

In The Matter Of:
East Chicago Waterway Board of Directors Meeting

March 19, 2014

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1 EAST CHICAGO WATERWAY MANAGEMENT
2 DISTRICT BOARD OF DIRECTORS' MEETING
3 City of East Chicago, Engineering/Annex Building
4 4444 Railroad Ave.
5 East Chicago, Indiana
6 March 19, 2014
7 Wednesday, 5:00 P.M.

8 Transcript of the proceedings had in the
9 above-entitled matter, on the 19th day of March,
10 2014, at 5:00 p.m., at the City of East Chicago,
11 Engineering/Annex Building, 4444 Railroad Avenue,
12 East Chicago, Indiana, before Dawn M. Iseminger,
13 Registered Professional Reporter and Notary Public
14 for the County of Porter, State of Indiana.

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

MR. JOHN FEKETE, President

MR. RAY LOPEZ, Secretary

MR. HENRY RODRIGUEZ, Board Member

MR. JOHN BAKOTA, Board Member

MR. MIKE EBERT, Board Member

MR. EARNEST JONES, Board Member

MR. RICH GOMEZ, Board Member

MR. FERNANDO TREVINO, FMT Consulting

MS. ELLEN GREGORY, East Chicago Waterway Board of
Directors' Attorney

Also Present:

TIM ANDERSON, CliftonLarsonAllen

TOM BARNETT, ArcelorMittal

DAN BANASZEK, URS

JIM WESCOTT, Tetra Tech

DAVID ALONZO, B.M.O. Harris

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1 MR. FEKETE: Call to order the East Chicago
2 Waterway Management District Board of Directors'
3 Meeting. Today's date is March 19, 2014, and the
4 time is 5:05. The call to order. Henry
5 Rodriguez?

6 MR. RODRIGUEZ: Here.

7 MR. FEKETE: John Bakota?

8 MR. BAKOTA: Here.

9 MR. FEKETE: Mike Ebert?

10 MR. EBERT: Here.

11 MR. FEKETE: Rich Gomez?

12 MR. GOMEZ: Here.

13 MR. FEKETE: Earnest Jones?

14 MR. JONES: Here.

15 MR. FEKETE: John Fekete, present. First
16 order of business is going to be the approval
17 consideration of the 2014 budget transfer
18 requests.

19 MR. LOPEZ: Motion to accept.

20 MR. FEKETE: Motion to accept. The first
21 item is the approval consideration for the trust
22 fund release letter, and that has your motion to
23 accept?

24 MR. LOPEZ: Yes.

25 MR. FEKETE: Okay. I have a motion. We'll

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1 entertain a second.

2 MR. BAKOTA: Second.

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

4 We'll signify by roll call vote. Henry Rodriguez?

5 MR. RODRIGUEZ: Yes.

6 MR. FEKETE: John Bakota?

7 MR. BAKOTA: Yes.

8 MR. FEKETE: Mike Ebert?

9 MR. EBERT: Yes.

10 MR. FEKETE: Ray Lopez?

11 MR. LOPEZ: Yes.

12 MR. FEKETE: Earnest Jones?

13 MR. JONES: Yes.

14 MR. FEKETE: John Fekete, yes. Motion

15 approved. The next item for consideration is the

16 non-trust funds letter, release letter.

17 MR. BAKOTA: Motion to accept.

18 MR. RODRIGUEZ: Second.

19 MR. FEKETE: A motion and a second. Call

20 roll call. Henry Rodriguez?

21 MR. RODRIGUEZ: Yes.

22 MR. FEKETE: John Bakota?

23 MR. BAKOTA: Yes.

24 MR. FEKETE: Mike Ebert?

25 MR. EBERT: Yes.

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1 MR. FEKETE: Ray Lopez?

2 MR. LOPEZ: Yes.

3 MR. FEKETE: Earnest Jones?

4 MR. JONES: Yes.

5 MR. FEKETE: John Fekete, yes. The next item
6 on the agenda is the accounting consultant report,
7 Mr. Anderson.

8 MR. ANDERSON: Tim Anderson,
9 CliftonLarsonAllen. There's a full house tonight.
10 Okay, Fernando put in your packet the financial
11 statement for February.

12 MR. FEKETE: Uh-huh.

13 MR. ANDERSON: And on Page 2 of that
14 report -- not a lot of activity in February. We
15 did not have our budget passed yet, so really what
16 we were paying were accounts payable for the prior
17 year. So for the two months, ended February,
18 there was a little bit of interest income earned
19 on the cash accounts, and all the disbursements
20 that are listed there are accounts payable from
21 2013. So our cash balance at the beginning of the
22 year was a million six eighty-six, and the cash
23 balance at the end of February was a million six
24 fifty-seven. On the supplemental pages, the only
25 one to really get the board's attention, Page 4,

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1 the column on the left is the budget for '14. We
2 get to add the accounts payable to our budget,
3 which is the next column, so our total
4 appropriations for '14 is a million one hundred
5 eighty-five. And then you can see that we paid in
6 January and February that 29,000, and we're -- the
7 last column now is the same as the -- the column
8 on the left is now the column on the right. So we
9 have our budget that we're rolling forward for
10 2014. And we do have checks today that we're
11 actually cutting for items that were budgeted for
12 '14.

13 MR. LOPEZ: None of the checks bounced,
14 right?

15 MR. ANDERSON: None of the checks are
16 currently bouncing, and that's a good thing. We
17 keep our eye on that. Do you want to talk about
18 how we arrived at this?

19 MR. TREVINO: If you just want to give a
20 quick --

21 MR. ANDERSON: Yeah. Just real briefly.

22 MR. TREVINO: These are the two 11 X 17
23 spreadsheet tables in your board packet.

24 MR. ANDERSON: Basically, what we do is we
25 take the unspent money from '13 and reduce what we

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1 asked the trust in the user fee account. We
2 reduce what we need for this year's budget by what
3 we didn't spend last year. So the \$234,000 that
4 you see on the 2014 trust budget column, that's
5 what -- what we budgeted for this year was 326,
6 less the 92,000 that was left from last year, less
7 a little bit of interest that we made on the
8 checking account last year, that's what we asked
9 the trust for, for going forward. So we're asking
10 the trust for 234, because the budget is 326, so
11 we have 92 left from last year.

12 And the same with the non-trust hours. We
13 have a budget of 829,000, but we had 73,000
14 from the non-trust money that we didn't spend
15 last year, less the 173 interest, so we're
16 asking the user fee account for 755 for this
17 year's budget.

18 Does that confuse everyone, or is it
19 straightforward? Okay. So in total, we'll
20 have 1,156,320 for this year's budget in our
21 operating cash account after these transfers
22 are made. That's all I've got.

23 MR. FEKETE: Any questions for Mr. Anderson?

24 (No response).

25 MR. FEKETE: Thank you.

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1 MR. ANDERSON: Thank you.

2 MR. LOPEZ: Thank you.

3 MR. FEKETE: I will now entertain a motion to
4 accept the accounts payable voucher dated March
5 19, 2014.

6 MR. LOPEZ: Motion to accept.

7 MR. FEKETE: We have a motion to accept.

8 MR. RODRIGUEZ: Second.

9 MR. FEKETE: And a second. Signify during
10 the roll call. Henry Rodriguez?

11 MR. RODRIGUEZ: Yes.

12 MR. FEKETE: John Bakota?

13 MR. BAKOTA: Yes.

14 MR. FEKETE: Mike Ebert?

15 MR. EBERT: Yes.

16 MR. FEKETE: Ray Lopez?

17 MR. LOPEZ: Yes.

18 MR. FEKETE: Earnest Jones?

19 MR. JONES: Yes.

20 MR. FEKETE: John Fekete, I vote yes. One
21 more. We have before us an access agreement with
22 U.S. EPA for the Indianapolis Boulevard property
23 so that they can come in and do some assessment
24 work. I would like board approval on this, and
25 I'll entertain a motion to approve.

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1 MR. EBERT: Approve.

2 MR. JONES: Second.

3 MR. FEKETE: We have a motion and a second,
4 Mike Ebert and Earnest Jones. Roll call. Henry
5 Rodriguez?

6 MR. RODRIGUEZ: Yes.

7 MR. FEKETE: John Bakota?

8 MR. BAKOTA: Yes.

9 MR. FEKETE: Mike Ebert?

10 MR. EBERT: Yes.

11 MR. FEKETE: Ray Lopez?

12 MR. LOPEZ: Yes.

13 MR. FEKETE: Earnest Jones?

14 MR. JONES: Yes.

15 MR. FEKETE: John Fekete, I vote yes. While
16 we're doing this, we can backup to the consulting
17 engineering report.

18 MR. TREVINO: Sure. Fernando Trevino, F.M.T
19 Consulting. I'd like to start by going over the
20 contents of your board packet. You have a
21 February 19, 2014, board minutes. You have a
22 letter from IDEM dated March 6, 2014, approving
23 the 2014 budget. You have a letter dated -- or
24 approved March 7, 2014, by EPA, entitled the "EPA
25 Concurrence on 2014 Budget for ECI Facility

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1 Trust." You have in your board packet a spread
2 sheet titled, "2013 Yearend Cash Balance
3 Calculations," dated March 18, 2014. And another
4 spread sheet titled, "2014 Budget," dated January
5 15, 2014. And both of these are the tables that
6 were viewed by Mr. Tim Anderson.

7 You have in your board packet the letter
8 of authorization to B.M.O. Harris Trust for
9 transferring 234,110.28 from the ECI facility
10 trust, and another letter of authorization to
11 transfer funds to Citizen's Bank also dated
12 March 19, 2014, for 755,674.99. And those have
13 already been approved, and that's to -- for the
14 2014 approved budget.

15 You have in your packet the February 28,
16 2014, financial statements prepared by
17 CliftonLarsonAllen, and the claim docket dated
18 March 19, 2014, and that claim docket is for
19 the months of January and February.

20 You have in your board packet deposit
21 memos dated March 12, 2014, March 17th, and
22 March 18, 2014, and that's for the deposit of
23 2014 user fees.

24 You have in your packet Citizen's Bank
25 statement for accounts ending in 608 and 616

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1 for the month of February. And you might note
2 that part of the month is "Citizen's Bank," and
3 another part of the month is "First Merchant's
4 Bank," which has -- it's my understanding --
5 purchased Citizen's Bank.

6 You have in your packet the access
7 agreement for the Indy Boulevard Parkway
8 project, and that was on -- it's on the agenda
9 for approval, which has been approved
10 authorizing me to sign it on behalf of The
11 District.

12 You have in your packet the ECI Facility
13 Trust Report, dated March 18, 2014. You have
14 an Arcadis report dated March 7, 2014, titled,
15 "Progress Report Number 267," for the month of
16 December, 2013, and it's for the report for
17 recovery containing system operation.

18 You have in your packet an e-mail from
19 Board President John Fekete dated March 14,
20 2014, regarding the Great Lakes Restoration
21 Initiative. You have the monthly report to the
22 board from the Army Corps of Engineers dated
23 March 19, 2014. And last, but not least, you
24 have the board report from Attorney Ellen
25 Gregory dated March 19, 2014.

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1 A couple items to report on. The user fee
2 invoices were mailed out February 21st, and we
3 have started collecting payments, and those
4 payments that have been deposited -- received so
5 far -- are in your packet.

6 The 2014 budget: As referenced in your
7 board packet, we have received EPA and IDEM
8 budget approval, and the budget transfers
9 request were in your packet. I attended a
10 Legacy Grant Workshop on February 28th, and
11 that was a follow up from the previous one that
12 I had attended. If you may recall, Miss Tina
13 Rongers was here to present to the board some
14 of the grant opportunities they had to offer.

15 Attorney Ellen Gregory will report on the
16 real estate progress that we've been working
17 on. The Great Lakes Legacy Act progress report
18 is in your packet. We had a meeting today with
19 our project team, BP, IDEM, and Indiana
20 Department of Natural Resources, to see if
21 there's an opportunity to maximize our joint
22 efforts.

23 Mr. Jim Wescott is here with Tetra Tech to
24 give a report, which is on the agenda.

25 Board President John Fekete and I met with

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1 Mayor Copeland on March 12th to give updates on
2 various topics regarding the Waterway
3 Management District. The Corps had their
4 dredging public meeting last week, on March
5 13th. A couple of our board members had an
6 opportunity to attend. Mr. John Bakota, Ray
7 Lopez, and Mr. Henry Rodriguez, were able to
8 attend.

9 I met with the University of Iowa, Craig
10 Just, on their PCB study, on March 6, 2014.
11 And that concludes my report. And there's been
12 some updates on our website, so feel free to
13 visit. That concludes my report,
14 Mr. President.

15 MR. FEKETE: Thank you. Are there any
16 questions for Mr. Trevino?

17 (No response).

18 MR. FEKETE: The report has been accepted.
19 The next item for approval of consideration are
20 the board meeting notes. I'd like to make a
21 correction in front of my name.

22 MR. TREVINO: She mentioned it before the
23 meeting, so she caught it.

24 MR. FEKETE: I don't want to be approving an
25 uncorrected version. Now we'll entertain a motion

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1 to accept the minutes as corrected.

2 MR. BAKOTA: Motion accepted.

3 MR. LOPEZ: Second.

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

5 Signify by saying "aye."

6 (All board members signify aye.)

7 MR. FEKETE: Opposed?

8 (No response).

9 MR. FEKETE: Thank you very much. B.M.O.
10 Harris report.

11 MR. ALONZO: David Alonzo, B.M.O. Harris.
12 We'll go through our report here. The first page
13 of the report reflects the historical values in
14 the account, and, of course, distributions on the
15 account since 1997. The trust value as of March
16 18th was \$6,181,396. That was a positive gain of
17 \$247 from our last meeting. That interest was
18 solely from the money market account for the
19 previous month, and, of course, so far this year,
20 as of the 18th, there was no disbursements from
21 the trust. Looking at the third page, I
22 highlighted one thing here. It should be
23 highlighted in pink that we have a one-year CD
24 that's coming due on April 19th for 1.5 million.
25 And, as of right now, rates haven't really

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1 changed. I know maybe in a finance meeting we can
2 discuss rates and different options for terms, but
3 if we do go another year, we're pretty much at the
4 same rate. If we go a little bit further out, we
5 can see some rate increases on there. A couple
6 things to keep in mind is that once the trust
7 budget comes out, we can replenish that with some
8 of the money that is in a maturing CD. Right now
9 there's \$566,000 in the money market. We usually
10 like to keep over a half million in there anyway,
11 so we could then take some money out of this
12 maturing CD and shore up the balance in the money
13 market, and then work with the remaining balance
14 there.

15 Any questions on the CD rates at all, or
16 anything that's maturing at this point?

17 (No response).

18 MR. FEKETE: Not good news from the Feds
19 today.

20 MR. ALONZO: Yeah. We worked with you guys
21 last time on that three-year CD. We did increase
22 the rates, so if we did go out three years, we'd
23 be at about that .92 percent. Keep in mind that
24 in the next year, we're going to have two CD's
25 maturing, so think of it almost like we have a

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1 one-year -- we have the 60-month and the 3-year CD
2 will both be coming due in June, that's for two
3 and a half million dollars, so we have quite a bit
4 coming due. Our three-year CD will come due in
5 2016. So maybe we take that one-year CD out for
6 three years and get the best we can. Maybe
7 Fernando can coordinate with me and discuss it in
8 a finance meeting. Any questions?

9 (No response).

10 MR. FEKETE: Any questions?

11 (No response).

12 MR. FEKETE: Hearing none, I thank you very
13 much. Next order of business is the Attorney
14 Ellen Gregory report. Ellen?

15 MS. GREGORY: Ellen Gregory, with Ellen
16 Gregory Law. Most of the legal issues that we
17 have been working on and have to report on today,
18 like the real estate, Jim Weezer is the local real
19 estate attorney that we've retained to help us
20 with real estate issues. He's in the process of
21 putting together a memo for Fernando and me to
22 review that summarizes all the easements on
23 properties that the Waterway Management District
24 owns. We're scheduled to meet with him tomorrow
25 here to go over that memo. He's also made some

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1 good progress on the Feddeler claim. He's been
2 reviewing the title reports and the underlying
3 documents to try to clarify what rights, if any,
4 Feddeler has on the property in the middle of the
5 CDF that it's claiming it owns.

6 Mr. Weezer will also be helping us with
7 access agreements that relate to an access
8 permit with EPA on the south parcel, in
9 conjunction with the AOC that's being entered
10 into between EPA and BP for investigation on
11 the south parcel.

12 He's also been assisting us in meeting
13 with the Army Corps of Engineers on the
14 appraisal of the CDF property. We're hoping to
15 get our appraiser, Nick Tillema, who put
16 together our appraisal several years ago, to
17 sit down with the Army Corps of Engineer
18 appraiser and determine, hopefully, what the
19 value of that property is.

20 There are also new real estate provisions
21 in the latest version of the consent decree
22 that we're planning on having Jim Weezer at
23 least review and advise us on. We have the
24 latest version of the consent decree. Fernando
25 and I are scheduled to meet tomorrow to go over

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1 that language. The last version was
2 distributed to the entire ECI group by the
3 Department of Justice attorney several weeks
4 ago.

5 On the PCA, we've met with the Corps to
6 discuss possible alternatives to language in
7 the PCA. We'll continue to discuss that with
8 them.

9 I wanted to just mention one specific user
10 fee item. There's one property owner that has
11 argued financial hardship; however, that entity
12 had appealed the user fee assessment of seven
13 years ago and got a final determination from
14 the appeals officer. So we'll be responding
15 that the appeal has been finalized and there's
16 a final decision on that. It seems that the
17 user fees, for the most part, are being paid,
18 and we think that getting the attorney general
19 signed on to enforce those is probably helping
20 with that. And that's all I have.

21 MR. LOPEZ: May I?

22 MS. GREGORY: Yes.

23 MR. LOPEZ: Risk management insurance, we
24 can't get any?

25 MS. GREGORY: Fernando and I met with Randy

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1 Vail numerous times. We have trouble getting
2 private insurance carriers to agree because of the
3 huge potential liability of the CDF. We also
4 contacted the state's political subdivision risk
5 management guy that said that we don't qualify for
6 that fund, so Fernando and I are going to be
7 looking into the possibility of discussing that
8 issue with the Corps in conjunction with our
9 negotiations on the PCA language.

10 MR. LOPEZ: We got to have something to cover
11 us. That completes your report, right?

12 MS. GREGORY: That does.

13 MR. FEKETE: Hearing no questions, thank you
14 very much. Great Lakes Legacy Act update. Jim?

15 MR. WESCOTT: Jim Wescott, W-e-s-c-o-t-t,
16 Tetra Tech. So just a quick update. As Fernando
17 mentioned, we met with BP today. We are
18 continuing to get historical documents. As people
19 realize that we're doing work, they contact us and
20 say, Hey, we got --

21 THE REPORTER: I'm sorry? "We got" what?

22 MR. WESCOTT: As we continue to do work on
23 the project, people contact us to let us know they
24 have additional reports for us to review. Most of
25 those are centered on the Lake George Canal. I

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1 provided Fernando a draft of the work plan that
2 we're going to do, or that EPA will need when they
3 implement their fieldwork, which should start
4 probably around June 1st. It will probably -- the
5 draft will get revised as we look at some
6 additional information, some feedback from today's
7 meeting with BP. I think the first thing that
8 will happen as we look ahead will be the
9 bathymetric survey, the Lake George Canal, and the
10 Grand Calumet River, and Indiana Harbor Canal.
11 And then once that's done, we'll refine sampling
12 points, and the sampling will probably -- of the
13 sediment -- will probably occur from around mid
14 June through August. And then we'll get the
15 analytic results and have a feasibility report --
16 or that remedial investigation report, the
17 feasibility study, by the end of the calendar
18 year.

19 MR. LOPEZ: When can you start this?

20 MR. WESCOTT: The fieldwork is actually going
21 to be contracted by EPA as part of their match
22 agreement. The expectation is the fieldwork would
23 probably start around May/June time frame.

24 MR. LOPEZ: Of this year?

25 MR. WESCOTT: Of this year, yeah.

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1 MR. FEKETE: Excellent.

2 MR. LOPEZ: Yes.

3 MR. WESCOTT: We have to wait for the --
4 like, especially on the Grand Cal', for the water
5 levels to raise a little bit because you can't
6 even -- the west branch is so shallow. Usually,
7 we don't want to do sediment until probably May
8 when the water levels can come up.

9 MR. LOPEZ: Thanks. It takes us like five
10 years just to get one dredging over here.

11 MR. WESCOTT: We're not dredging anything.
12 We're just collecting some samples, but so far
13 everything is going according to schedule. Are
14 there any questions?

15 (No response).

16 MR. FEKETE: Thank you very much.

17 MR. LOPEZ: Thank you.

18 MR. FEKETE: I would like to add, along the
19 same general topic, of work that's going on in the
20 area down Calumet Avenue the couple of times --
21 the last couple of days, and a lot of work that's
22 being done on the Grand Calumet River around the
23 Hammond Sanitary District. Basically, it's the
24 diversion of the, I want to say, Sohl Street
25 combined sewer overflow in Hammond that would be

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1 going to a retention basin that's across the
2 street, across Calumet Avenue from the Hammond
3 Sanitary District. You know, where the Irvin Park
4 used to be?

5 MR. RODRIGUEZ: Yeah.

6 MR. FEKETE: It's a big retention basin.
7 It's a big hole in the ground.

8 MR. RODRIGUEZ: I noticed that.

9 MR. FEKETE: Yeah. So when work was done
10 earlier by Glen Co., there was actually a
11 provision made with sheet piling to allow this
12 work to continue. It's kind of getting -- it was
13 out of kilter, actually, because this work that
14 Hammond is doing now should have been done several
15 years ago before Scott Ireland and Company
16 actually did their work on the west branch. But
17 in any event, to make a long story short, it's
18 continuing. So good things are happening. Any
19 new business to come before the board?

20 (No response).

21 MR. FEKETE: Any other business?

22 (No response)

23 MR. FEKETE: Public comments?

24 (No response).

25 MR. FEKETE: Hearing none, the next board

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1 meeting will be April 16 at 5:00 p.m. at this
2 location. I will entertain a motion of
3 adjournment. Motion to adjourn?

4 MR. LOPEZ: Motion.

5 MR. FEKETE: Is there a second?

6 MR. BAKOTA: Second.

7 MR. TREVINO: John, you want to take a vote
8 on the adjournment?

9 MR. FEKETE: Everybody signify by aye.

10 (All signified aye).

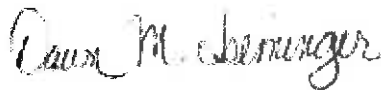
11 PROCEEDINGS WERE ADJOURNED.
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1 C E R T I F I C A T E

2 I, Dawn M. Iseminger, Registered Professional
3 Reporter (RPR), and Notary Public within and for
4 the County of Porter, State of Indiana, do hereby
5 certify that I appeared at The City of East
6 Chicago, Engineering/Annex Building, 4444 Railroad
7 Avenue, East Chicago, Indiana, on the 19th day of
8 March, 2014, to report the proceedings had of the
9 District Board of Directors' Meeting.

10 I further certify that I then and there
11 reported in machine shorthand the proceedings
12 given at said time and place, and that the
13 testimony was then reduced to typewriting from my
14 original shorthand notes, and the foregoing
15 transcript consisting of twenty-four (24) pages is
16 a true and accurate record of said proceedings
17 had.

18 Dated this 12th day of April, 2014.

19 

20

21 Dawn M. Iseminger, RPR
22 My Commission expires: 7/22/2017
23
24
25