I did not.

MS. WONG: Is there anything else you'd like the Board to be aware of today?

MR. MELLOM: No.

MS. WONG: Okay. Did everything you testified today occur in the County and State of Hawai'i?

MR. MELLOM: Yes.

MS. WONG: Thank you, Mr. Chair, no further questions.

CHAIRPERSON BOSWELL: Thank you. I would have to ask at this time, Alicia, do you have any questions for the Department of Water Supply?

MS. WILLS: I don't have any questions. Mr. Mellom, thank you for researching and finding a way to contact my husband; and it is our responsibility to update our records, as the customer. It's just been a very challenging year, but I have no further questions other than do you know what my balance that I now owe is?

MR. MELLOM: Off the top of my head...I'm not looking at that current information...I don't know it off the top of my head, no.

MS. WILLS: Okay, thank you.

CHAIRPERSON BOSWELL: Mr. Yoshimoto, I just need to get myself on track here, so at this time, are we going to allow the Board Members to ask questions based on the comments that were just made?

MR. YOSHIMOTO: Yes, with respect to the Department's witnesses, yes. Are those all the witnesses for the Department?

MS. WONG: Yes, those are all the witnesses. Thank you.

MR. YOSHIMOTO: Okay, so, yes, Mr. Chairman. Yes.

CHAIRPERSON BOSWELL: Okay, thank you. Board Members, keeping in mind this is questions related to the comments that were just made by Counsel or by Alicia. Does anybody have anything that they would like to bring up at this time?

MR. HIRAKAMI: I do, Chair. I was wondering if we could get an answer to Alicia's last question--what is the current balance of the account?

MS. BAILEY: Thank you for that question. Britt Bailey on behalf of the Department. We would need a quick recess to get her current account balance. Counsels do recognize Ms. Wills recently made a payment of \$4,300.00. I don't have the exact amount, but I believe her current balance is somewhere in the \$14,000.00 range.

CHAIRPERSON BOSWELL: Is that sufficient, Steve?

MR. HIRAKAMI: Um, that's sufficient. So it would be about \$14,000.00, right, you said, round about?

CHAIRPERSON BOSWELL: Yeah.

MR. HIRAKAMI: Because she paid \$4,000.00, and \$4,000.00 was to chip off some of that past-due balance, I would assume.

MS. BAILEY: Yes, my understanding is that payment has been made since she requested the contested case today.

MR. HIRAKAMI: Okay. Thank you.

CHAIRPERSON BOSWELL: Any other Board Members have a question?

MR. NEY: Yes, quick question. There is no interest that gets tacked on for late payments after a certain time period so this bill is not accumulating any extra costs? And then also, Ms. Wills, would you be agreeable just to...if we can accommodate...if we can't accommodate your request...to work out a payment plan that's feasible for you?

CHAIRPERSON BOSWELL: So, Ben, we're still not at that point in the juncture yet, so your questions are supposed to be related to the comments that were made from Counsel and then the comments that Alicia made back to Counsel. We'll have an opportunity again over time.

MR. NEY: Okay. The first part of my question, then, is there any interest that gets figured in for late payments before it gets turned over to a collection?

MS. ISHERWOOD: So from the Department's standpoint, during the whole time that we were under the COVID situation, which was approximately from March of 2020 up into this past year of June, we were not charging any customers any interest/late fees at all. Going forward, whatever late fees are on the account will be only for the current outstanding bill if not paid on time.

MR. NEY: Thank you.

CHAIRPERSON BOSWELL: Are Board Members all satisfied at this point? Okay. Moving forward, Alicia, this is your opportunity to have a rebuttal to the Department's last comments that came from Keyra.

MS. WILLS: Okay. The only thing that I can add is that during the period of high leakage when my bills were being sent to Mr. Roberson, most of them were paid until it reached the amount...I mean, there was one for \$1,038.74--it was paid; \$1,279.54 which my only average water consumption bill would be less than \$200.00 on average; and then another bill that was paid, \$6,664.80, that was returned, so the amount was \$13,050.54--looks like that's when my automatic pay draft stopped paying the bills. So it was impossible for me to apply for an adjustment to the bill because I was having the bill sent to Mr. Roberson who just wasn't reachable during COVID; and I wasn't aware, just trying to juggle many different things, being in the agriculture business. I did not update my records, but I wasn't able to apply for an adjustment because I didn't even know the leak occurred until 2021. That's all that I have.

CHAIRPERSON BOSWELL: Okay. Thank you. And once again, for the Board, related only to the comments that were just made by Alicia, do you have any questions of her at this time?

MR. NEY: Question regarding when you just noticed the bill in 2021, I just...I'm curious how it was...so it was three billing cycles that you had these outrageous amounts and no one brought this to your attention? I know...nothing was brought to your attention concerning that?

MS. WILLS: I misspoke. I actually was aware of the large bills October 12, 2020. That's when I spoke with Mr. Mellom, but September 29, my husband had talked to Mr. Mellom; and, no, I wasn't aware of the amount--nobody brought the amount to my attention because I was just not paying attention with finances because I was under the impression that my accountant was handling these things and it was still within a normal range and I just wasn't able to keep up with it.

CHAIRPERSON BOSWELL: Are you satisfied, Ben?

MR. NEY: Yeah, yeah, that suffices. I was just curious. It was quite a...it was 180-day span of time so I just needed that clarification. Thanks.

CHAIRPERSON BOSWELL: Alright, thank you. Any other comments from the Board Members? If not, we're gonna move forward into the evidentiary portion of the hearing and move on to closing arguments. Alicia, you have the floor at this time. This will be your closing arguments.

MS. WILLS: Well, the only thing, I've already stated what I could. I wasn't aware until October of 2020 that I was even behind in my water payment account. I have a very high credit score because I like to always make sure everything is paid on time. So I appreciate you being here for this time, but I really don't have anything else to add.

CHAIRPERSON BOSWELL: Thank you very much. And now for the Department, your closing statement, or closing argument?

MS. BAILEY: Thank you Mr. Chair. Thank you Board. Following the September 29, 2021, Administrative Hearing, the Department of Water Supply properly denied Ms. Wills' challenge to the shut-off notice, finding that Ms. Alicia Wills and/or her authorized agent was given notice of high consumption and/or received billing statements to the address of record regarding high consumption, pursuant to Section 3-10(6) of the Rules and Regulations of the Department of Water Supply. Ms. Wills failed to timely apply for the adjustment for her water bills in question as required by Section 3-10(6) of the Rules and Regulations of the Department of Water Supply. Ms. Wills currently remains in arrears for her non-payment of past bills, spanning essentially a six-month period commencing in early January of 2020, recognizing, of course, that she has recently made a payment of \$4,300.00. Pursuant to Section 3-11(a)(2) of the Rules and Regulations on July 7, 2021, the Department sent Ms. Wills written notice of her payment delinquency with a due date of July 21, 2021. Due to her record of non-payment following the written notice, a shut-off notice was sent to the address of record on September 7, 2021. In this matter, based on the evidence that's been provided by the Department, it is evident the Department of Water Supply worked diligently to contact Ms. Wills at the address and telephone numbers of record, not only because of the continual high consumption, but also in regards to her mounting charges. We respectfully request that you uphold the September 29, 2021, decision of the Department, following the Administrative Hearing that was held on September 29, and deny Ms. Wills' request for reconsideration. When I speak for myself, as well as for Ms. Wong, that I believe the Department is open to a payment plan and is interested in maintaining her account being open and not having to shut it off, is currently seeking the arrears payment that is owed to the Department. Thank you so much for this opportunity. Nothing further from me. I pass it to Ms. Wong to see if she has any additional comments.

MS. WONG: Thank you Ms. Bailey and thank you Mr. Chair, Board Members, I don't have anything further to add.

CHAIRPERSON BOSWELL: Okay, thank you. At this time, I would like to ask for a Motion to affirm the decision of the Department or to reverse, modify, or demand the Director's decision. Motion please?

MR. DE LUZ: This is David, so move.

CHAIRPERSON BOSWELL: Second please?

MR. SUGAI: This is Ken. Second.

MR. YOSHIMOTO: Mr. Chairman, what's the Motion?

CHAIRPERSON BOSWELL: The Motion was to affirm the decision of the Department or to reverse, modify, or demand the Director's decision.

MR. YOSHIMOTO: Okay, so Mr. De Luz said "so move," but I'm not sure which of the options he chose.

CHAIRPERSON BOSWELL: No, we did not choose an option at this point; we go into open discussion and then...

MR. YOSHIMOTO: Okay.

CHAIRPERSON BOSWELL: We're okay? Okay, it's up to us, now, the Board, to move forward with this.

MR. HIRAKAMI: Chair, is there...

CHAIRPERSON BOSWELL: Go ahead, Steve.

MR. HIRAKAMI: Steve Hirakami, yeah. Is there any way to add to the Motion that we will continue water service contingent upon setting up a payment plan with Ms. Wills that's favorable to both parties? Can we add that to the Motion?

CHAIRPERSON BOSWELL: Yeah, that's the avenue that's already been opened up. As a result of our vote, the Manager will send a certified copy of the Decision and Order to the party; and that would be the closing of our activities. So we make a decision like you're referencing with a payment plan, we agree on that, we vote on it, and then from that, those findings become our record, as I understand it. Is that correct, Mr. Yoshimoto?

MR. YOSHIMOTO: Um, yes, so just to be clear for the Board Members, normally when you make a Motion, it's a Motion to do a certain action, so what the Motion is on the floor right now, is open-ended so recommendation from myself would be that the Board, through its discussion or...we'd need to decide which...what action is it doing--is it affirming the Department, is it reversing, modifying any of those options, right, so sounds like this whole thing here is a preliminary Motion just for the purposes of discussion but once Board Members have decided which Motion they want to decide, then we do it at that point.

MR. NEY: If this is discussion, then I think we should affirm the Water Department's decision or argument in this and give her a flexible payment option. If anyone feels different, then they should go ahead and chirp in.

CHAIRPERSON BOSWELL: So, Ben...

MR. DE LUZ: Mr. Chair, point of order please?

CHAIRPERSON BOSWELL: Yeah, we're gettin' out of control. Okay, so go ahead, David.

MR. DE LUZ: Yeah, so, so, if I understand the Motion, we're at discussion, and so we have the capacity to decide what we would like to do, should our discussion lead to that path. Is that...?

CHAIRPERSON BOSWELL: Right, and at the end of the discussion, then we'll have a Motion again to make a determination in the case. Correct, Mr. Yoshimoto?

MR. YOSHIMOTO: Yes.

CHAIRPERSON BOSWELL: Okay. So we're open for discussion. We're not making a Motion yet. We'll have our discussion, and then we'll have a Motion to make the decision with our vote.

MR. DE LUZ: Mr. Chair, a question to Mr. Yoshimoto. So J, do we need to vote on this Motion and then...?

MR. YOSHIMOTO: Uh, no, you...okay, let's take a step back. You know, where we have a discussion, there should be a Motion pending on the floor because I've never seen an open-ended Motion like that because, like I said, the Motion needs to tell the Board, as well as the party, which way you're going, so the Motion currently, I'm not comfortable with because it's kind of telling we're deciding among three things. You know, Robert's Rules basically says we need to have some Motion pending before the Body so you know what you're discussing. So any discussion that's happening now needs to be based on what direction the Board is inclined to go with. That doesn't mean you can't change it because you can. That's why I was kind of uncomfortable with the Motion as stated because it doesn't give anybody a direction as to which way we're going. So in other words, if the Board is not ready to make a Motion, that's fine, too, because the Board can still ask questions, then when someone's ready to make a Motion, they state it so, and then the discussion is focused on that Motion.

MR. DE LUZ: Mr. Chair, would you feel more comfortable if I withdrew my first and the second and then we have...?

CHAIRPERSON BOSWELL: Yeah, I would. We'll start all over again, and I won't read, verbatim, what was provided to me.

MR. DE LUZ: So, Mr. Chair, I withdraw my first Motion.

MR. SUGAI: And I withdraw my Second.

CHAIRPERSON BOSWELL: Okay, moving forward now, can we have a Motion to discuss the findings from today's case?

MR. NEY: So move, Ben.

MR. HIRAKAMI: That's not the Motion he was looking for.

MR. DE LUZ: Yeah. So I'll make the Motion, Mr. Chair.

CHAIRPERSON BOSWELL: Okay.

MR. DE LUZ: I move that the Board considers modifying the recommendation of the Department, i.e. to include, and not limited to, leaving her water service on, payment plans or as such to get this (indiscernible).

SECRETARY: I could not hear that properly. Kind of broken up.

MR. DE LUZ: Um, so I move to mo...excuse me...to not...essentially is the last part of the Department's recommendation is to continue to working with the client to be able to keep her service on and to work out some type of payment for the arrears. So my recommendation of the Department, I'm asking is that it be modified to that Motion. Does that make sense, Doreen?

CHAIRPERSON BOSWELL: J, you're gonna have to speak on that.

MR. YOSHIMOTO: Yeah, so my understanding is...go ahead, sorry...so my understanding is the Motion is to affirm the Department's decision with the modification that there be a payment plan established and I recommend we establish a timeframe. I heard one year. I think that would be a good Motion. And to continue the water service in the meantime. Is that correct, Mr. De Luz?

MR. DE LUZ: It is in regards to the Motion. As far as the time, though, J, can we leave that up to the Chief Engineer as far as his discretion?

MR. YOSHIMOTO: Um, we could, except, you know, maybe the better approach would be to ask the Department of Water Supply, since we're here, what they think is reasonable. That way, they would not need to come back and ask for additional authority in case they are not able to work it out. In other words, you could say one year, you could say five years; and I don't think that's fair to any of the parties, so how's about that?

MR. DE LUZ: So, so, we'll go with your recommendation on the Motion, then, as stated.

MR. YOSHIMOTO: So before we receive the Second, and I recommend that we ask the Department as far as the payment plan issue, whether they have any concerns or recommendations as far as the parameters for that.

MANAGER-CHIEF ENGINEER: Uh, this is Keith Okamoto, Manager-Chief Engineer, Department of Water Supply, County of Hawai'i. One-year timeframe is acceptable for the Department. Thank you.

CHAIRPERSON BOSWELL: Can I ask Alicia in advance does a one-year timeframe seem acceptable to you?

MR. YOSHIMOTO: Yes, ask her. Yes.

MS. WILLS: It's possible. Two years would be better, but one year is possible.

CHAIRPERSON BOSWELL: Do we have a neutral ground, Keith, would you accept eighteen (18) months?

MANAGER-CHIEF ENGINEER: I think I would like some input from Fiscal to see if that would cause us any challenges as far as some of our accounting processes. So at this time, I would like to see if we could ask Candace if 18 months would pose any challenges as far as...Candace you're on mute.

MS. GRAY: I don't foresee any additional challenges on extending it to 18 months.

MR. HIRAKAMI: Um, to be transparent, could we state if we are collecting interest on that? I don't think we're gonna charge the late penalty, but is there gonna be interest and at what rate? And also, we'd like to get a confirmation from Alicia that that would be agreeable to her.

MS. WILLS: Well, I won't make, off of my agriculture at this property, what I'm required to pay for the water bill, for the water leak that I wasn't aware of, which I understand is not your responsibility. So either way, it's not gonna help my situation at all. I'm probably going to be finished with farming. If there would be a consideration that you could forgive of making adjustment to my bill based on previous water consumption. That's it.

CHAIRPERSON BOSWELL: Alright, thank you.

MR. HIRAKAMI: I hate to use a term that's water under the bridge, but I think that we don't have the capability as a Board, we don't have that capability as previously stated; but we would like to make it manageable, especially being a life-long agriculturist, I really think that we need to sustain agriculture in this County; and if your water use is for agriculture, we'd like to make it agreeable to you so if you would have a counter-offer on what you could do and then that would be presented to the fiscal managers and the Chief Engineer and if they accept, then we can make a Motion to reflect what you can afford. I certainly wouldn't want to put an agricultural business out of business.

MS. WILLS: I believe that we did make a counter offer of 10% back in March, but it wasn't accepted.

MS. HUGO: When you say 10%, is that \$1,800.00 on an \$18,000.00 bill?

MS. WILLS: Yes ma'am. Because it's water that I actually did not use. It really is water...it's not under the bridge; it's water in the rocks because I had no idea that there was a water leak or I would have addressed it immediately.

MR. HIRAKAMI: Yeah but as far as all the water charges, the power charges that the Department has absorbed, we need some sort of payment for that because otherwise, the County and the people...the other water bill payers, have to consume that loss so I want to say that I think that what we're offering you is what to pay...the \$14,000.00 in full to add to your bill what would be a reasonable...and if you ask for two years, I would add \$1,000.00 to your bill, and you've paid that before...um...\$1,200.00, \$1,008.00 and that wouldn't break the bank and that's over two months period so I don't know if the Board wants to go that far but we're trying to make a reasonable payment plan so you don't go out of business but then we recover the power consumption that the Department has already paid for, so I don't think we can accept a cut or any decrease of what is due of the \$14,000.00 but we're willing to work with you on that payment so, um, I think spread out over two years, that would be every bi-monthly bill, it would add about a little over \$1,000.00 to it and so your regular consumption is like \$200.00 your bill would be \$1,200.00 every two months which I hope you're growing an ag crop that can sustain that...cover that.

MR. NEY: Quick question...Ben. Keith, would you guys be inclined to let her pay off with the principle and not have her incur the interest? Would that be agreeable to you guys if she does make those payments in good faith over an agreed-upon timeframe?

MANAGER-CHIEF ENGINEER: Um, well first of all, I do want to say that, you know, we do empathize with our customers' situations. We're not trying to be, as you can see by the evidence presented, you know, we've made over and beyond, I think, attempts to make contact. But going back to your question, Ben, I think we need to stay within the boundaries of our Rules and Regulations and stay consistent with

that. So if we have already established an interest amount and/or late penalty amounts in our Rules and Regs, I think we need to stay consistent with those amounts. I wouldn't feel comfortable not...

MR. NEY: Applying that.

MANAGER-CHIEF ENGINEER: Right.

MR. NEY: Yeah.

MANAGER-CHIEF ENGINEER: I think, and going back to the 18-month timeframe, if we're talking about bi-monthly bills, that's nine billing periods so that's 11.11% per bill, right, if my math is correct. So if that is agreeable to Ms. Wills, I think the Department can accept an 18-month duration for the payment plan.

MS. WILLS: 11.11% interest?

MANAGER-CHIEF ENGINEER: Uh, no, no, that's just if you divide 100% by nine (9) is basically you're breaking it into 11.11% on the past-due amount, if that makes sense. So in other words, if you have a \$10,000.00 outstanding balance, we're looking at \$1,111.00 payment each bill period.

MR. HIRAKAMI: I did the math another way so it's nine billing periods and approximately \$14,000.00 so it's \$1,555.00 a month in addition to your regular consumption which would be \$200.00 or \$300.00, somewhere around there. But put it in actual dollars, it's about \$1,500.00 added to your regular monthly bill...sorry, not monthly bill...bi-monthly.

MANAGER-CHIEF ENGINEER: Candace or Kathy, do you have any input on what the estimated interest and/or late penalty amount would be on that magnitude payment plan?

MS. ISHERWOOD: There is no interest on that. The late payment penalty would be only if she does not pay her current bill along with the payment arrangement as such.

MANAGER-CHIEF ENGINEER: Okay, so if she's making timely payments every billing period, we wouldn't assess that 1% late fee?

MS. ISHERWOOD: Yeah. She would have to make that timely payment, plus her current water bill.

MANAGER-CHIEF ENGINEER: Correct. Okay.

MS. GRAY: Uh, this is Candace Gray, Waterworks Controller. I am looking at her account and prior to the last billing which occurred November 22, her outstanding bill balance is \$14,409.99; and divide that by 18 months, that comes out to \$800.56. So that would be added on to her current billing for an 18-month payment plan.

MR. HIRAKAMI: Yeah so on the bi-monthly billing, it would add \$1,601.11 to your bill onto your regular water usage. But sometimes it's better to look at it, what does it cost a month? \$800.00 a month sounds better than \$1,600.00 every two months. But that's a payment plan for this huge amount of money for \$800.00 a month and I think that is a reasonable offer if you agree.

MANAGER-CHIEF ENGINEER: Kathy or David, would it be possible to have the customer pay on a monthly basis, the outstanding balance and then pay the bill as they normally would?

MS. ISHERWOOD: Yes. It's possible. If she wants to do half, you know, like \$800.00 in one month and then the following month, the \$800.00 with her current water bill, that's fine also. Just as long as that payment is being made within that two-month period.

MANAGER-CHIEF ENGINEER: Thank you.

MS. WILLS: Is there a possibility of having any of the balance reduced if I pay it all off in a month?

MANAGER-CHIEF ENGINEER: And then that kind of goes to why, then, would we establish a payment plan.

MS. WILLS: I'm just trying...

MANAGER-CHIEF ENGINEER: Fair enough.

MS. WILLS: Thank you for your time here today.

MR. DE LUZ: So, Mr. Chair, if I understand correctly, within the context of the Motion, the Department has acknowledged that they would extend it to 18 months, the ability for repayment can either be monthly or bi-monthly as long as it stays current by the next billing cycle. That's my understanding. I do believe, and I can appreciate Ms. Wills' situation; but unfortunately, we need to move forward with that and so I would like to restate that Motion, Jay, if I could.

MR. YOSHIMOTO: Okay, so...oh, go ahead.

SECRETARY: Can I? I believe at the beginning, I didn't get a Second to the restated Motion.

CHAIRPERSON BOSWELL: Correct.

MR. DE LUZ: Yeah, so, Doreen, J suggested that we get confirmation first.

SECRETARY: Okay.

MR. DE LUZ: So essentially, it was a suggested Motion and I'm putting forward the correct Motion. Correct, J?

MR. YOSHIMOTO: Yeah, that's correct. So my understanding is the Motion by Mr. De Luz is to affirm the Department's decision with the modification of providing for a payment plan of eighteen (18) months and, well, with no interest, I think the Department already indicated that.

MR. DE LUZ: Yes. That's accurate, J.

MR. YOSHIMOTO: Okay.

CHAIRPERSON BOSWELL: So can we have a Second, please?

MR. NEY: Second, Ben.

CHAIRPERSON BOSWELL: Doreen, can we have a roll call vote please?

MS. HUGO: Could I ask a couple of quick questions? I'm sorry. Uh, the Department's decision that we're affirming or modifying, that is the decision to shut off service? What is the Department's decision that we are affirming?

CHAIRPERSON BOSWELL: The documents that we received in our mailing...

MS. HUGO: Yeah, I'm looking at...yeah.

CHAIRPERSON BOSWELL: Yeah, it's two of them. There's two of them date stamped there.

MS. HUGO: Right, so the decision is...was to deny...it's a request for reconsideration of the proposed shut-off notice is hereby denied. So we're affirming that decision to shut off. I'm looking at "B." So I just want to be clear about what it is that the Department decided that I am affirming.

MR. HIRAKAMI: Uh, I...

MR. YOSHIMOTO: Oh go ahead.

MR. HIRAKAMI: No, I think the modification is that we're not...we're recommending keeping the water on. So if we're affirming it, then we're affirming that either she pays up or the water gets shut off. I think what we're modifying is that the water stays on. We don't shut the water off contingent upon a payment plan that was discussed in Mr. De Luz's Motion of doing the payments over 18 months either monthly or bi-monthly, with no interest. I think that was the Motion. So we don't intend to shut the water off. If we affirm the Motion, then we will move to say either Ms. Wills pays off the whole amount or the water gets shut off and I think that we didn't want to go that far so we are amending that. We're amending that decision.

MS. HUGO: We're modifying the Department's decision? We're not affirming it? That's what I'm trying to get clear on.

MR. YOSHIMOTO: Julie, that's correct. Modifying it to the extent it's being discussed today as far as the Motion. So initially when we...when the Board was talking about it, the water...Ms. Wills' water would not be shut off, provided, of course, she makes the payments and within the timely basis, yes, so that's correct. Now, of course if she fails to do so, then there would be consequences for that, yeah.

MS. HUGO: Okay. So I understand that we are moving to modify the Department's decision and that her service will not be shut off as long as she makes the payments that are agreed upon over the next 18-month period of time. And because it's during COVID, there is no interest or penalties that are due on that amount so long as she makes the timely payments.

MR. YOSHIMOTO: Correct. That's my understanding. If one of us can confirm that?

MANAGER-CHIEF ENGINEER: I think the Department confirmed no interest, but it's not due to COVID. I think that's normal practice. Is that correct, Kathy?

MS. ISHERWOOD: You are correct.

MR. BELL: Julie, thank you so much for asking that.

MS. HUGO: You're welcome.

CHAIRPERSON BOSWELL: Anybody else would like to speak before we go into a vote?

MR. NEY: Yes, quick question, Mr. Chair...do...I think it would be prudent after we make our decision to have this in writing and maybe signed by the other party just so you have a binding agreement or at least we would have communicated that to the customer that this was our decision. I think that would be wise since she was involved with the discussion and tried to mediate and resolve this issue that we'd at least have that in writing. Thanks.

CHAIRPERSON BOSWELL: So that is the course of this decision. The Manager shall send a certified copy of decision and order to the party. So that's the end result is we're gonna communicate, with her, the decision that was made.

MR. NEY: Got it. Thank you.

MR. YOSHIMOTO: Mr. Chairman, sorry, I'm not sure if we got a Second. Did we get a Second to the Motion?

CHAIRPERSON BOSWELL: Yeah we did. Ben was the Second.

MR. YOSHIMOTO: Oh, okay.

MR. HIRAKAMI: Do we need to add a "no fee payment penalty clause"? She can, like you said, she might want to pay it all off at once. Or there's no penalty because...

CHAIRPERSON BOSWELL: There's no penalty.

MS. HUGO: No penalty.

MR. HIRAKAMI: Forget that.

CHAIRPERSON BOSWELL: One more try. Are we ready to go into a roll call vote? Doreen, cautiously, could we have a roll call vote on this Motion, please?

SECRETARY: Okay, Mr. Bell?

MICHAEL BELL: I vote to modify.

SECRETARY: Mr. De Luz?

DAVID DE LUZ, JR.: Aye.

SECRETARY: Mr. Hirakami?

STEVEN HIRAKAMI: Aye.

SECRETARY: Ms. Hugo?

JULIE HUGO: Aye.

SECRETARY: Mr. Ney?

BENJAMIN NEY: Aye.

SECRETARY: Mr. Scicchitano?

ERIC SCICCHITANO: Aye.

SECRETARY: Mr. Sugai?

KENNETH SUGAI: Aye.

SECRETARY: And Chairperson Boswell?

CHAIRPERSON WILLIAM BOSWELL, JR.: Aye.

SECRETARY: Okay, Motion is carried, unanimously, with eight ayes. Thank you.

CHAIRPERSON BOSWELL: Thank you.

MS. WONG: Mr. Chairperson, if I may? Keyra Wong, Deputy Corporation Counsel.

CHAIRPERSON BOSWELL: Yes.

MS. WONG: In understand that, or, I guess I'm asking, is the Department supposed to submit the proposed Findings of Fact and Conclusions of Law that incorporates the Board's decision today or is Mr. Yoshimoto going to do that?

CHAIRPERSON BOSWELL: My documents tell me that the Manager, I assume that to be the Manager and Chief, is going to send a certified copy of the decision and order to the party.

MS. WONG: Okay, do we need to provide that to Ms. Wills and the Board prior to it being final? For the Board to review exactly what it is?

CHAIRPERSON BOSWELL: I've lost your question.

MS. WONG: Is the Board gonna set another hearing where the Board Members can review the Findings of Fact and Conclusions of Law?

CHAIRPERSON BOSWELL: No, our vote that you just witnessed was our final action on this.

MR. YOSHIMOTO: Mr. Chairman, if I can help, I think Ms. Wong is asking if we're gonna have a procedure where the proposed Findings of Fact and Conclusions of Law to modify the Department's decision will be drafted by the Department, subject to review and approval by the Board, which I believe is appropriate; and at the same time, providing notice to Mrs. Wills for review.

MR. DE LUZ: So J, this would be more, in my perspective, in the context of a contract, meaning that the Chair has the ability to review with you, as Counsel, and Chief Engineer. So if they believe the content and context is not what the Motion was made, I would work with the Chair and the Chief Engineer to say we need to take this back. So, I see this more of an administrative function between the parties' counsel to ensure that they communicate with the Chair and with the Chief Engineer. So that's my thought, Mr. Chair.

CHAIRPERSON BOSWELL: Yeah, I see we're in unchartered territory. We're outside of our Agenda. We're outside of the directions for the hearing that we're having, and we're creating another layer that was already gonna happen. We have to complete the journey in order for the documents to be completed, at which time they can be sent to the party. But we don't need to vote on it again. We've already voted on it.

MR. YOSHIMOTO: Mr. Chairman, I'm just looking at Chapter 91. I believe that what Ms. Wong is referring to is the Contested Case procedures, and so I'm just double checking at this moment. HRS, or Hawai'i Revised Statutes 91-9, Contested Case Hearing, Subsection E, states proposed findings, exceptions...yeah, recommendation would be that we still allow the Board to review proposed findings as well as the Appellant and agendaize this for the next meeting for formal approval. I understand what the Members are saying, but my understanding is that all parties would need to have an opportunity to review the proposed findings.

CHAIRPERSON BOSWELL: So what did we just do? I'm sorry, I'm speaking out of turn; but what did we just do? We're two and a half hours into a very thorough explanation by both groups--Water Supply and by Corp. Counsel; and we've talked this thing, Alicia has done her part for us. If there is another layer--it's gonna stay open, then I guess we didn't set this up the way it's gonna go down, when we made the Agenda.

MR. YOSHIMOTO: No, no. These are the proper procedures, Mr. Chairman. The Board did come and make a decision and needs to be put into writing. So once that's done, then we will have completed her due process was to having this hearing. So that's all we can do today because as a party, she has the right to see and review and possibly object to those findings; but the Board has already made its decision so we're good.

CHAIRPERSON BOSWELL: So do we put this on the Agenda for next month and invite Alicia back or is it just gonna be a Board action on the Agenda for next month?

MR. YOSHIMOTO: It will be a Board action on the Agenda during the next meeting; and again, as Ms. Wong stated, those proposed findings will be submitted ahead of time and then Ms. Wills will have an opportunity to review, object to them if she has any objections. She's not required to attend. She can, but, no, it's not required.

CHAIRPERSON BOSWELL: But she still retains the right to review the final document and make any rebuttal that she wants to make to that?

MR. YOSHIMOTO: Yes. And then that's part of the due process rights under Contested Case. Correct.

MR. DE LUZ: Mr. Chair...

MR. HIRAKAMI: Mr. Chair, we just...so, if we made a decision to agree with that Findings of Facts and...from the Contested Case Hearing, which we've spent all this time over, then there wouldn't have to be another Finding of Facts and thing, would there? Because I thought the whole thing was to make a decision on the Findings of Facts and everything so we made a decision. So if we made a decision to concur with that finding, there wouldn't be another Finding of Fact and things to put it on the Agenda so I thought that we answered to this Finding of Fact to answer to Contested Case and we made a ruling on that Findings of Facts in the Contested Case Hearing so now we're gonna have another Findings of Facts on the Finding of Facts and I think that's a...uh, I'll go along with whatever is in Chapter 91; but I thought we were already making a decision base...because, if we had concurred, there wouldn't be any

further action, would there? There wouldn't be Findings of Fact. We wouldn't have to come back to the Board to agree to that again, would it?

MR. YOSHIMOTO: So, Mr. Chairman, if I may, Mr. Hiramami is correct. So if the Board had decided to just affirm, then that would be it. It would be affirmation of the previously filed Findings of Facts and Conclusions of Law; but because the Board modified that decision, it needs to be put into writing. So he's correct, yeah.

CHAIRPERSON BOSWELL: In essence, the payment plan.

MR. YOSHIMOTO: Correct.

CHAIRPERSON BOSWELL: It was just the modification.

MR. YOSHIMOTO: Yes.

MR. DE LUZ: So, so...I ought to be clear...if Ms. Wills objects, the only option we have is to shut off and terminate service. That's the only option we have.

CHAIRPERSON BOSWELL: Cause she's no longer (indiscernible).

MR. DE LUZ: She's been provided her Contested Hearing and her process so when it comes to the Board and she has issue with the Findings of Fact, the only decision for us is to affirm shutting off her water. Correct? I mean, we have to be clear so Ms. Wills understands the consequence of what happens if we proceed.

MR. YOSHIMOTO: Yes, so Mr. De Luz, that's my understanding of what the Board decided upon.

MR. DE LUZ: So, so she has the ability if she wants to end this today, correct? And I'm not suggesting she does, but that's based on her decision.

MR. YOSHIMOTO: Yes.

MR. DE LUZ: Okay. Thank you.

MR. NEY: Uh, just clarification. This is Ben. Would the...the most expeditious way to proceed, in my opinion, is to deliver her what we basically decided. I don't think with...I think it's fairly redundant we have to bring this back up for our own sake in the next Board Meeting. But I believe she should probably get something written. She was privy to the conversation all day but besides the point, I would feel comfortable if we put it in writing and send it to her but I think we need to rehash any of this at the next meeting.

MR. DE LUZ: So Mr. Chair, my recommendation before we move on, this is a moot issue. As you mentioned, if it needs to, it'll be on the Agenda and the Minutes.

CHAIRPERSON BOSWELL: Yeah, I think we'll defer to Counsel on how it moves forward and I agree we should close this portion of the Board Meeting, let Alicia go, and let us move on with our Agenda. Alicia, I realize you didn't receive what you wanted today and we are sympathetic. We all pay bills and it's, you know, getting a surprise bill is no fun. We are held to the Rules and Regulations of the Department of Water Supply, but we appreciate what you're being involved in and look forward to a much more successful relationship with the Department of Water Supply for you in the future.

MS. WILLS: Well thank you for your time.

CHAIRPERSON BOSWELL: Thank you.

(The Contested Case Hearing ended at 12:39 p.m. Ms. Wills, Ms. Wong, Ms. Bailey, Ms. Isherwood, and Mr. Mellom left the meeting at that time.)

6) WATER RATE STUDY:

The Department's rate consultant, Harris & Associates, was present to cover the results of the Revenue Requirements analysis that cover the study period Fiscal Years 2023 to 2027. The analysis includes three (3) revenue requirement options that incorporate key assumptions around revenue growth, levels of Operations and Maintenance (O&M) and capital expenditures, and adherence to financial policies. The results of the revenue requirements analysis are the recommended annual rate increases over the study period. DWS is requesting the Board's input on all three options, and a recommendation for one of the three options to move forward to the next phase of the rate study.

Chairperson Boswell welcomed Ms. Ann Hajnosz and Ms. Karyn Johnson of Harris & Associates to the meeting.

Ms. Hajnosz covered what would be talked about today. This rate study overview is to give the Board a sense of where they are in the study and how it fits in the whole process. They will provide a quick financial policies recap from what was discussed at the Water Board's meeting of September 28, 2021, for the Board to see how those decisions are driving the revenue requirement analysis, and then provide details on how the revenue requirements were developed and look at all the different options. They are going to need Board input on which option to move forward with and then talk about next steps. At this point in the rate study overview, they are focused on Step 4, Determination of Revenue Requirements. They have looked at all of the Department's operating costs and customer capital cost data; and this all goes into the projection of what the revenues and expenses are over the next five-year time period. The way they come up with this is all around how the financial policies come into play.

If the Board will recall, two months ago, discussion took place about these two big buckets--the cash reserves financial policies and the financial or capital funding financial policies. Cash reserves are pretty easy and are what the operating reserves will be. The Department has had a 60-day operating reserve for a long time. The capital reserve is a newer one and they are talking about having it at a level that was about the Department's annual depreciation expense, or the average of annual capital spent. These two are the financial policies that are driving the cash reserves decisions.

Next is the bigger one seen in the revenue requirements analysis--how are we funding the capital program. They wanted to talk about a minimum annual spend and looked at the Department's historical spending, looked at some benchmarks, and are coming up with something around your average or depreciation level. They want to talk about funding--capital from debt versus equity or cash funding and will look at that. Debt Service coverage is always very important. The last one, again, is how much of your capital do you want to fund from bonds, SRF (State Revolving Funds) loans, etc., versus cash. All of these financial policies you will see now are going to basically be driving the question of how do we determine what level of rate increases we need over the next five years. She then turned it over to Ms. Johnson.

Ms. Johnson stated that what they looked at in determining what the total revenue needs are is what revenues are going to look like over the study period. It looks like the Standby Charge and Water Use Charge revenues would be over the study period. First they looked at the three-year historical average and

how it would be projected over the next five years. Looking back in this prior three-year period, customer growth has averaged just under 1% per year. This is very similar to what it has been doing over the past two rate studies--from half a percent to one percent. They are going to assume continuation of that rate of growth over the study period. Water usage, on the other hand, historically, has been declining and over the last three years, coupled with the COVID impacts, it averaged about a 3% decline per year. We are looking at keeping relatively flat from where it was in 2021, to be conservative. One point is when they did the COVID impact analysis during the last rate study, they had projected the water usage declining even more than it has. A decline of just 3% per year is a much better position than what they were originally proposing. They feel that keeping it at that 2021 level throughout this study period is a fair and conservative approach of where we might land. What that means in terms of the revenues, the rate revenues have increased an average of 3% per year and that is based on the combination of customer growth, the declines in water usage, combined with the rate increases that have been implemented over the last few years. As we move into the first year of the projection period--2022, there is a bit of a jump up from where we were in Fiscal Year 2021 and that is due to that 13% rate increase that was implemented on January 1. In 2021, the revenues reflect only six months of that rate increase because it was implemented mid-year in the fiscal year. The year 2022 will capture a full 12 months of that increase without any further rate increases being implemented in Fiscal Year 2022. We are expecting that level to remain relatively flat over the study period, just incorporating that nominal amount of about 1% growth.

The next thing they looked at is how your costs are going to increase over that study period. Again, they began by looking at the three-year history and using that as a guideline as how things might look going forward. Looking past the past three years, total operating maintenance expenditures have increased about an average of 2% per year and that is based on a combination of the power cost actually declined an average of 2½% per year and part of that is likely due to the declines in the water usage as well and all other operating and maintenances (O&M) expenses have increased in average of 4½% per year. We looked at what the historical industry cost inflation was by looking at the Consumer Price Index (CPI) and it is pretty much in line with assuming about 3% increases into the future. Coupled with looking at your history, looking at what the CPI is projecting, we have escalated the total costs by that 3% per year based on first implementing your 2022 budget numbers and then escalating those going forward for the next five years. Similar to what we did in the last rate study, we did make an adjustment to the 2022 budget for the salaries and benefits costs and that is to recognize that there have been some historical staffing vacancies so where we understand that the full budget needs to be incorporated for the salaries and benefits, we did not want to set the rates too high if there was going to be a continuation of these staffing vacancies. We took a conservative approach and assumed that those vacancies would continue. We have budgeted a slightly lower amount to project the operating costs going over the study period.

The first thing we looked at is what would your revenue requirement need to be--what would your rate levels need to be if we were just looking at your baseline operations. This would be prior to any new capital spending plans going forward. Looking at the bar graph, they have the green bar for the projection is of where your operating and maintenance expenses would go and then the purple bar is the existing debt service that you are already committed to pay through rates. And then contributions to the operating reserve to build that reserve up to the 60 days. As you can see by the dotted black line, the projected revenues under your existing rates are forecasted to pretty much cover these baseline operations with just very nominal rate increases. We are just projecting that if you were just looking at baseline operations prior to any capital, a 1% per year rate increase would cover all of the operating and maintenance debt, existing debt service, and it would meet those policy objectives talked about for the operating reserve of 60 days of annual O&M and meeting that debt service coverage of 1.25. The key message with this chart is in the three scenarios that they have developed, the key driver of what the rate increases are going to need to look like over the next five years is primarily dependent on what you do in terms of capital spending and how we fund that capital spending.

The first thing they looked at was the historical capital spending, kind of look at this as a guidance in how we might craft some of these scenarios in designing an appropriate level of capital spending. The bar charts in the graph show the annual capital spending over the last five years and they looked at three different benchmarks of what that looks like. In the last three years, that average has been about \$13 million per year. When you look at it at the full five-year period, it has averaged about \$14 million per year. This compares to when we were looking at that benchmark to be is more equal to the depreciation expense, which is about \$15 million per year. We looked at this as sort of a bracket from how we might design some capital funding strategies for consideration. They did three capital funding strategies and in all three, they are covering the baseline operations, and meeting the cash reserve and debt service policy and then they designed some capital spending scenarios where in each scenario, they have varied the level of the minimum annual capital spending and we have been level in the timing of when you would achieve the financial policies talked about in terms of rate funding capital contributions that goes towards cash financing capital projects, at what point might you meet your capital reserve target that we set equal to the depreciation expense, and then making sure we stay within the boundaries of the debt as a percentage of your net assets that we talked about in the financial policies. This is sort of the framework for the design of what the capital spending would look like.

The next chart starts with certain specific capital projects they have identified. These projects are going to be incorporated in all three of the scenarios and they started with, first of all, the adopted 2022 budget projects. They will be incorporated in all three of the scenarios. About \$26 million in costs have been identified for 2022, and they have also included in all scenarios, any projects that are going to be done over multi years so they make sure there is funding identified for those. Most of those have already have some funding associated with them and they want to maintain that consistency with all the scenarios. And then also, anything that has been earmarked for being able to be recovered by the facilities charges. In this way, each one of the scenarios that we would look at with just this bottom line at the bottom that says in addition to these projects we have identified, what is going to be the annual average capital spend for some of the projects. A couple of positive notes on the reservoirs, there is a State-appropriation in 2022 that has been identified at \$8.7 million for the Lālāmilo Reservoir and the next year spending would be assumed to be funded with SRF loans. A small portion of that project would also be funded with facilities charges. The Waikoloa Reservoir would be funded, hopefully, with a FEMA grant that the Department is pursuing for about \$7.5 million of that project; and the other \$2.5 million would come from capital reserves. There are a few other projects: the North Kona Mid-Elevation Well and the ‘Ōla‘a #3 Well would be funded with facilities charges so we would not be looking to need bonding or the capital reserves to pay for all of that. That is the baseline of the projects that would be included in the next set of scenarios and each one varies the level of annual capital spending, and that is what dictates the different rate scenarios that will be brought forward for consideration.

The first scenario is where they are looking to fund the full level of the policy recommendation where they would be funding \$15 million going up to about \$18 million over the study period and that is set equal to what the projected annual depreciation expense is. That would be growing each year, consistent with annual depreciation expense. This is consistent with the financial policy recommendation set to be achieved in the current study period. It also represents the industry standard that is used in determining an appropriate minimum level of capital spending. As your total assets depreciate over time and lose value, you want to make sure you are reinvesting in the system at an equal or greater amount to maintain your system sustainability over time. This would be the ideal minimum level of capital spending. This scenario provides for \$129.5 million over a total six-year period in capital funding, which is an average of about \$21.5 million per year over this total six-year study period. The next scenario looked at has slightly lower annual capital spend. This was set equal to the five-year historical average capital spending, which is about \$14 million. While this is consistent with your longer-term historical spending, it is lower than the financial policy recommendation that was initially discussed, and the expectation with this scenario is that you would build up the capital reserves over time to achieve that capital spending level for the policy

over that next five-year rate study period. If the Board would recall, there was discussion on the policies; and it was mentioned that it is pretty tough to incorporate all of these policies and get them implemented in the first few years. They would devise some policies where you would need that in the first five years and some where they would expect that you would probably need all the policy until the second five years. This is one where they are assuming that as the cash reserves are being built up during the first five-year rate study, you would still have a consistent level of spending that you have been doing and then you could ramp that up over time in future years. This spending plan gives you about \$119.5 million over the six-year period, which is average annual spending of about \$20 million. The final scenario is \$13 million per year, and that is equal to the three-year historical average. It is similar to the second scenario. It is consistent with historical spending, but it is lower than the ideal financial policy recommendation; and again, the expectation would be that this would be wrapped up over the next five-year rate study period. That financial goal would be met within the 10-year period. This provides for a total of about \$115.5 million in capital spending at an average annual spending of about \$19 million. That is the summary of what they lined out for what the annual capital spend would be and then they want to look at how that will be funded and what that means in terms of rate increases. All of the scenarios we will be showing you next do incorporate cash recovery of the baseline operations, the operating reserve target, and the debt service target, plus the objective of each of the individual scenarios.

Going to the Revenue Requirement, Scenario Summary slide, the chart on the right, what they looked at was what would be the rate increase necessary over the five-year period and what would be achieved during that five-year period and then they also took a peak into the next five-year period at how these five-year rate increases might position you in the next five years. They wanted to make sure they did not design a scenario that might marginally work okay in the first five years but then it sort of drops off into a cliff in the next five-year period.

The three scenarios range from 12% for Scenario 1, 9.5% for Scenario 2, and 8% for Scenario 3.

In looking at the first column on Scenario 1, the one that gives the ideal funding pattern of about \$21.5 million per year, when you look at what portion could be financed with cash versus debt, it is a good mix, about 67% from cash and 33% debt finance. What is proposed is three years of SRF loans, we have the current \$25 million SRF loan that is pending and we are assuming two additional years of \$10 million for a total of new debt issuance of \$45 million over the five years. That would add additional debt service of about \$2.9 million. Taking this scenario and how it looks in terms of achieving the capital financial policy objectives, Scenario 1 has debt service coverage ranging from 1.6 to 3.7, which is very healthy. A debt as a percentage of assets would be about 22%, which is well within the target range of being less than 35%. It is achieving 100% of the other two policy objectives for setting aside rate revenue to help fund the capital contribution and building that capital reserve to be equal to annual depreciation expense at the end of this year. This 12% scenario essentially achieves all of the policy objectives discussed during the policy review within this five-year period. They took a peak at how that would position the utility in the next five years. Under that scenario, it looks like you could actually increase, over the next five years, annual capital spending to maybe between \$20 million and \$25 million; and at that point, the rates would be at a level where it could be cash financed and there would be no anticipated new debt issuance. It could also provide some flexibility in increasing the operating reserves to 90 to 120 days of O&M. We had talked and established, during the policy review, of 60 days of O&M. It is a pretty standard water utility target; however, many utilities go as high as 120 or more and there was some discussion at the last Board Meeting of potential interest in wanting reserves to be a little bit higher. This scenario would position the utility to likely being able to ramp up that reserve as well over time. We are assuming that to accomplish this in the next five-year period, that it would need about 3% rate increases per year over that next five years.

Scenario 2 is the \$14 million per year spend. It is a 9.5% increase, \$20 million in capital spending. It still has a really good split between cash funding of 64% and debt funding at 36%. They have anticipated the same level of SRF loans of \$45 million for the study period and \$2.9 million in additional debt. It also has very healthy debt service coverage ranging from 1.5 to 3.0, similar to the first scenario debt equity ratio of 22%. It achieves 100% of the rate-funded capital contribution portion, which is the portion where we are setting rates high enough to be able to have that money be transferred to capital and it is achieving a little over between 50% and 60% of the annual capital reserve balance strategy. It is hitting the majority of the targets with the expectation that the capital funding and the capital reserve balance could be built up again over the next five-year study period. Looking at what that might look like in the next five years, it is pretty achievable to ramp up to 100% of that capital reserve charge in the next five years but also increase your capital spending to the \$20 million mark, again, assuming that could be cash funded without any additional debt. There is also flexibility to increase those operating reserves and this one we would assume we could accomplish that with about 5% per year rate increases in the next five-year rate cycle. This is more consistent with what the utility has been doing for the past several rate studies. They have been in about that 5% per year range, with the exception of the last year increase which was 13%.

Scenario 3, we are looking at \$13 million per year in capital spending. Still a pretty good balance between cash funding and debt financing, but it is a little bit more heavily dependent on debt financing. In addition to the \$25 million and two \$10 million in SRF loans that were projected for Scenarios 1 and 2, it is going to take about another \$6.5 million to fund that. That would increase the total new debt up to about \$51.5 million and then increase that annual debt service payment up to about \$3.9 million by the end of this five-year study period. It still has very healthy debt reserve requirements of 1.4 to 2.5 coverage, slightly higher debt to equity ratio than the first two scenarios, at 24%, but still well within the range of the policy. In all three scenarios, there still remains capacity that needs to happen that there is capacity to issue new debt if some kind of emergency needs would come up. These are very healthy debt to equity ratios. With Scenario 3, the last two policies are slightly under funded in this first five-year period, projecting achievement of the rate-funded capital contribution policy at 75% and then the annual reserve achieving about 50%. Similar to Scenario 2, these two areas would be assumed to be wrapped up over the next five-year study period. The more challenge with this lower 8% scenario is there would probably need to be a continuation of a higher than inflationary level increases in order to achieve these goals within the 10-year period, probably looking more around 7% annual increases in order to achieve these objectives within the next 10-year period and then also probably does not leave a lot of flexibility for increasing that 60 days of O&M without higher-level increases.

If all three of these scenarios are financially viable in terms of system sustainability, it is not necessarily a bad thing that if these scenarios are not achieving 100% of all the goals within the first five years. Sometimes these tough capital policies take five to ten years to achieve so it is really about balancing what the rate increases are with the impacts to the customers versus what the utility can do in terms of capital spending and having healthy reserves. The key thing is balancing that with the customer impacts.

The next slide, Revenue Requirement, Scenario Summary, shows what those impacts are by scenario. They put together a sample bi-monthly bill and this assumes a general service customer with a 5/8-inch meter that uses about 12,000 gallons per month. The proposed annual increases of 12%, 9.5%, and 8% would be applied to the existing rate structure for the water standby charges and the water use charges. The current power charge of \$2.15 per thousand gallons currently, is assumed to increase consistent with annual cost inflation of about 3%. That is a pass-through charge so the increases or decreases to that could vary with the actual cost of power. The energy CIP charge, currently at 5 cents per thousand gallons, they assume would stay the same over the study period. What they would be looking at is Scenario 1: The current bill, standby charge plus the power and energy charge for this sample customer would be about \$140.64 per bi-monthly period. It would be increasing to \$2.15 over the study period. When you look at a composite of the 12% increase plus power and energy, it is an overall increase of

about 9% per year. That equates to on average, about \$15.00 per bi-monthly bill difference each year and from current rates to what the rates would be at the end of the study period, it is a cumulative increase of about 53%. Moving to the 9.5% increase, it goes from the current \$140.64 to just under \$199.00. The composite increase is about 7% per year, or on average just under a \$12.00 increase per bi-monthly bill. The total impact over the study period would be a 42% cumulative rate increase. In the final scenario, it goes from \$140.00 to \$190.00. This scenario is a composite of about 6% annual rate increase, just under an average of \$10.00 per bi-monthly bill increase and a cumulative impact over the study period of 35%.

The key for where they are looking for input is just evaluating, under each of the three scenarios, what is the appropriate balance between what the bill is versus how much you get to achieve in your financial policies and how much capital you are able to execute in order for system sustainability. They did a sample bill comparison with the other counties. In all of the scenarios, they are pretty in line with the other jurisdictions.

Ms. Hajnosz covered the Revenue Requirement Mid-Rate Cycle True-up Recommendation. Typically, the Board has looked at five-year rate proposals and has adopted that consistently over the last couple of decades at least. Every now and then, there is a mid-cycle review to see where the rates and projects are relative to the rate proposals that were determined. Nowadays, it is probably more important that some sort of true-up is done and it is built into the rate process. In the last couple of years, we have seen a lot of uncertainty and new situations before us, and it is anticipated to increase because of a higher degree of uncertainty because of the new normal. We are going to have to be more flexible and able to pivot around what actually happens, especially related to capital spending. As previously mentioned, the capital spending piece is the driver of the rate increases. What they are recommending is after year one, starting with year two, they start taking a look at the financial projects and by the year one and a half, we can at least see if we are on track with project revenues, projected operating expenses, and especially, projected capital spend. Probably at about a year and a half, they would be able to have a recommendation for year three on whether the rate increases should be implemented as planned, or consider something else. This would be limited to the revenue requirement analysis to give a sense of what the level of increase should be or should it stay as projected.

The next steps are to hear from the Board today and hopefully have a recommendation on one of these rate scenarios and then they can go through the cost of service analysis, which is the next step, and then the rate design piece. Speaking about the rate design piece, what they are planning for the next Board workshop which is scheduled for January is to come back to the Board with some ideas around rate structure like how rate structures are considered, how are they designed, what are the objectives of the different types of rate structures, and how do they align with your objectives. She opened it up to questions.

Mr. Ney asked if he was correct in that the rate scenarios given show what would be built up in capital cash spending reserves and is with no new debt so the Department is basically servicing its old debt with no new debt taken on.

Ms. Johnson replied that there would be new debt in this first five-year study period. The chart shows new debt for Scenario 1 of \$45 million, Scenario 2 of \$45 million, and \$51.5 million for Scenario 3. What they did was they took a peak into the next five-year rate cycle to say, depending on which scenario is chosen, in all cases, you are setting yourself up to being at a level where you would not have to incur new debt in the next five years.

Mr. Ney stated that it is hard to anticipate if there will be head winds or tail winds with the economy. On the chart shown, the left side shows ramped up annual capital spending and no anticipated new debt. He was trying to figure out how to interpret the left side of the chart compared with the right.

Ms. Johnson explained that there is a lot of information on this sheet. The right side is the current five-year study period evaluation. The second bullet under each scenario is where it shows estimated positioning for the next five-year period, Fiscal Years 2028 through 2032. This is just rough order of magnitude, illustrated information, because they did not do a detailed rate study for the following 5-year period. From this, they can get an idea, under each one of the scenarios, what the rate level would be at the end of this five-year period, and it gives a pretty good indication of what you may be able to do in the second five-year rate study period.

Mr. Ney asked if there were other indices to evaluate inflation more specific to Hawai'i other than the Consumer Price Index (CPI) because the CPI is kind of a general broader brush of the health of the economy uniformly spread out.

Ms. Hajnosz replied that they pulled from UHERO (University of Hawai'i Economic Research Organization) which is specific to the State of Hawai'i. This is for general consumer price indexes from a capital standpoint. They did escalate the capital spending for the first couple of years because those are specific projects that already have capital costs associated with them; and for the last three years, it is more of a capital availability of spending so it is not necessarily tied to projects. There has been significant cost inflation on the construction side, but they are also budgeting for a higher level of average capital spending than what was done in the past.

Mr. Ney stated that the cost variance is already hitting contractors where their realized costs are a lot more than they anticipated.

Mr. Hiramami asked about the Revenue Forecast Assumptions. He could not see the relationships in the first three bulleted items - customer growth is kind of static, increasing at less than 1% per year, yet water use is declining 3% per year. Revenues are shown as increased an average of 3% per year. A lot of people are moving to the islands and there is a lot of construction going on. His second question was that typically, they show the five-year average of about \$13 million to \$14 million in capital spending but the charts predict \$20 million in spending. He questioned if you are static in customer growth, why would you increase your capital spending by \$6 million a year?

Ms. Hajnosz replied that in pre-COVID days, what Mr. Hiramami just pointed out would be a little odd. However, with COVID coming into play, that water use number is a reflection of things really closing up in Fiscal Year 2020, or after March 2020. They did see significant water use decline in the order of about 6 or 7 percent in that first year, even though customers did not go away, and there were people moving to the Big Island and signing up for water service. There was that customer growth; but with all of the hotel and restaurant usage not there, it really did decrease water usage. As far as the revenue piece, that is a reflection of a rate increase in the last Fiscal Year 2019 of 5%, 2020 of 5% and then 2021 of 13%. It is sort of a mixture of those levels of rate increase during that time period.

Mr. Hiramami thanked Ms. Hajnosz for that explanation. At some point, he would think the hotels and businesses cannot sustain themselves for too long. Hawai'i is somewhat conservative because of COVID; but at some point, business will get back to the water uses where it would be more in line with customer growth.

Ms. Hajnosz stated that it is a big unknown, and that is why they try to be somewhat conservative when projecting revenues.

Mr. Hirakami wondered if it might be better to be more conservative with capital spending during these periods until there can be some assurance of the return of water uses and why capital spending is being increased \$6 million a year when the future is unsure.

Ms. Hajnosz stated that in terms of the correlation between customers and capital spending, there is no completely direct correlation there because you have water system assets that are deteriorating every day and those deteriorated assets need to be replaced, never mind planning for growth. Perhaps the growth part could be scaled down, but you are not even quite there in spending what you should be spending to equal the depreciation level. The last three years' average is about \$14 million so there is still that gap. In other words, even though the customer growth might have slowed or is not as much as you would think, the vast majority of your capital program is renewal and replacement at this point and you have to sustain it. They are trying to get the Department to where it can be financially able to sustain that minimum level of capital expenditures.

Mr. Hirakami thanked Ms. Hajnosz for that explanation.

Mr. Ney commented that Mr. Hirakami is making good points on the capital spending because once you get these projects rolling, there is no pulling it back. We have to be very careful when we do outline what is eminent in terms of what needs to be fixed now and what we can get a few more years out of, or is not an immediate concern. Once we commit to these projects, we are financially committed. We have to be careful on how we proceed in the next few years and on what gets put on the capital improvements.

Mr. Hirakami agreed with Mr. Ney.

Mr. De Luz was curious to understand where the consumption reading is taken from--the meter or the pump well head. It would help to better appreciate and understand some of the conservation programs the Department has been undertaking. They have been working diligently to better understand if this is the consumer driven demand or if there is efficiency that has been created by the Department, which is important to appreciate.

Ms. Hajnosz replied that they looked at consumption at the meter.

Mr. De Luz thanked Ms. Hajnosz for the explanation. He also commented that he believes there will be head winds in regard to the trend in labor costs, which he believes will be higher in the future, regardless of what collective bargaining does. There is a strong demand for professional categories, such as Professional Engineers, especially in the water utility segment, that could significantly impact the O&M forecast. Also, with regard to calculations for rates and for depreciation and capital, he asked what type of escalator is being used for inflation. This goes to Mr. Ney's earlier comment about raw materials and construction shortages. Short-term, he thinks, is three to five years in this area where there is going to be either non-qualified bidders and/or a shortage of bidders; therefore, contract costs may go higher than anticipated. The only other opportunity is to have some discussions on the expansion of water systems to increase revenue.

Ms. Hajnosz stated that with regard to staffing and operating and maintenance, the Department has a budgeted number of staff, and they take into account a 5% less than fully staffed Department, but believed it is actually higher than 5%. (Ms. Johnson added that it is more like 10%.) They included a higher level of O&M salaries than what the Department currently has.

Mr. De Luz stated that he is a bit concerned that the illusion in Hawai'i is that, as a water utility, it only increases rates to pay for more benefits. The Department's reserves concern him because it may look like cash on hand. You have it on the books, but it is not a restrictive account.

The Manager-Chief Engineer asked Ms. Hajnosz to correct him if he was wrong, but he believed when these fiscal policies were established, this was for specific uses--one being CIP projects.

Ms. Hajnosz stated that it is an operative reserve and it is a bit more open-ended as it has always been. It is basically to cover the leads and lags in your payments and collections.

Mr. De Luz clarified that he was not disputing the fact that you are creating strong fiscal policy, but this is not by Statute or mandate so in actuality, looking at this as an outsider, it is cash on hand. The Department's good fiscal management may all be for naught when you are up against a tough collective bargaining unit claiming your Department has X amount of cash on hand. You may come back with these are reserves, but are they mandated? He applauded the Department for creating strong fiscal policy, but just to bring up that this rate planning will all go to naught on O&M when you have the most unionized public collective bargaining State in the nation. They are very strong. Not to say that is not good, but he hopes the strong fiscal policies can be affirmative when it comes to collective bargaining. The ultimate issue here is we have to be prudent because the only way to get additional revenue is from the rate payer. In addition, he thinks the real number, as far as the rated average, is more like between 10% and 12% as far as to meet minimum requirements over the next five years, primarily because he believes capital costs for these projects will probably run significantly more than anticipated.

The Manager-Chief Engineer appreciated all of the great comments and added that it would not be fair to throw three scenarios at the Board without at least offering the Department's perspective on which one it would recommend. He would recommend the middle scenario, and part of that is some of the description Ms. Johnson talked about in achieving some of the fiscal policies. At a previous meeting, it was discussed that some of these were not realistic to accomplish in the first year. It takes some time to build up the reserves. He thinks Scenario 2 is a middle ground; and to touch upon some of the points that Mr. Hiramaki and Mr. Ney made, and Ms. Hajnosz reinforced, is that the approach is somewhat conservative, although water use has been declining recently. They have kept water use flat over the rate study period and did not model this with a declining use. Also, as Ms. Hajnosz mentioned, capital expenditures are actually behind. The Department needs to ramp up its repair and replacement projects; and when those projects are done, they are not size for size. The Department inherently adds capacity, either through upsizing the main or upsizing the tank capacity; and that is one way to increase system capacity by doing CIP projects. Again, system expansion is a little bit different. That is something he thinks needs to be figured out for ways to accomplish certain things, balance O&M needs, and make sure the bottom line is the bills continue to be paid and at the same time, setting aside money, whether it be viewed as cash on hand, or just some fiscal policies to carry the Department through tough times as well as what national industry metrics set as healthy goals. Although it is a proposed rate increase, it is because certain other components of the water bill remain static like the energy CIP cost and the standby charge. It is not an overall 12% increase to the total water bill. There was a graphic that Ms. Johnson showed (Slide 15) where Scenario 2 is actually a 7% increase over the water bill instead of a 9.5% increase.

Ms. Hajnosz added that in a bi-monthly billing period, it is going to be, on-average, about a 11.73% increase over the five-year time period, about \$6.00 per month on average.

The Manager-Chief Engineer stated that he hoped those clarifications would help the Board with this abundance of information, and it could pick up on some of the key takeaways.

Mr. Hirakami commented on the analysis of Scenario 2 and it was interesting to see the Hawai'i DWS and its three scenarios, Scenario 2 being 7.0% and Scenario 3 being 6.1%; and the Honolulu Board of Water Supply at 6.6%, going from \$144.64 to \$154.22, closer to Scenario 2 than anything else. It would be interesting to see what the other counties' projections were, but just Honolulu is shown.

Mr. Sugai added that Honolulu's infrastructure per mile is more dense and he thought the Big Island's infrastructure, per mile, would be a higher cost because of the longer distances. He would expect this island's to be higher than that of Oahu.

The Manager-Chief Engineer stated that great points were made by everyone.

Ms. Hugo asked if the Department was looking for a Motion to move forward.

The Manager-Chief Engineer replied that at some point, it would be because this will establish which way Ms. Hajnosz and Ms. Johnson will take this study and proceed further with proposed rate structures. When they come back in January, it is anticipated to see what some of these rate structures might look like and what some of the bills might look like for the different categories.

Ms. Hajnosz stated that for the January workshop, they are going to focus strictly on rate design and talk about objectives and what is expected to be accomplished with the rates and possibly changing the rate structure. It is going to be sort of agnostic of whichever scenario is chosen right now because they do not want to get too far ahead of doing rate structure design. They would prefer to have the objectives for changing a rate structure.

The Manager-Chief Engineer asked Ms. Hajnosz if she could give a sneak peak into some objectives that other utilities may factor into rate structure, such a residential rate a certain amount versus changing a rate structure more on a commercial side. The Department does not have that right now.

Ms. Hajnosz stated that they will give those pros and cons on what a certain rate structure would accomplish and what it would not. If more time could be budgeted for the January meeting, perhaps a solid hour, to talk about all those things, it would be great.

Mr. Ney asked if the rate study could be aligned with what the growth plan is within the organization and if the two things could be overlaid. To him, it seems like the Department just tries to work out a plan to sustain what is going on at the moment, and operates too close. He feels like the emphasis is on keeping the rate low for the customer, which he agrees with and not to get too outrageous with it; but he would rather have the rates increased now to where it is on a healthy financial plan because if it is not done now, it is going to be done later. He liked the idea of having a bit more of a buffer than what has been had.

The Manager-Chief Engineer stated that what he liked about the presentation today was that they took this current five-year rate study period but also tried to carry the project five years beyond that to make sure it is not setting something up that we would be looking at over a cliff in 2028. The other good thing mentioned was the true-up evaluation that will take place. The crystal ball can only be so clear, especially in these times. There are a lot of assumptions being made for this, and he asked Ms. Hajnosz when that would need to happen as part of this rate study.

Ms. Hajnosz replied that they would likely start a reconciliation at the beginning of year two to see how the rates went for the first year, especially with the anticipation that the rate structure might be looked at for changing; and if that is the direction, then they would want to take a look at making sure the Department is getting the revenues that were projected. A lot will be dependent upon the capital spending, and there is also a lot of excitement around this new infrastructure bill so if some of that money

gets unleashed and we are able to get some grants or that sort of thing, it could be a totally different picture in a year and a half.

Chairperson Boswell asked if the purpose of the Board making a decision today is just to further the rate study to bring it into its next arena in January 2022, then he would make the suggestion that the Board take the Manager-Chief Engineer’s recommendation on which one of the percentages to use and just move that forward. He did not think the Board is locked into anything. To continue having analysis and opinionated conversations at this point in the venture is losing quality by just continuing on. He asked if the Board needed to vote on this or what the path to take is for the Board.

Ms. Hajnosz stated that they would prefer to have a definitive direction, simply because the rest of the analyses will be dependent on this level of revenue requirement.

The Manager-Chief Engineer recommended having a Motion so it is clean on the record.

**ACTION:** Mr. De Luz moved that, based on the presentation and recommendation by the Manager-Chief Engineer, that we proceed with the analysis based on Scenario 2 in the Rate Study; seconded by Mr. Ney and carried unanimously by roll call vote: Ayes: 8 - Mr. Bell, Mr. De Luz, Mr. Hirakami, Ms. Hugo, Mr. Ney, Mr. Scicchitano, Mr. Sugai, and Chairperson Boswell.

(Ms. Hajnosz and Ms. Johnson thanked the Board and left the meeting at 1:54 p.m.)

7) **SOUTH HILO:**

**A. JOB NO. 2005-875, CONSTRUCTION OF THE PĀPA‘IKOU TRANSITE AND G.I. PIPELINE REPLACEMENT - REQUEST FOR TIME EXTENSION:**

The contractor, Nan, Inc., is requesting a contract time extension of 60 calendar days (39 rain-out days) due to unsuitable weather conditions. This is the second time extension request for this project.

Ext. #	From (Date)	To (Date)	Days (Calendar)	Reason
1	11/09/2021	12/17/2021	38	Excess delays transferring the National Pollutant Discharge Elimination System (NPDES) permit (additional 33 calendar days) and Change Order No. 2 (5 calendar days)
2	12/17/2021	02/15/2022	60	Rain-outs (39 working days/ 60 calendar days)
Total Days (including this request)			98	

These delays were beyond the control of the contractor and this time extension is in compliance with the contract requirements. Staff reviewed the request for the contract time extension and the accompanying supporting documentation and finds the 60 calendar days justified. *Note: There are no additional costs associated with this time extension.*

The Manager-Chief Engineer recommended that the Board grant this contract time extension of 60 calendar days to Nan, Inc., for JOB NO. 2005-875, CONSTRUCTION OF THE PĀPA‘IKOU TRANSITE AND G.I. PIPELINE REPLACEMENT. If approved, the contract completion date will be extended from December 17, 2021, to February 15, 2022.

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

Mr. Hirakami asked what the estimated life of galvanized iron pipe was and if there are better materials that might last longer.

The Manager-Chief Engineer replied that Ductile Iron (D.I.) pipe is being used in this project. It is more durable and well suited for seismic conditions.

Chairperson Boswell noted that this replacement is bringing the pipeline up to today's standards. The pipeline being replaced is no longer being used today.

ACTION: Motion was carried unanimously by roll call vote with eight (8) Ayes - Mr. Bell, Mr. De Luz, Mr. Hirakami, Ms. Hugo, Mr. Ney, Mr. Scicchitano, Mr. Sugai, and Chairperson Boswell.

8) NORTH KOHALA:

**A. JOB NO. 2019-1105, KA'AUHUU #2 BOOSTERS A, B & C REPAIR – REQUEST FOR TIME EXTENSION:**

The contractor, Beylik Drilling & Pump Service, Inc., is requesting a contract time extension of 60 calendar days. The pump manufacturer encountered COVID-related staffing issues which delayed the fabrication of the pumps. Due to this fabrication delay, the project was suspended by the Department for 100 calendar days which resulted in a new contract completion date of January 10, 2022. The pump manufacturer encountered additional delays due to reworking the pumps to meet the required specifications and delayed the final painting until after the test results were accepted by the Department. These delays were beyond the control of the contractor.

Staff reviewed the request for the contract time extension and the accompanying supporting documentation and finds only 30 calendar days justified. *Note: There are no additional costs associated with this time extension.*

1<sup>st</sup> suspension of work – 70 calendar days, from July 1, 2021, to September 8, 2021 (DWS letter dated June 22, 2021)

2<sup>nd</sup> suspension of work – 30 calendar days, from September 9, 2021, to October 8, 2021 (DWS letter dated August 25, 2021)

1<sup>st</sup> time extension – 30 calendar days (due to pump manufacturing and testing delays)

The Manager-Chief Engineer recommended that the Board approve a contract time extension of 30 calendar days to Beylik Drilling & Pump Service, Inc., for JOB NO. 2019-1105, KA'AUHUU #2 BOOSTERS A, B & C REPAIR. If approved, the contract completion date will be revised from January 10, 2022, to February 8, 2022.

ACTION: Mr. De Luz moved for approval of the recommendation; seconded by Ms. Hugo. There being no discussion, Motion was carried unanimously by roll call vote with eight (8) Ayes - Mr. Bell, Mr. De Luz, Mr. Hirakami, Ms. Hugo, Mr. Ney, Mr. Scicchitano, Mr. Sugai, and Chairperson Boswell.

(Mr. Scicchitano left the meeting at 2:04 p.m.)

**B. JOB NO. 2016-1045, CONSTRUCTION OF THE HALA‘ULA WELL DEVELOPMENT - PHASE 2 - REQUEST FOR TIME EXTENSION:**

The contractor, Goodfellow Bros., LLC, is requesting a time extension of an additional 90 calendar days to obtain the Pump Installation Permit and subsequently complete the installation of the pump equipment and piping. The completion of the project will also depend on the completion of HECO (Hawaiian Electric) power being installed to the well site.

Ext. #	From (Date)	To (Date)	Days (Calendar)	Reason
1	11/18/2020	7/31/2021	255	Excess delays due to land ownership changes and lack of site access.
2	7/31/2021	11/30/2021	122	Delay in receiving the pump installation permit from the Commission on Water Resource Management (CWRM).
3	11/30/2021	2/28/2022	90	Delay in receiving the pump installation permit from CWRM.
Total Days (including this request)			467	

The contractor has not received the Well Pump Installation Permit which is required to begin the installation of the pump. These delays are beyond the control of the contractor.

Staff reviewed the request for the contract time extension and finds the request for the additional 90 calendar days to be acceptable. *Note: There are no additional costs associated with this time extension.*

The Manager-Chief Engineer recommended that the Board approve a contract time extension of 90 calendar days to Goodfellow Bros., LLC, for JOB NO. 2016-1045, CONSTRUCTION OF THE HALA‘ULA WELL DEVELOPMENT - PHASE 2. If approved, the contract completion date will be revised from November 30, 2021, to February 28, 2022.

**MOTION:** Mr. Ney moved for approval of the recommendation; seconded by Mr. De Luz.

Mr. Hiramaki asked if the Commission on Water Resource Management is a State commission; and if so, if it meets only on Oahu.

The Manager-Chief Engineer replied that it is a State Commission under the Department of Land and Natural Resources and although it is based on Oahu, does meet on different islands.

**ACTION:** A roll call was taken on the Motion. Motion was carried by seven (7) Ayes - Mr. Bell, Mr. De Luz, Mr. Hiramaki, Ms. Hugo, Mr. Ney, Mr. Sugai, and Chairperson Boswell; and one absent: Mr. Scicchitano.

9) **MISCELLANEOUS:**

A. **MONTHLY PROGRESS REPORT:**

No questions.

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

Ms. Gray reviewed the Financial Statements from October 2021. Comments on the Balance Sheet are very similar to prior months. The Income Statement shows that the Department is going in a positive direction regarding revenues. Delinquencies are still decreasing. While consumption decreased slightly compared to prior fiscal year, it is not a huge decrease. She mentioned that at the last meeting, there was a request for reports that show consumption by rate categories. Consumption rates are based on meter size. That report will be produced but has not been finalized as yet.

Mr. Hirakami asked if, now that it is pay or shut water off, there are other kinds of strategies like what was done today in the hearing where people are being offered alternatives to turning their water off by payment plans, etc.

The Manager-Chief Engineer replied that the Board will notice, there are not a lot of contested case hearings in front of it; and that is because Ms. Gray and her staff work very hard to try and resolve it before it gets to that point. Some sort of payment plan is offered before actually shutting water off. It is usually when they are adamant, then it has to be taken to the next level.

Ms. Gray stated that payment plans are always an option for customers; but from some of the comments heard, it seems like now that there is the consequence of shutting off the water, people are more aware and willing to pay, to the sense where they might be holding onto money, but if the water might be shut off, they may come in with a check just to clear that balance.

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

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

1. North Kona Wells - the Deputy reported that for this month, twelve of the fourteen sources (wells) are online or available to use.
2. COVID-19 Update - the Manager-Chief Engineer reported that things are much the same as reported last month. The Department is doing business as usual, is meeting the Governor's mandate, and the Department is in full compliance.
3. Department of Water Supply Energy Report - Mr. Ching reviewed his energy report. The total power costs for the third quarter of 2021 were almost \$4.8 million, which was an increase of a little over 25% from the same quarter of 2020. Compared to the previous quarter of 2021, it was up almost 14%. He attributes this to a couple of things. One is the electric utility rate increase but also in this third quarter, there was an increase in consumption compared to other quarters. Those two things combined resulted in this steep increase. The Department has 158 Hawaiian Electric accounts under three different schedules. The average energy rate for the third quarter of 2021 was about 31.4 cents per kilowatt hour, up 17.4% from the same quarter of 2020 and up about 6.8% compared to the previous quarter of 2021. The demand rates for the third quarter of 2021 was \$20.50 per kilowatt, which was up 1.9% from the same quarter last year and no change compared to the previous quarter. The Power Cost Charge (PCC) is currently \$2.15 per thousand gallons, last adjusted November 1, 2021. Highlighting some numbers from the air conditioning replacement project, eleven fairly large units were replaced at well sites, and the Department was successful in getting Hawai'i Energy rebates for them. Looking at the project breakdown, ultimately, about an eight-year payback is expected on this investment. That is a payback from the energy cost savings. Going over some power cost-saving projects, the Solar Photovoltaic Systems at Five Locations - the contractor is working on getting those online. The Hilo Baseyard

and the Water Quality building are still in the permit review stage. The contractor is following up as best as they can. The completion date of the contract is in January 2022. He is expecting a time extension request from the contractor before that time. The other three sites are progressing toward commercial operation. Covering the booster pump replacement project, there are two pump projects underway - replacing old infrastructure with the intent to put in more efficient units (Pi'ihonua #3) we are still waiting for a few items to come in before installation and is expected to meet the February 2022 completion date. Hāwī #2 Booster C was just awarded and the contract is being executed.

Mr. De Luz stated that Hawaiian Electric had just installed a smart meter on his home. He asked if Hawaiian Electric might work with DWS to create some consolidated reports because I believed there are three rates, based on meter sizes. He would be interested to see if Mr. Ching could talk with their engineering and work to get some real-time management. He also applauded the managing of the demand charge the way it is now, which is basically done manually.

Mr. Ching stated that their current program is focused in the Hilo district for the smart meters and the Department did get some notices some of its Hilo sites will get smart meters. He had talked with their account manager and was provided with some information on the accounts and on the "P" schedules. The smart meters will definitely help with tracing and he hoped for expansion to all of the accounts.

#### **D. EXECUTIVE SESSION REGARDING OPEN LITIGATION:**

The Board anticipates convening an executive meeting for the purposes of discussing the legal rights, duties and liabilities of the Board concerning open litigation against the Board, as authorized by Hawai'i County Charter Section 74.6 and Hawai'i Revised Statutes ("HRS"), Section 92-4 and 92-5(a)(4). The Board wishes to have its attorney present, in order to consult with the board's attorney on its questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities pursuant to HRS Section 92-5(a)(4). A two-thirds vote of the members present, pursuant to HRS Section 92-4, is necessary to hold an executive meeting, provided that the affirmative vote constitutes a majority of the board.

Chairperson Boswell asked Mr. Yoshimoto if the Board could move to go into Executive Session for Items 9D and 9E in one Motion.

Mr. Yoshimoto replied that it could be done, as long as the Minutes reflect when the first purpose is ended and transitions into the second purpose.

Chairperson Boswell asked for a Motion to enter Executive Session regarding Open Litigation and the Manager-Chief Engineer and Deputy Evaluation for Calendar Year 2021.

**MOTION:** Ms. Hugo moved that the Board go into Executive Session to discuss open litigation and the Manager-Chief Engineer and Deputy evaluation for calendar year 2021; seconded by Mr. De Luz.

Mr. Yoshimoto stated, for the record, it is pursuant to Hawai'i Revised Statutes, Sections 92-4 and 92-5(a)(4).

**ACTION:** A roll call vote was taken on the Motion. Motion was carried by roll call with seven (7) Ayes - Mr. Bell, Mr. De Luz, Mr. Hirakami, Ms. Hugo, Mr. Ney, Mr. Sugai, and Chairperson Boswell; and one absent: Mr. Scicchitano.

(The Board entered Executive Session at 2:25 p.m. for the Open Litigation item which ended at 2:30 p.m.)

**E. EXECUTIVE SESSION: MANAGER-CHIEF ENGINEER AND DEPUTY EVALUATION FOR CALENDAR YEAR 2021:**

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The Board anticipates convening an executive meeting to consider the evaluations of the Manager-Chief Engineer and Deputy for its annual performance review, as authorized by Hawai'i County Charter Section 7-4.6(d) and Hawai'i Revised Statutes ("HRS"), Sections 92-4 and 92-5(a)(2). The Board wishes to have its attorney present, in order to consult with the board's attorney on its questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities pursuant to HRS Section 92-5(a)(4). A two-thirds vote of the members present, pursuant to HRS Section 92-4, is necessary to hold an executive meeting, provided that the affirmative vote constitutes a majority of the board.

(The Board began Executive Session regarding this item at 2:31 p.m. and ended at 2:58 p.m. Motion to Enter executive session was included in Item 9D.)

**F. MANAGER-CHIEF ENGINEER AND DEPUTY EVALUATION FOR CALENDAR YEAR 2021:**

Chairperson Boswell asked Mr. De Luz to recap.

Mr. De Luz stated that after a very exhaustive evaluation by all of the Board members, this evaluation for the calendar year 2021 of the Manager-Chief Engineer, the Board looked at five major categories. 1) Leadership, 2) Financial Management, 3) Planning and Organization, 4) Public Information, and 5) Personnel Management. The Board unanimously came to a conclusion that the Manager-Chief Engineer, Mr. Keith Okamoto, exceeded the expectations in all of the five areas and that the evaluation of the Deputy be that of the Manager-Chief Engineer. He congratulated the Manager-Chief Engineer for a job well done in 2021.

Mr. Yoshimoto asked if the Board does not traditionally make a Motion to make that finding or if that was sufficient for the record.

Chairperson Boswell thought that would be sufficient for the record. The Board is deferring it until December.

Mr. De Luz stated that this evaluation will be forwarded to the HR department for the Manager-Chief Engineer's personnel file. On the other component, the Board will be considering the compensation of the Manager-Chief Engineer and the Deputy, as per the Rules, at the December 21, 2021, Water Board Meeting.

Mr. Yoshimoto stated, to be clear, that the announcement by Board Member De Luz is sufficient for the Board to take action with respect to the evaluation at this time.

Chairperson Boswell stated that the action will not be taken until the December Board Meeting.

Mr. Yoshimoto thanked the Chairperson for the clarification.

**G. CHAIRPERSON'S REPORT:**

Chairperson Boswell reported that he is getting a little sentimental, this being his second to the last Board Meeting. He has enjoyed working with everyone. We are in capable hands, seasoning is going on, we have some management that is top notch. Someone had asked him recently if he gets some

kind of compensation out of being on the Board for five years, and he replied that he sure does--and it is the relationships built from serving.

10) ANNOUNCEMENTS:

1. **Next Meeting:** - December 21, 2021, 10:00 a.m., via Web Conferencing

11) ADJOURNMENT

**ACTION:** Ms. Hugo moved to adjourn the meeting; seconded by Mr. Ney and carried by roll call vote (Ayes: 7 - Mr. Bell, Mr. De Luz, Mr. Hirakami, Ms. Hugo, Mr. Ney, Mr. Sugai, and Chairperson Boswell; and one absent: Mr. Scicchitano.)

(Meeting adjourned at 3:04 p.m.)

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Recording Secretary

APPROVED BY WATER BOARD  
DECEMBER 21, 2021