

RESOLUTION 19-10-07

(Did not pass)

A RESOLUTION OF THE KEY LARGO WASTEWATER TREATMENT DISTRICT, AMENDING THE DISTRICT GENERAL RULES AND REGULATIONS TO PROVIDE FOR INSTANCES WHERE CONSTRUCTION OF WASTEWATER FACILITIES CAUSES DAMAGE TO PROPERTY IN PUBLIC RIGHTS-OF-WAY, AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Key Largo Wastewater Treatment District (“District”) is in the process of completing a wastewater management system consisting of a treatment plant, transmission line, and collection systems serving the properties located on the Island of Key Largo; and

WHEREAS, the District desires to provide for instances where construction of wastewater facilities causes damage to property in public rights-of-way;

NOW, THEREFORE, the Key Largo Wastewater Treatment District hereby amends the District General Rules and Regulations by adding a new Section 3.13, as follows:

Section 3.12 Encroachments in Public Rights-of-Way.

In cases where the District or its contractor encounters an encroachment in a public right-of-way, and such encroachment presents an obstruction to the construction of District wastewater facilities, the District may remove the obstruction without compensation to the owner of the encroaching property, except as follows:

- (1) The District shall require in all construction contracts that a District construction contractor, prior to any construction, shall make a visual recording of any right-of-way encroachments that are apparent by surface inspection, shall exercise due diligence to avoid or minimize damage to such encroachments.
- (2) The District shall require in all construction contracts that a District construction contractor shall request locations of public utilities within the right-of-way, and shall be responsible to repair any public utilities that have been located and marked on the ground surface. If the District construction contractor shall fail to request locations of public utilities, the contractor shall be responsible to repair any public utilities that would have been marked if the contractor had made a timely location request.
- (3) In the case of other encroachments within the right-of-way that are not apparent by visual inspection and are not identified in construction plans and specifications, the District is not responsible for damage to the encroaching property. However, the District Board, in its discretion, may compensate the property owner for the reasonable, actual cost of repair to such encroaching property if the part of the encroaching property damaged by construction is in a reasonably direct path from a public utility installation to the property improvement served by the utility. As an example, and not by way of limitation, the District Board may compensate the owner of a water line or electrical line damaged by District construction if the damaged

of a minor time or essential time quantity by District Commissioner if the proposed
extension and not by way of provision the District Board may compensate the owner
burden party in relation to the property subject to the said. As an
extension of property quantity by construction is in a reasonably direct line from a
convenient point of view to such extension property if the Board of the
District Board in its discretion may compensate the property owner for the
District is not responsible for damage to the extension property. However the
District Commissioner and are not identified in construction plans and specifications the
(2) in the case of other extensions within the right-of-way that are not adjacent to

any other road or street if the contractor had made a timely location reference
of burden parties the contractor shall be responsible to return and burden parties that
shall arise. If the District Commissioner contractor shall be to return locations
be responsible to return any burden parties that have been located and marked on the
contractor shall return locations of burden parties within the right-of-way and shall

(3) The District shall return in all construction contracts that a District Commissioner
reference to avoid or minimize damage to such extensions;

and extensions that are adjacent to public property shall include the
contractor prior to any construction shall make a timely recording of any right-of-

(4) The District shall return in all construction contracts that a District Commissioner
the owner of the extension property except as follows:

extensions within the District may involve the organization through compensation to
of-way and other extensions business an organization to the construction of District
in cases where the District or its contractor encounters an extension in a burden right-

SECTION 3.12 - ENCROACHMENTS IN BURDEN RIGHT-OF-WAY

District through rules and regulations by adding a new section 3.12 as follows:
MOM' ENKROKRE the Kea Tuiho Waikanae District Board shall provide the
reference cases damage to property in burden right-of-way.
MATEKUA the District desires to provide for business where construction of extensions
and other extensions within the boundaries located on the island of Kea Tuiho and
concerning a Waikanae management system consisting of a network being management the
MATEKUA the Kea Tuiho Waikanae District (District) is in the process of

WORLDWIDE FOR THE EFFICIENT USE
PROPERTY IN BURDEN RIGHT-OF-WAY THE
MANAGEMENT SYSTEMS SYSTEMS SYSTEMS TO
FOR PARTIALS THESE CONSTRUCTION OF
SOMEONE BURDEN AND REGULATIONS TO PROVIDE
THESE/THAT DISTRICT WHEREVER THE DISTRICT
Y REGULATION OF THE KEA TUIHO WAIKANAE
(the not here)

REGULATION 10-10-04

portion of the water line or electrical line is within a reasonably direct path from a water meter or power pole to a residence or other improvement. As a condition of compensation, the District Board may require the property owner to submit original paid invoices and receipts for the amounts claimed as compensation.

This resolution shall become effective upon adoption by the District Board.

The foregoing RESOLUTION NO. 19-10-07 was offered by Commissioner Hammaker, who moved its approval. The motion was seconded by Commissioner Bullock and being put to a vote the result was as follows:

	AYE	NAY
Chairman Gary Bauman	<u> </u>	<u> X </u>
Commissioner Claude Bullock	<u> X </u>	<u> </u>
Commissioner Susan Hammaker	<u> X </u>	<u> </u>
Commissioner Norman Higgins	<u> </u>	<u> X </u>
Commissioner Andrew Tobin	<u> </u>	<u> X </u>

The Chairman thereupon declared Resolution No. 19-10-07 **did not pass** this 23rd day of October, 2007.

**KEY LARGO WASTEWATER TREATMENT
DISTRICT BOARD OF COMMISSIONERS**

By _____
Chairman, Gary Bauman

Attest:

Approved as to form and content:

By _____
Carol Walker, Board Clerk

By _____
District Counsel