

The Virgin Islands Consortium

On Two-Year Anniversary of Hurricane Irma, WAPA Board Rejects Call To Hire Insurance Experts To Help Recover As Much As \$50 Million In Covered Storm Losses

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Robert Moore **September 06, 2019**



As the V.I. Water and Power Authority aggressively campaigns for consumer rate increases, WAPA's governing board was busy on Thursday turning down an opportunity to recoup millions of dollars in hurricane losses by re-filing and settling claims with its insurer.

Board members declined to act on a measure that would have brought expert lawyers and public adjusters on board to re-calculate WAPA's rock-bottom estimate of insured

losses from the 2017 hurricanes Irma and Maria.

"These guys are professionals who are able to look at a loss and find stuff that perhaps we didn't see," said board member Gerald T. Groner, a Christiansted attorney. "I think about my house: I know a public adjuster could have probably gotten me more for my roof, perhaps three times more, than I have... That's a big difference." The quote sounds as if Mr. Groner was supportive of the move to hire expert lawyers and public adjusters to help WAPA recoup funds, but Mr. Groner was actually against it, contending that insurer Lloyd's of London would raise premiums and could also walk away from providing coverage to WAPA.

Big difference, but no big deal to the WAPA board.

Based on the assessments of an in-house mechanical engineering staff – none of whom had experience performing storm-damage estimates on industrial structures – the authority placed the value of insured assets lost to Irma and Maria at \$3.5 million.

That bears repeating. Two devastating, Category 5 hurricanes struck the territory within two weeks, and WAPA reported to insurer, Lloyd's of London, that the loss of covered assets amounted to a mere \$3.5 million.

"I find it hard to justify that the numbers are accurate," said Board Chairman Anthony D. Thomas, who urged the board to engage outside expertise. "If the eye that's doing the assessment is not versed in certain types of disaster damage, then actually the (amount) could arguably be much more than that."

An emergency board meeting was scheduled for Sept. 5th – one day before a contractual statute of limitations on re-filing claims expired. The board was to consider a proposal by public adjusters Phoenix Claims Consulting and affiliated law firm, The Merlin Law Group to help WAPA recoup what the consultants projected could be as much as \$20 to \$50 million in unrecovered insurance payments.

The proposal had no upfront costs, with lawyers and adjusters collecting 20 to 30 percent fee of any amount of insurance money recovered.

Because WAPA waited so long after the storms to consider re-examining its covered losses, the window of time to act is closing fast. "Your deadline to preserve your claim ends tomorrow," Merlin Law Group attorney Javier Delgado told board members.

Once the suit was filed, Delgado said it would not be served on Lloyd's until negotiations for a settlement were exhausted. At that point, the insurer could be served, setting the stage for complex litigation, Delgado said.

Some board members had no appetite for a lawsuit against Lloyd's of London. "And we're going to be filing a lawsuit tomorrow because of this?" said Board Vice Chairman Noel Loftus. "It doesn't seem reasonable."

The board's inaction – intended to preserve a relationship with the Lloyd's of London insurance syndicate – means that virtually no effort has been made to recover tens of millions of dollars in potential insurance payouts.

The move also spares the insurer from a multi-million dollar payout for losses ostensibly covered by the authority's insurance policy. Taxpayers, through FEMA and other governmental agencies, will instead foot the bill for WAPA's recovery.

Lloyd's of London is among the largest property and casualty insurers by volume of premiums written annually in the U.S. Virgin Islands, according to a company press release last year. Lloyd's has offered consumer, commercial and industrial property insurance in the territory since 1971.

WAPA – which is insured with Lloyd's of London at a \$175,00-per-year premium – has received no insurance funds, and for the moment appear unlikely to.

Irma's Two Year Anniversary. Time is Up

Under the authority's insurance policy, the deadline for reopening a claim for Irma passes today, Friday, Sept 6 — exactly two years after the catastrophic landfall on St. Thomas and St. John.

In 13 days, two-years after Maria wrecked havoc on St. Croix, the door closes for WAPA to seek claims for Maria-related damages, said the authority's legal counsel Lorelei Farrington.

Thursday's emergency meeting passed with no action by the board. No board meetings are currently scheduled prior to when the statute of limitations is up on Maria claims, said Ms. Farrington said.

Questioning the Numbers

This time a year ago, more than 14,000 insurance claims had been filed and insurance companies in the territory had paid over half a billion in insurance claims, according to the Division of Banking, Insurance and Financial Regulation.

Not a penny involved WAPA ratepayers.

Because estimate damage to insured assets was far less than the \$5 million-per-storm deductible, WAPA provided Lloyd's of London with an estimate of insured losses, but never sought to recover a penny.

"Who did the assessment?" asked Board Chairman Anthony D. Thomas. He also serves as the Bryan administration's commissioner of the Department of Property and Procurement. "Did we hire an independent firm to do an assessment ... how was the assessment conducted?"

It was handled internally by an in-house mechanical engineer. Board member Hubert Turnbull questioned whether the mechanical engineer had any experience evaluating structural integrity or writing insurance estimate for the utility.

"Is it fair to say that during the assessment mode, because of the incoming hurricane Maria it was not enough time to really accurately identify the damages sustained in Hurricane Irma?"

“Maria was coming. There wasn’t really enough time to accurately assess what happened in hurricane Irma,” Mr. Thomas said.

WAPA’s debts are well north of \$100 million. Money is owed to the companies that supply propane and other fuel, equipment and operations vendors. The authority says it is struggling to meet operational costs, and seeks an increase in the base rate paid by consumers.

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