

In the Matter Of:
East Chicago Waterway Management

DISTRICT BOARD OF DIRECTORS' MEETING

June 19, 2019



Iseminger & Associates, Inc.
877-337-7379

District Board of Directors' Meeting
06/19/2019

1 **EAST CHICAGO WATERWAY MANAGEMENT**
2 **DISTRICT BOARD OF DIRECTORS' MEETING**
3 **City of East Chicago, Engineering/Annex Building**
4 **4444 Railroad Avenue**
5 **East Chicago, Indiana**
6 **June 19, 2019**
7 **Wednesday, 5:00 p.m.**

8
9 Transcript of the proceedings had in the
10 above-entitled matter, on the 19th day of
11 June, 2019, at 5:00 p.m., at the City of East
12 Chicago, Engineering/Annex Building, 4444 Railroad
13 Avenue, East Chicago, Indiana, before Peggy S.
14 LaLonde, Certified Shorthand Report and Notary
15 Public for the County of Porter, State of
16 Indiana.

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21 **ISEMINGER & ASSOCIATES, INC.**
22 **2 Indiana Avenue**
23 **Valparaiso, Indiana 46383**
24 **(219) 464-2178**
25

A P P E A R A N C E S:

MR. JOHN FEKETE, President

MR. JOHN BAKOTA, Board Member

MR. HENRY RODRIGUEZ, Board Member

MR. KEVIN DOYLE, Board Member

MR. RAY LOPEZ, Board Member

MR. FERNANDO TREVINO, FMT Consulting

MS. ELLEN GREGORY, Ellen Gregory Law

ALSO PRESENT

MR. TIM ANDERSON

MR. DAVID ALONZO

MR. MICHAEL NGUYEN

*** * * ***

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1 MR. FEKETE: All right. I'd like to call
2 to order the East Chicago Waterway Management
3 District Board of Directors' meeting. Today's date
4 is June 19th, and the time is actually 5:00.

5 First order of business is the
6 roll call. John Bakota?

7 MR. BAKOTA: Yes.

8 MR. FEKETE: Henry Rodriguez?

9 MR. HENRY RODRIGUEZ: Yes.

10 MR. FEKETE: Patrick Rodriguez?

11 (No Response)

12 MR. FEKETE: Ted Zagar?

13 (No Response)

14 MR. FEKETE: Kevin Doyle?

15 MR. DOYLE: Yes.

16 MR. FEKETE: Ray Lopez?

17 MR. LOPEZ: Yes.

18 MR. FEKETE: John Fekete? Yes. We have a
19 quorum.

20 Executive Director's report, Mr.
21 Trevino.

22 MR. TREVINO: Fernando Trevino, FMT
23 Consulting. First, I'd like to start off by going
24 over the contents of your Board packet. You have
25 today's meeting agenda. You have the Board minutes

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1 dated May 15, 2019.

2 You have the CliftonLarsonAllen
3 financial statement dated May 31, 2019. You have
4 the Claim Docket dated June 19, 2019. You have a
5 spreadsheet/title, 2019 Budget Amendment, dated
6 June 19, 2019, and that's the budget amendment
7 proposal on your agenda for approval consideration.

8 You have First Merchant Bank
9 statements for accounts ending in 608 and 616, for
10 the month of May 2019. And it also included the
11 User Fee deposit memos that were deposited in the
12 month of May -- make that four User Fee deposits.
13 Memo one dated May 3rd, then, May 14 -- three dated
14 May 14. And May 14 also documents a wire transfer
15 of \$75,000. Then, there is another deposit memo
16 dated May 28, 2019. And you have two First
17 Merchants CDs, one report is for 12-month CD and one
18 for 24-month CD, accounts ending in 898 and 936.

19 You have an e-mail from myself
20 to Beth Admir and Rick Nagle dated June 17, 2019,
21 summarizing our meeting on several 2019 budget
22 items.

23 You have an engagement letter
24 dated June 18, 2019, with Plews, Shadley, Racher &
25 Braun and the Waterway Management District.

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1 You have a User Fee past due
2 notice dated May 20, 2019, and that's in your packet
3 just to kind of show you somewhat of a template of
4 the past due notices that were sent out to the
5 companies that were in arrears on the 2019 User
6 Fees.

7 You have the BMO Harris ECI
8 Facility report dated May 31, 2019. You have a BMO
9 Harris Bank statement for account ending in 712, for
10 the month of May 2019. You have a notice that we
11 received from BMO regarding our Certificate of
12 Deposit that is maturing on the 29th of this month.
13 And you have a letter of direction regarding that
14 same CD that's expiring, account ending in 333. And
15 the date of the letter of direction is June 19,
16 2019.

17 You have the Army Corps of
18 Engineers report to the Board dated June 19, 2019.
19 You have a statement of position under the Tipping
20 Fee Agreement and final informal negotiations under
21 the Project Cooperation Agreement document or
22 letter. It's basically a position statement and
23 that's dated May 25, 2019 from Plews, Shadley,
24 Racher & Braun to the Army Corps of Engineers.

25 You have a letter dated May 31,

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1 2019 to Mike Nguyen from myself regarding the LERR
2 credits, with our proposed credits affiliated with
3 the work that we did for Feddeler parcel.

4 You have a letter dated June 3,
5 2019, from Attorney Ellen Gregory to Kim Sabo
6 regarding those same LERR credits, basically stating
7 our nonwaiver position as we submit those credits.

8 You have Attorney Ellen
9 Gregory's report to the Board, with revision date of
10 June 17, 2019.

11 You have a copy of the EPA news
12 release regarding the 26 million-dollar clean up of
13 the Grand Cal River, in Northwest Indiana. And the
14 date of the news release is May 20, 2019.

15 You have our 2018 Work In-Kind
16 Report to the EPA, Natalie Mills, and that's dated
17 May 22, 2019. And you have another Work In-Kind
18 Report summary that I submitted to Natalie Mills on
19 May 23, 2019, and that one is for the 2019 first
20 quarter.

21 You have an e-mail from myself
22 to Eric Hritsuk, from BP, regarding our questions
23 and comments to their sheet pile wall design
24 contract.

25 You have an e-mail from Paul

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1 Johnson to myself and several others, and it's dated
2 May 22, 2019 and it summarizes BP's responses to our
3 comments on the ECI air monitoring plan.

4 You have a fax sheet from
5 Atlantic Richfield Company regarding their pipeline
6 removal project that went out to the community, and
7 that's dated May 20, 2019.

8 You have a red-line of the great
9 Lakes Legacy Act Project Agreement, and the red-line
10 shows the differences and the changes between the
11 third modified agreement versus the second modified
12 agreement. That's just a draft. The project team
13 is continuing to work on finalizing our project
14 agreement, and once we get there, we'll present it
15 to the Board for approval. But I kind of wanted to
16 show you where we are at right now, so when you do
17 get the final one, you kind of get a sense of the
18 background and what some of the changes are in
19 context with what we have done.

20 You have a report from Parsons
21 dated June 6, 2019, and it's titled, Monthly Bird
22 Observation Monitoring Report, number 45, for the
23 month of May 2019.

24 You have a letter from BP
25 regarding work on their pipeline. The letter is not

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1 dated.

2 And you have last, but not
3 least, you have a letter from our landlord, the East
4 Chicago Housing Authority, dated June 7th, 2019,
5 regarding some amendments that we'll be doing to the
6 facility. They are planning to add a new AC unit.

7 And that concludes the items in
8 your Board packet. Just to go over a couple of
9 things. The Finance Committee met on June 11th.
10 Part of that review was the 2019 Budget Amendment,
11 which is in your Board packet. Also part of the
12 review was the expiring CD through BMO Harris, and
13 there is a letter of authorization in your Board
14 packet on recommendations of what to do with the
15 funds after it expires.

16 Tim Anderson and I have a
17 meeting with the State Board of Accounts tomorrow to
18 initiate the audit process for years 2015 through
19 2018.

20 The Distribution Investment
21 Policy is expiring in August of this year, so we
22 plan to have an updated investment policy for your
23 review and consideration at the July Board meeting.

24 User Fees, as I mentioned, the
25 2019 past due letters went out in May. A sample of

1 those letters was in your packet. Additional
2 payments have been trickling in. We are currently
3 about \$43,000 in outstanding unpaid invoices.

4 The Great Lakes Legacy Act
5 Project summary, as I mentioned the 2018 annual cost
6 share report went out on May 22nd. It's been
7 reviewed by Natalie Mills and she had sent it up for
8 approval. She had a couple of questions and
9 comments, but nothing major. The 2019 first quarter
10 cost share report was submitted on May 23rd. I
11 haven't heard any feedback or comments or questions
12 on that report.

13 The EPA press release with Great
14 Lakes Legacy Act Project was sent out on May 20. A
15 copy of that is in your Board packet.

16 The BP pipeline removal project,
17 which is part of the Great Lakes Legacy Act Project,
18 they have started the mobilization and they have
19 done some excavation and pilot testing for the
20 pipeline removal. The fact sheet affiliated with
21 the project, that was sent out to the community
22 before they started, which is in your Board packet.
23 We are also working on what process we should use
24 for the Great Lakes Legacy Act using the CDF for
25 sediment disposal. So that work is ongoing.

1 The Grand Cal Outreach Activity
2 was held on May 21st. Lincoln Elementary was the
3 chosen elementary school to participate in the
4 activity.

5 The Army Corps of Engineers
6 dredging project update is in your packet. I
7 mentioned that the distribution position statement
8 was sent to the Corps on May 25th regarding the
9 ongoing Tipping Fee dispute and negotiations
10 continue on that dispute. The proposed Feddeler
11 credits were sent out to the Corps on May 31st
12 regarding the Canal Street Project. Attorney Wieser
13 has been working to reach out to Lake County for
14 their assistance on the project, so hopefully by the
15 next Board meeting we'll finalize whether they are
16 going to assist us on that project or not.

17 Attorney Ellen Gregory will give
18 update on various legal matters, and that concludes
19 my report.

20 MR. FEKETE: Any questions for Mr.
21 Trevino? (None) Thank you.

22 Next order of business is
23 approval consideration of the Board meeting notes
24 for May 15, 2019.

25 MR. BAKOTA: Motion to approve.

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1 MR. LOPEZ: Second.

2 MR. FEKETE: All in favor, signify by
3 saying aye.

4 (All signify aye.)

5 MR. FEKETE: Next, Accounting Consultant
6 Report, Mr. Anderson.

7 MR. ANDERSON: Tim Anderson,
8 CliftonLarsonAllen. In your packet you have the May
9 31st financial statements. Here's some printouts.
10 The financials for May, if you look at page 2, this
11 is for the five months ending May 31st. Our
12 receipts are at the top, interest income, User Fees,
13 and the transfer from the Trust account. So we have
14 had cash receipts for those five months of 552,000.
15 And then you can see who we have written checks to,
16 the disbursements. We have written checks for total
17 of 140,000. So our cash is increased 412,000.
18 Started the year -- and this is not the Trust
19 account, this is just our Operating account and User
20 Fee account -- we started the year with 3.3 million.
21 And as of May 31st, we have 3.7 million in those
22 accounts.

23 It shows how we've broken down
24 the Operating account, which is what we write checks
25 out of for our budget, which has 878,000. And then

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1 the User Fees sort of roll forward money. We have
2 got 825,000 in the checking and \$2,037,000 in those
3 CDs.

4 If you look at page 3, each of
5 those accounts, the top one is where we get our
6 budget money. We transfer money into that account
7 to cover our budget. And then from there down, it's
8 User Fee money. The checking account has got 825 in
9 it. And then those Certificates of Deposit are
10 2,037,000. And it should be noted that the interest
11 that we received for 2019 is \$24,000 on those CDs.
12 So it's a good decision to put those funds in CDs.

13 The last page, which is the
14 important page, shows the budget less the
15 disbursements through May. The claim docket that
16 you have in front of you today is the 36,000, that's
17 what is on the claim docket. And then the unused
18 budget column shows what we have got left for every
19 one of those budget items, after you guys sign the
20 checks today. So we keep a really close eye on that
21 to make sure nothing is even coming close. So we
22 are in good shape.

23 Any questions about the report?
24 (None) We did get a letter from the State Board of
25 Accounts that they are going to audit. We have got

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1 no problems with the State Board. I'd rather hear
2 about any changes or whatever that they'd like to
3 make on a timely basis so we can make them. They
4 are auditing '15, '16, '17, and '18. So they are
5 going to be busy. But we'll see how that goes. As
6 Fernando mentioned, we have a call tomorrow. I
7 don't think he's going to make a site visit. They
8 just want everything kind of e-mailed and so we'll
9 give them whatever they want, and we'll try to make
10 it as painless as we can, and look forward to a
11 timely completion of the audit. That's it.

12 MR. FEKETE: This is just a closer look at
13 the information that we submit to them?

14 MR. ANDERSON: That's a good point that
15 you make. We give them every month everything that
16 we have, but they never really look at contracts and
17 sort of the nitty gritty stuff. They may look at
18 purchase orders to make sure you are doing them.

19 MR. FEKETE: So the process is correcting?

20 MR. ANDERSON: I don't know. Do you put
21 your Board minutes on there too each month? It's a
22 good point that you make. They have got everything
23 that they need probably already, but we want audits,
24 that's a good thing.

25 MR. DOYLE: I don't know about that.

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1 MR. ANDERSON: I don't know about your
2 personal situation, but we have been flying this
3 thing straight as an arrow. If they have anything
4 that they would like us to do differently, we'd like
5 to know about it earlier than later so we can change
6 it. We have nothing to hide. So, complete
7 transparency.

8 MR. LOPEZ: Job security.

9 MR. ANDERSON: We had the last audit and
10 they had absolutely no changes if you remember. I
11 don't know, lightening never strikes twice in the
12 same place. I'm sure they will find something.

13 MR. FEKETE: You don't know if their
14 internal policy had a shift or something? I guess
15 we'll find out.

16 MR. ANDERSON: We've always done
17 everything the exact way they prescribe. We will
18 obviously keep you updated as the progress goes with
19 that. Thank you.

20 MR. FEKETE: Thank you, Mr. Anderson.
21 Next order of business is the approval consideration
22 for the accounts payable voucher presented to us on
23 today's date, June 19, 2019. I'll entertain a
24 motion.

25 MR. HENRY RODRIGUEZ: I make a motion.

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1 MR. DOYLE: Second.

2 MR. FEKETE: Roll call vote. John Bakota?

3 MR. BAKOTA: Yes.

4 MR. FEKETE: Henry Rodriguez?

5 MR. HENRY RODRIGUEZ: Yes.

6 MR. FEKETE: Kevin Doyle?

7 MR. DOYLE: Yes.

8 MR. FEKETE: Ray Lopez?

9 MR. LOPEZ: Yes.

10 MR. FEKETE: John Fekete? I vote yes.

11 Motion carries.

12 Next order of business is the
13 Budget Amendment. Mr. Trevino?

14 MR. TREVINO: Yes. As part of what was
15 reviewed with the Finance Committee is what is in
16 front of you. There is two items that are
17 recommendations for Budget Amendment. One is
18 amending Attorney Ellen Gregory's budget line item
19 for legal work towards the District -- Board work --
20 that includes the Great Lakes Legacy Act Project, to
21 amend that budget line item from 28,000 to 36,250,
22 which is amendment of 8,250.

23 The second budget amendment line
24 item request is the addition of new budget line item
25 entitled, Legal-Plews, Shadley, Rancher & Braun. And

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1 that is to approve a budget line item of \$25,000 and
2 that's for legal services to represent the District
3 with the ongoing Tipping Fee dispute with the Corps
4 related to the PCA and the Tipping Fee Agreement.

5 Both of those line items are
6 funded 100 percent from non-trust dollars. So that
7 is the recommendation to the Board on the 2019
8 budget amendment.

9 MR. FEKETE: I'll entertain a motion.

10 MR. LOPEZ: Motion to accept.

11 MR. HENRY RODRIGUEZ: Second.

12 MR. FEKETE: We have a motion and second.

13 Roll call vote. John Bakota?

14 MR. BAKOTA: Yes.

15 MR. FEKETE: Henry Rodriguez?

16 MR. HENRY RODRIGUEZ: Yes.

17 MR. FEKETE: Kevin Doyle?

18 MR. DOYLE: Abstain.

19 MR. FEKETE: Ray Lopez?

20 MR. LOPEZ: Yes.

21 MR. FEKETE: John Fekete? I vote yes.

22 Motion carries.

23 The next order of business, the
24 approval consideration for Plews, Shadley, Racher &
25 Braun engagement letter.

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1 MR. TREVINO: Yes, as I mentioned, we have
2 been working to try to resolve the ongoing dispute
3 regarding the Tipping Fee with the Corps, which
4 relates to the Project Cooperation Agreement and the
5 Tipping Fee Agreement. Plews has done some work for
6 the District in the last couple of months and we
7 have had two engagement letters that the Board has
8 already approved, and this is the third engagement
9 letter.

10 This is for the ongoing work to
11 resolve the Tipping Fee dispute and represent the
12 District in that regard.

13 MR. FEKETE: Okay. I'll entertain a
14 motion to approve the engagement letter.

15 MR. BAKOTA: Motion to approve.

16 MR. HENRY RODRIGUEZ: Second.

17 MR. FEKETE: Roll call vote. John Bakota?

18 MR. BAKOTA: Yes.

19 MR. FEKETE: Henry Rodriguez?

20 MR. HENRY RODRIGUEZ: Yes.

21 MR. FEKETE: Kevin Doyle?

22 MR. DOYLE: Abstain.

23 MR. FEKETE: Ray Lopez?

24 MR. LOPEZ: Yes.

25 MR. FEKETE: John Fekete? I vote yes.

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1 Motion carries.

2 Next order of business is BMO
3 Harris Bank, Mr. Alonzo.

4 MR. ALONZO: David Alonzo, BMO Harris
5 Bank. All right. So not a whole lot to report this
6 month. Most of the interest was reported at our
7 last meeting. There's a few things to go through.
8 The first page of course is the normal graph showing
9 the history of the account.

10 The second page is the value of
11 the Trust as of the end of May, which was
12 \$4,529.852, which is a difference of \$44 from our
13 last meeting. As I mentioned, all the CD interest
14 was paid and reported at the last meeting. So this
15 was primarily Money Market account, where we hold
16 about half million dollars, and total disbursements
17 for 2019 of \$240,000.38.

18 Last page goes through each
19 account. And the one that Fernando mentioned, we do
20 have a CD coming up here at the end of this month --
21 which is the last one -- which is our four-year CD
22 for \$908,000 come due at the end of this month, and
23 also one coming due July 25th, next month.

24 So, we have met the idea,
25 because these CDs are coming due at a close time.

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1 We also need to typically carry about 750,000 in the
2 Money Market account, which is over 500,000. We
3 usually want to shore that back-up. So when that CD
4 comes due, we can put that in the Money Market for
5 the time being, with the idea to wait for the July
6 CD to come due, add those together to the Money
7 Market; and then go from there as far as making a
8 decision on the CD.

9 The rate environmental right now
10 is getting tricky. Short-term rates are looking
11 pretty good. Long term sort of trickled down and
12 there may be another rate cut potentially in July.
13 It's what it is right now. We are looking at
14 11-month at 2 and a half percent. So we'll take
15 that, that's not too bad, and I think what we have
16 done in the past has been pretty good. We haven't
17 missed out on anything, it's pretty much been right
18 there in the middle of it all.

19 So, with that being said, you
20 know, I do have a copy of that letter of direction.
21 Just to state, when the CD come to you -- I
22 apologize, I misquoted -- June 29th the CD comes
23 due. Once that CD comes due we can post it in the
24 existing Money Market and then wait for the next
25 month to make some decision when it comes to

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1 splitting up that money.

2 Any questions at all on the
3 report? (None).

4 MR. FEKETE: That's good. We have a
5 letter of direction that we need approval for.

6 MR. LOPEZ: Motion to approve.

7 MR. FEKETE: Do I have a second?

8 MR. BAKOTA: Second.

9 MR. FEKETE: Roll call vote. John Bakota?

10 MR. BAKOTA: Yes.

11 MR. FEKETE: Henry Rodriguez?

12 MR. HENRY RODRIGUEZ: Yes.

13 MR. FEKETE: Kevin Doyle?

14 MR. KEVIN DOYLE: Yes.

15 MR. FEKETE: Ray Lopez?

16 MR. LOPEZ: Yes.

17 MR. FEKETE: John Fekete? I vote yes.

18 Motion carries.

19 The next order of business is
20 the Army Corps report. Mr. Nguyen?

21 MR. NGUYEN: Mike Nguyen, Army Corps of
22 Engineers. So, the dredging schedule to start --
23 actually I got an update -- it's the 25th of June
24 not the 24th. They are late because of the weather.
25 They start dredging the TSCA area first and then

1 continue dredging.

2 MR. FEKETE: Is the bridge work effecting
3 any of this dredging?

4 MR. NGUYEN: No. We coordinated with
5 INDOT about the bridge opening and this is suppose
6 to be done by end of June, but it's late. But they
7 are opening up the bridge as needed for us.

8 MR. LOPEZ: The material going to put in
9 separate?

10 MR. NGUYEN: And then there is the low
11 spot we are replacing the material in, and after we
12 finish dredging the TSCA material we go to the LTV
13 material, which we'll be dredging that quickly and
14 place over the TSCA.

15 MR. FEKETE: Start covering and secure it.

16 MR. NGUYEN: Nothing for the oil boom,
17 nothing to report. PCA revision, formal response
18 from ECW regarding ArclerMittal Tipping Fee dated
19 25th of May. Per ECW, discussing with EPA to enter
20 in agreement with dredging.

21 And for the Feddeler parcel
22 resolution, Corps received ECW LERR credit letter
23 dated 31st May and forwarded that documents to our
24 Real Estate Department.

25 And for the parkway and the

1 service road, actually they are starting work today.
2 And that's it, that's all I have.

3 MR. FEKETE: Okay. Thank you very much.
4 Attorney Ellen Gregory's report.

5 MS. GREGORY: Ellen Gregory, with Ellen
6 Gregory Law. Just kind of repeating what Fernando
7 had covered on some of the legal matters. I've been
8 working with Fernando and Plews Shadley on the
9 Tipping Fee dispute with the Corps. The position
10 statement went in -- as Fernando mentioned -- on May
11 25th, and the Corps' position statement is due
12 30 days after that.

13 Also been working with Fernando
14 on negotiating modifications to the Great Lakes
15 Legacy Act Project Agreement and the Statement of
16 Work for the Harbor Dredging Project.

17 And finally, been working a
18 little bit on preparing for the exploration of the
19 current investment policy, which expires in August.
20 Fernando and I will be putting together a new
21 investment policy. According to the statute, that
22 policy can last for up to four years, but not longer
23 than four years. So that will be presented to the
24 Board for consideration at next month's Board
25 meeting. That's all I have.

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1 MR. FEKETE: Thank you very much. Any
2 questions for Miss Gregory? (None)
3 Any new business to come before
4 the Board?

5 MR. TREVINO: I just wanted to mention,
6 that when I went over the contents of your Board
7 packet that you are also e-mailed the Directors and
8 Officers Insurance Policy update, so that was also
9 part of the Board packet. I wanted to enter that to
10 the record.

11 MR. FEKETE: Any other business to come
12 before the Board? (None)

13 Any public comments? (None)

14 Next Board meeting will be July 17,
15 2019, at 5:00 p.m., at this facility. I will
16 entertain a motion for adjournment.

17 MR. BAKOTA: Motion to adjourn.

18 MR. HENRY RODRIGUEZ: Second.

19 MR. FEKETE: All in favor signify by
20 saying aye.

21 (All signify aye.)

22 MR. FEKETE: Meeting is adjourned.

23
24 ***** Meeting is adjourned *****
25

C E R T I F I C A T E

I, Peggy S. Lalonde, Certified Shorthand Reporter (CSR), and Notary Public within and for the County of Porter, State of Indiana, do hereby certify that I appeared at the City of East Chicago, Engineering/Annex Building, 4444 Railroad Avenue, East Chicago, Indiana, on the 19th day of June, 2019, to report the proceedings had of the District Board of Directors' Meeting.

I further certify that I then and there reported in machine shorthand the proceedings given at said time and place, and that the testimony was then reduced to typewriting from my original shorthand notes, and the foregoing transcript is a true and accurate record of said proceedings had.

Dated this 15th day of July, 2019.



Peggy S. LaLonde, CSR

My Commission expires: 2/06/2026



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