

IN THE MATTER OF:  
EAST CHICAGO WATERWAY BOARD  
OF DIRECTORS MEETING

REPORT OF PROCEEDINGS had in the above entitled matter before the East Chicago Waterway Management District Board of Directors' Meeting, at the Engineering/Annex, Building, on the 17th day of December, 2014, commencing at 5:18 o'clock in the evening.

ISEMINGER & ASSOCIATES  
858 W. Lincolnway, Suite 1C  
Valparaiso, Indiana 46385  
Phone (219) 464-2178

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. KEVIN DOYLE, Board Member

MR. FERNANDO TREVINO, Executive Director  
of the East Chicago Waterway Department

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

A L S O P R E S E N T :

Tim Anderson

Jim Wescott

Natalie Mills

1 MR. FEKETE: Are we ready?

2 MS. GREGORY: Yes.

3 MR. FEKETE: We are good to go.

4 MR. TREVINO: All right.

5 MR. FEKETE: We got a lot of stuff  
6 today.

7 MR. TREVINO: Okay.

8 MR. LOPEZ: Motion to adjourn.

9 (Everyone laughing out loud.)

10 (Brief off-the-record discussion had in  
11 the proceedings.)

12 MR. FEKETE: All right. On the  
13 record.

14 COURT REPORTER: Okay.

15 MR. FEKETE: I would like to call to  
16 order the East Chicago Waterway Management  
17 District Board of Directors meeting.  
18 Today's date is December 17th. The time is  
19 5:16 p.m.

20 MR. FEKETE: The roll call. John  
21 Bakota.

22 MR. BAKOTA: Here.

23 MR. FEKETE: Patrick Rodriguez.

24 (No response.)

25 MR. FEKETE: Ray Lopez.

December 17, 2014

1 MR. LOPEZ: Here.

2 MR. FEKETE: Henry Rodriguez.

3 MR. RODRIGUEZ: Here.

4 MR. FEKETE: Ted Zagar.

5 (No response.)

6 MR. FEKETE: Kevin Doyle.

7 MR. DOYLE: Here.

8 MR. FEKETE: John Fekete. Here.

9 Okay. We do have a quorum.

10 Let's start with the business  
11 consulting engineering report, Mr. Trevino.

12 (Brief off-the-record discussion had in  
13 the proceedings.)

14 MR. TREVINO: Yes, Fernando Trevino  
15 with FMC Consulting.

16 As usual, I will start off by giving  
17 a contents of your board packets.

18 Give me a second.

19 (Brief recess had in the proceedings.)

20 MR. TREVINO: Henry, here. I gave you  
21 mine. Okay.

22 (Brief pause had in the proceedings.)

23 MR. TREVINO: All right. You have the  
24 board meeting notes for November 19th, 2014.

25 You have the financial statements from

December 17, 2014

1 Clifton Larson Allen dated November 30th,  
2 2014.

3 You have the claim docket dated  
4 December 17th, 2014 on the agenda for  
5 approval consideration.

6 You have First Merchant Bank  
7 statements, both are for the November of  
8 2014 period and it is for accounts ending in  
9 608 and 616.

10 You have an e-mail from BMO Harris  
11 sending the ECI Trust report which is dated  
12 December --

13 COURT REPORTER: I'm sorry. ECI  
14 Trust?

15 MR. TREVINO: -- ECI Trust report  
16 which is dated December 16th of 2014.

17 COURT REPORTER: Thank you.

18 MR. TREVINO: And also part of that  
19 e-mail is a W-9 that they are requesting be  
20 signed by board president. I did forward  
21 this form to Mr. Tim Anderson to confirm  
22 this is our number and he did confirm, so  
23 before we leave, Mr. Fekete, if I could get  
24 your signature on that W-9.

25 We have the BMO Harris brokerage

5

December 17, 2014

1 account statement ending in 534 for the  
2 month of November of 2014. And also for  
3 account ending in 761 for the same period.

4 You have a Clifton Larson Allen  
5 engagement letter dated November 10th, 2014  
6 and this is for the 2015 calendar year.

7 You have an engagement letter from  
8 Attorney Ellen Gregory and it is written on  
9 behalf of Bamberger, Foreman, Oswald & Hahn,  
10 LLP.

11 And you have a appraisal proposal from  
12 Lee & Associates dated December 10th, 2014.

13 You have a George Park Beach Echo  
14 System Restoration Project presentation  
15 slides dated December 9th, 2014.

16 You have an Arcadis report dated  
17 December 17th, 2014 and it is a progress  
18 report for the month of August 20, 2014.  
19 And it communicates the progress report  
20 for their containment system and boom  
21 maintenance work.

22 You have a Tetra Tech progress report  
23 dated December 12th, 2014 for the Great  
24 Lakes Legacy Act Project.

25 You have a board report from the Army

December 17, 2014

1 Corps of Engineer's dated December 16th,  
2 2014.

3 And you have a report from Attorney  
4 Ellen Gregory dated December 17th, 2014 and  
5 with the revised date of December 15th,  
6 2014.

7 That summarizes the contents of your  
8 board packet.

9 I also provided a summary of my 2014  
10 performance evaluation. I want to thank  
11 the board for their participation and their  
12 feedback. It will certainly be used to  
13 provide the best service possible in 2015.

14 An update on the Great Lakes Legacy  
15 Act Project. We continue to work on access  
16 agreements. The access agreement properties  
17 under the Board of Public Works'  
18 jurisdiction was presented at their  
19 December 10th board meeting and was  
20 approved. The access agreement for the  
21 park property parcel under the park board  
22 jurisdiction is on their agenda for the  
23 December 23rd board meeting.

24 Work and discussion on the community  
25 stake holder engagement process continues.

1 Mr. Jim Wescott and I presented to  
2 IDEM's Care Committee on December 2nd and I  
3 think that the presentation went quite well.

4 The purpose of the presentation was  
5 to communicate details of the project with  
6 key stake holders such as IDEM, Indiana  
7 Department of Natural Resources, U.S. Fish &  
8 Wildlife, the Nature Conservancy, Save the  
9 Dunes, etc. And it is basically a shared  
10 common efforts and projects to maximize  
11 synergies between all the groups. And we  
12 also asked for feedback on other stake  
13 holders for projects that we should be  
14 communicating with.

15 I would like to thank Mr. Wescott  
16 for an excellent job on his presentation.  
17 And I also wanted to thank the board chair,  
18 John Fekete, for recommending the connection  
19 and help coordinating the meeting.

20 Ball State University presented their  
21 community engagement findings --

22 COURT REPORTER: I'm sorry. Presented  
23 their --

24 MR. TREVINO: -- community engagement  
25 findings at a public meeting which was held



1 on December 8th. In attendance was  
2 Ms. Cheryl Vaccarello of Tetra Tech who is  
3 working on the community engagement plan  
4 and also board member, John Fekete, was able  
5 to attend. The Ball State Community  
6 Engagement Process included the waterways  
7 in East Chicago and we plan on using  
8 information from their findings where  
9 possible in our efforts. We are aiming to  
10 have a draft of the community plan -- the  
11 community engagement plan by the end of this  
12 year.

13 Mr. Jim Wescott is here of Tetra Tech  
14 and as I mentioned the -- his report is in  
15 the packet and he will be able to provide  
16 additional details on the status of the  
17 project, including the status of the  
18 petimetre report.

19 Army Corps of Engineer's, Ms. Natalie  
20 Mills of the corps is here and provided an  
21 update report for the corps and she will  
22 present that.

23 Attorney Ellen Gregory will give an  
24 update on legal matters.

25 Regular meetings that I have been

1 participating on behalf of the district  
2 include the BP biweekly meetings, the Great  
3 Lakes Legacy Act Project team meetings,  
4 Roxana Marsh area development meetings. The  
5 dredging project team meetings and the Canal  
6 Tech review meetings.

7 That concludes my report.

8 Merry Christmas, Happy New Year, happy  
9 holidays to everyone.

10 MR. FEKETE: Any questions?

11 (No response.)

12 MR. FEKETE: Thank you very much.

13 The next order of business is the  
14 approval of the board meeting notes for  
15 November 19th, 2014.

16 MR. BAKOTA: Motion to approve.

17 MR. FEKETE: Second?

18 MR. LOPEZ: Second.

19 MR. FEKETE: We have a motion and a  
20 second. All in favor signify by saying,  
21 "Aye".

22 ALL: Aye.

23 MR. FEKETE: Motion is approved.

24 MR. TREVINO: (Nodding.)

25 MR. FEKETE: The accounting consultant

1 report, Mr. Anderson.

2 MR. ANDERSON: Tim Anderson from  
3 Clifton Larson Allen.

4 Does everybody have a copy our  
5 financial report?

6 (No response.)

7 MR. ANDERSON: It's through November  
8 of '14. Page one -- Actually, it is page  
9 two shows the receipts and disbursements  
10 of the district through November 30th. I  
11 have got \$834,000.00 in cash receipts. And  
12 the disbursements are listed. Spent  
13 through November 30th, spent \$478,000.  
14 So our cash has increased by \$355,000.00  
15 for the year so far. Cash balance at the  
16 beginning of the year is 1.6 million. And  
17 cash balance through the end of November  
18 was two million. And it is broken down  
19 between the operating account and the user  
20 fee account there at the bottom.

21 Page three shows the activity of each  
22 of those two accounts. And you can see  
23 each month the interest that we earned, and  
24 the checks that we write, and the deposits  
25 that we have made for those two accounts.

1           Page four is the important page. It  
2 shows what our budget was, the total  
3 appropriation and the cash disbursements  
4 that we have made to date. And this  
5 includes the checks that you are approving  
6 tonight, so we have no negative numbers,  
7 which is what you really have to watch for  
8 on these lines.

9           MR. FEKETE: Uh-huh.

10           MR. ANDERSON: We have an available  
11 budget for every check that we write. And  
12 we still have an available budget at the end  
13 of December after these checks that you are  
14 writing of \$671,000.00, so -- Well, the  
15 checks -- The November checks plus what you  
16 are approving tonight is what we show, so we  
17 still have enough.

18           MR. LOPEZ: Oh, yeah.

19           MR. ANDERSON: And then what we will  
20 do is get invoices in January for December,  
21 which will also be against that budget  
22 account balance. So that it will be --  
23 There is available budget yet to cover the  
24 checks that we get in January that are  
25 really for December. (Gesturing) So nothing

1 to worry about fellows.

2 (Everyone laughing out loud.)

3 MR. ANDERSON: Any questions?

4 (No response.)

5 MR. ANDERSON: And we are -- You have  
6 got a budget for '15. And Fernando and I  
7 will work on the requesting the transfer  
8 from the trust.

9 MR. TREVINO: (Nodding.)

10 MR. ANDERSON: After we get the  
11 payables in January. And there is an  
12 exercise that we go through to calculate  
13 that.

14 MR. LOPEZ: Good.

15 MR. ANDERSON: Did you mention that  
16 you were going to be gone?

17 MR. LOPEZ: Yes, on the 20th I will be  
18 gone.

19 MR. ANDERSON: Okay. But you will be  
20 back in time because you have something to  
21 do with the state board of accounts. You  
22 are the treasurer, correct?

23 MR. LOPEZ: I don't leave until the  
24 19th and I'll be back on the 25th.

25 MR. ANDERSON: And where are you

1 going, to Puerto Rico?

2 MR. LOPEZ: Yes.

3 MR. ANDERSON: Can we all go with you?

4 MR. LOPEZ: Yes.

5 (Brief off-the-record discussion had  
6 in the proceedings.)

7 MR. FEKETE: Okay. Any questions for  
8 Mr. Anderson?

9 (No response.)

10 MR. FEKETE: Okay. Are you finished  
11 with your report?

12 MR. ANDERSON: Yes.

13 MR. FEKETE: Thank you.

14 Next order of business is the approval  
15 of the accounts payable voucher register  
16 dated December 17th, 2014.

17 MR. LOPEZ: Motion to accept.

18 MR. FEKETE: I hear a motion. And do  
19 we have a second?

20 MR. BAKOTA: Second.

21 MR. FEKETE: We have a second. Our  
22 roll call vote. Any discussion?

23 (No response.)

24 MR. FEKETE: No discussion. We will  
25 have a roll call vote. John Bakota.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. BAKOTA: Yes.  
MR. FEKETE: Henry Rodriguez.  
MR. RODRIGUEZ: Yes.  
MR. FEKETE: Ray Lopez.  
MR. LOPEZ: Yes.  
MR. FEKETE: Pat Rodriguez.  
(No response.)  
MR. FEKETE: Ted Zagar.  
(No response.)  
MR. FEKETE: Kevin Doyle.  
MR. DOYLE: Yes.  
MR. FEKETE: John Fekete. I vote yes.

The motion has been approved.

The next order of business is our  
monthly public board meeting schedule.

MR. TREVINO: (No response.)

MR. FEKETE: Do you just want to state  
it for the record?

MR. TREVINO: Yes.

MR. FEKETE: You don't have to do it  
everyday, but just --

MR. TREVINO: Well, it is part of --  
If we announce our regularly scheduled board  
meetings then I think we satisfy the open  
door laws for notifying the public if I --

1 (gesturing) Ellen --

2 MS. GREGORY: Yes, that's right.  
3 Basically, if you -- At the beginning of the  
4 year if you set forth when the meetings are  
5 you don't have to do a special notification  
6 each month. I mean, Fernando still sends  
7 out a notification card to the board  
8 meetings three days in advance of each  
9 meeting, but this makes his monthly  
10 notification requirements less.

11 MR. TREVINO: And the monthly meetings  
12 are consistent with what we have done for  
13 the last few years, the third Wednesday of  
14 every month, so probably a good idea to have  
15 the board just ratify it and approve it.

16 MR. FEKETE: Okay. Do I hear a motion  
17 to approve our meeting schedule for 2015?

18 MR. LOPEZ: Motion.

19 COURT REPORTER: I'm sorry, Ray?

20 MR. LOPEZ: Motion, yes.

21 MR. FEKETE: Okay. Do we have a  
22 second?

23 MR. DOYLE: I second.

24 MR. FEKETE: We have a motion and a  
25 second with Mr. Doyle.



1 All in favor signify by saying, "Aye".

2 ALL: Aye.

3 MR. FEKETE: Any opposition?

4 (No response.)

5 MR. FEKETE: Hearing none the motion  
6 is approved.

7 MR. TREVINO: Also, we post our --  
8 Once it is approved we will post it on the  
9 website as we have done in the past so, you  
10 know, the public will also have the  
11 information on when our monthly meetings  
12 are and where they are at, so --

13 MR. FEKETE: Okay. We have three  
14 other items that require our attention by  
15 vote.

16 We have the Clifton Larson Allen  
17 engagement letter for the year of 2015.  
18 Did you --

19 MR. TREVINO: Yeah, every year we  
20 reapprove our engagement letter with Clifton  
21 Larson Allen who does our accounting for the  
22 district. The letter basically mirrors what  
23 we approved last year. It has been reviewed  
24 by Attorney Ellen Gregory. I don't know if  
25 you want to add anything else, Ellen.

1 MS. GREGORY: No. We had a -- There  
2 were a couple of items in the letter that  
3 we had negotiated some language from last  
4 year's letter and those were basically all  
5 put in word-for-word the way that we had it  
6 last year. Weren't many changes from last  
7 year's.

8 MR. TREVINO: Okay.

9 MR. FEKETE: I will entertain a motion  
10 to approve the engagement letter for Clifton  
11 Larson Allen.

12 MR. LOPEZ: Motion to approve.

13 MR. FEKETE: Do we have a second.

14 MR. DOYLE: I'll second.

15 MR. FEKETE: And we have a motion and  
16 a second. We will have a roll call vote.

17 John Bakota.

18 MR. BAKOTA: Yes.

19 MR. FEKETE: Henry Rodriguez.

20 MR. RODRIGUEZ: Yes.

21 MR. FEKETE: Ray Lopez.

22 MR. LOPEZ: Yes.

23 MR. FEKETE: Pat Rodriguez.

24 (No response.)

25 MR. FEKETE: Ted Zagar.

1 (No response.)

2 MR. FEKETE: Kevin Doyle.

3 MR. DOYLE: Yes.

4 MR. FEKETE: John Fekete. I vote yes.

5 The Bamberger, Foreman letter or  
6 engagement letter. This one is marked  
7 draft. Is it --

8 MS. GREGORY: The reason that it is  
9 drafted up -- Should I go ahead?

10 MR. TREVINO: Yes.

11 MS. GREGORY: It is Ellen Gregory  
12 with Ellen Gregory Law. I have been offered  
13 employment at Bamberger, Foreman, Oswald, &  
14 Hahn, which is an Evansville law firm.  
15 They have an Indianapolis office that has  
16 four lawyers in it, including one  
17 environmental lawyer already, so I will be  
18 the second environmental lawyer in that  
19 office. This letter is a draft because I  
20 don't start working there until January 5th,  
21 so I can't write a letter on their  
22 letterhead until I actually start working  
23 there, but this letter has basically been  
24 approved by the managing partner. The  
25 letter -- The intent was to try and

1 incorporate as much from my existing  
2 engagement letter and the terms of that  
3 as we could. The firm has agreed to keep  
4 my rates at what have been agreed to for  
5 2015. They have agreed to keep those set  
6 through 2016. So, basically, two years  
7 without increasing my hourly rate. I will  
8 continue to be the primary lawyer handling  
9 your matter and I will be sending the bills  
10 out, so it's not going to be an issue of,  
11 you know, somebody else is sending the bill  
12 out and doesn't really know what I am doing.  
13 (Gesturing)

14 MR. FEKETE: Uh-huh.

15 MS. GREGORY: And I would be glad to  
16 address any questions or concerns that any  
17 of the board members have about my switch.  
18 I am hoping that it will provide some  
19 additional expertise. There are lawyers  
20 doing all sorts of different -- in practice  
21 areas and so I think that will help me in  
22 representing the district. And for personal  
23 reasons it made sense for me to make the  
24 move at this time. So I will answer any  
25 questions if anybody has any.

1 MR. FEKETE: So this will become  
2 effective --

3 MS. GREGORY: January 5th --

4 MR. FEKETE: January 5th.

5 MS. GREGORY: -- is when I start work  
6 there and then that is when I will send  
7 that retainer letter out on Bamberger  
8 letterhead.

9 MR. FEKETE: So we have something to  
10 approve that's just in draft right now, but  
11 will become effective on the 5th?

12 MS. GREGORY: Right. The letter will  
13 go out as it's written.

14 MR. FEKETE: Okay.

15 MS. GREGORY: It has been approved by  
16 the managing partner.

17 MR. FEKETE: Okay.

18 MS. GREGORY: The last virgin, right?  
19 (Gesturing)

20 MR. TREVINO: Right.

21 MS. GREGORY: So as long as the board  
22 approves it that is the letter that you will  
23 be getting on January 5th.

24 MR. FEKETE: Okay. So you are asking  
25 us to approve this engagement letter as

1 presented here -- um -- as presented here  
2 and then when we see the formal letter on  
3 or about January 5th we will reserve the  
4 right to compare it to this particular  
5 document?

6 MS. GREGORY: Sure.

7 MR. TREVINO: (Nodding.)

8 MR. FEKETE: And make sure that there  
9 are no changes?

10 MS. GREGORY: Right.

11 MR. FEKETE: Fair enough?

12 MR. LOPEZ: The next one coming in  
13 will be --

14 MS. GREGORY: The next one will be on  
15 the letterhead, right.

16 MR. LOPEZ: Right.

17 MS. GREGORY: (Nodding.)

18 MR. LOPEZ: I have some questions.

19 MS. GREGORY: Yes.

20 MR. LOPEZ: Okay. On page three,  
21 expenses.

22 MS. GREGORY: Can I use yours?

23 MR. LOPEZ: This was -- had concerned  
24 me before when you brought this up,  
25 remember? Now, it says copy charges, travel

1 expenses --

2 MS. GREGORY: Right.

3 MR. LOPEZ: -- deposition, court  
4 reporters, expert witness fees, postage,  
5 delivery expenses, recording fees, filing  
6 fees. Now, when you had these extra people  
7 we used to approve it, right, when you had  
8 another lawyer like Weiser, or somebody?  
9 (Gesturing)

10 MS. GREGORY: Right, you still -- If  
11 somebody else is going to be brought in you  
12 will still be approving it.

13 MR. LOPEZ: Because they are putting  
14 their people in because that is what it says  
15 here.

16 MS. GREGORY: Are you talking about  
17 bringing people from Bamberger or people  
18 from outside of Bamberger?

19 MR. LOPEZ: Yeah. Because that is  
20 how they are going to make the money then,  
21 right?

22 MS. GREGORY: I think that there is a  
23 concern here that the firm is going to be,  
24 you know, out to gouge you, which I am  
25 hoping --

1 MR. LOPEZ: That is my concern.

2 MS. GREGORY: -- that they don't. And  
3 if they try to do that I will try and  
4 convince them that they shouldn't be doing  
5 that.

6 MR. LOPEZ: Because in the first one  
7 we had before you, man, they charged us for  
8 everything. And they sneezed and we paid  
9 and we asked for all the paperwork, and  
10 bills, and everything, and we didn't know  
11 that was going on. This is like an open  
12 end, you know, they can bring a lot of  
13 people in and charge us for it.

14 MS. GREGORY: Well, expenses, copy  
15 costs and things like that --

16 MR. LOPEZ: Yeah, I can understand  
17 that.

18 MS. GREGORY: You have the advantage  
19 that I haven't really usually charged you  
20 for copy costs unless I end up going to  
21 FedEx, you know, and then I will pass those  
22 costs through. Law firms typically charge  
23 for copies. These days people don't make as  
24 many copies as they used to do because it is  
25 all digital. All of their stuff is done and



1 scanned in so, hopefully, copy costs won't  
2 be that great.

3 MR. TREVINO: Yeah, let me just chime  
4 in real quick on something that I wanted to  
5 point out. As, you know, knowing board  
6 concerns from prior experiences. One of the  
7 things that we added to this -- that I had  
8 Ellen add to this engagement letter was a  
9 reference to our budget. And that, you  
10 know, that they wouldn't be going over  
11 budgets without notifying us in advance.  
12 The other thing that I wanted to point  
13 out --

14 MR. LOPEZ: Well, stop right there  
15 because that is what the other guy kept  
16 doing, kept going over the budget and  
17 notifying us and we had to pay them.  
18 (Gesturing)

19 MR. TREVINO: Well, they were  
20 notifying us after the fact.

21 MR. FEKETE: (Nodding.)

22 MR. DOYLE: This is prior.

23 MR. TREVINO: Yeah, and so the other  
24 thing that I wanted to point out is that  
25 under our right to terminate --

1 MR. LOPEZ: What page?

2 MR. TREVINO: The last page, which is  
3 the signature page.

4 MR. LOPEZ: Okay.

5 MR. TREVINO: That we may terminate  
6 the engagement letter at any time with or  
7 without cause by notifying them in writing.  
8 So if for whatever reason we are not happy  
9 with how things are progressing or, you  
10 know, or how they are charging us the  
11 district always has that flexibility.  
12 (Gesturing)

13 MS. GREGORY: Yeah, but you won't be  
14 able to find anybody like me again.

15 MR. DOYLE: I just have one question.

16 MS. GREGORY: Yes.

17 MR. DOYLE: Travel expenses including  
18 miles. I get that. But that is minus the  
19 hundred fifty bucks per hour, right?

20 (Gesturing)

21 MS. GREGORY: Well, what I do is that  
22 I charge \$150.00 per hour for my time in the  
23 car plus mileage.

24 MR. DOYLE: But as I read this there  
25 is no travel time in there, it just says

1 travel expenses including miles.

2 MS. GREGORY: Travel.

3 MR. DOYLE: Travel expenses means I  
4 am traveling three hours, I need to stop  
5 for lunch, pay for a car, it doesn't say  
6 that I am paying --

7 MS. GREGORY: Well, I am going to  
8 continue to charge --

9 MR. DOYLE: Well, I know that you are.  
10 Yeah, yeah, I get that, because it states  
11 that. I mean if we need to use somebody  
12 else, okay. Am I paying them -- Am I paying  
13 somebody \$150.00 an hour to sit next to you  
14 on the ride up here?

15 MS. GREGORY: Well, nobody is coming  
16 up with me, first of all.

17 MR. DOYLE: That is not the concern.  
18 If I have to use somebody else is that  
19 included in that? That is all that I want  
20 to know, because travel and expenses doesn't  
21 say that, which to me that is regular rate.  
22 (Gesturing)

23 MR. LOPEZ: That is open-ended there.

24 MS. GREGORY: (Nodding.)

25 MR. DOYLE: That is what that means to

1 me.

2 MS. GREGORY: Well, there are going to  
3 be things in here that if I were to turn  
4 over the case to somebody else, yeah, I  
5 mean, my hourly rate is going to apply if  
6 somebody is going to do the work, but I am  
7 doing the work, but --

8 MR. TREVINO: That would be another  
9 example of us --

10 MS. GREGORY: -- being able to just  
11 terminate, if I am not doing the work and  
12 somebody else is coming up and you are  
13 getting charged for their time then,  
14 obviously, you are not being serviced by  
15 the person that you want to be serviced by  
16 and someone else.

17 MR. TREVINO: In the second paragraph  
18 of the first page speaks a little bit to  
19 that if we hire someone to assist with  
20 either the legal or administrative work in  
21 this matter they will advise us in advance.  
22 Seek our approval before proceeding.

23 MS. GREGORY: Yeah.

24 MR. TREVINO: I mean, there is,  
25 obviously, concerns of that I think that we

1 were very confident and comfortable with  
2 Ellen and there is obvious concerns with  
3 Ellen joining a legal firm and I think that  
4 concern has been communicated very well to  
5 Ellen and so we will, obviously, be -- um --  
6 watching --

7 MS. GREGORY: Watching me closely.

8 MR. TREVINO: And she will be on her  
9 toes. Right, Ellen?

10 MS. GREGORY: I will. And I, also,  
11 I mean, just to give you a little bit of  
12 background. I have met numerous times with  
13 the managing partner and the people in the  
14 Indianapolis office. I have worked at five  
15 other law firms in my life, and I feel like  
16 this firm -- probably because it is based in  
17 Evansville, it is not in Indianapolis, or  
18 Chicago, or an LA firm, they get it. You  
19 know, they are not out to gouge anybody and  
20 they are definitely not looking at this  
21 client -- they are not bringing me in  
22 because of this client. They are bringing  
23 me in for my experience and, hopefully, I  
24 will be able to represent other companies  
25 where they can make a lot of money. This

1 is almost kind of like a favor to me that  
2 they are -- you know, that they are allowing  
3 me to come in and bill it at a much reduced  
4 rate for what I will be billing all the  
5 other clients there. So I don't know if  
6 that helps, but they are not looking at this  
7 matter as going to be a big cash cow and  
8 they are going to make a ton of money and  
9 they are going to gouge you. They are not.  
10 I just don't sense that is going to happen.  
11 And I will do whatever I can to make sure  
12 that it doesn't.

13 MR. FEKETE: Any other questions?

14 (No response.)

15 MR. FEKETE: Well --

16 MR. DOYLE: Well, I don't know if I  
17 had my question answered. Okay?

18 MR. FEKETE: I mean, the motion is  
19 to accept this draft and along with that  
20 motion is that we hold -- we reserve the  
21 right to compare it to the final document.  
22 And if it is -- assuming that it is going to  
23 be the same then we will approve that final  
24 document. Do we need to approve that  
25 document, too?

1 MS. GREGORY: Well, Fernando and I  
2 have talked about that. We will put a  
3 signature line at the bottom of the letter.  
4 The way that my engagement letter is written  
5 this is what the engagement is, if you  
6 approve it, sign it.

7 MR. FEKETE: Uh-huh.

8 MS. GREGORY: And Bamberger typically  
9 doesn't do that, but that won't be a  
10 problem, so what we will do is if you  
11 approve it, then, you know, you will sign  
12 it.

13 MR. FEKETE: Okay.

14 MR. LOPEZ: Motion to accept.

15 MR. FEKETE: Okay. Do we have a  
16 second?

17 MR. BAKOTA: Second.

18 MR. FEKETE: We have a motion and  
19 second. This will be a roll call vote.

20 John Bakota.

21 MR. BAKOTA: Yes.

22 MR. FEKETE: Henry Rodriguez.

23 MR. RODRIGUEZ: Yes.

24 MR. FEKETE: Ray Lopez.

25 MR. LOPEZ: Yes.

1 MR. FEKETE: Kevin Doyle.

2 MR. DOYLE: Yes.

3 MR. FEKETE: John Fekete. I vote yes.  
4 Patrick Rodriguez, Ted Zagar. The motion is  
5 accepted and approved.

6 MR. TREVINO: (Nodding.)

7 MR. FEKETE: And the next order of  
8 business is the approval consideration for  
9 the Jim Lee appraisal proposal. And this is  
10 for the federal case?

11 MR. TREVINO: Yes.

12 MS. GREGORY: Yes.

13 MR. TREVINO: (Nodding.)

14 MR. FEKETE: The often discussed  
15 federal case.

16 MR. TREVINO: Yes, and we will -- We  
17 are hoping that this will be the start of  
18 getting to the end of this. And it is a  
19 necessary step in trying to resolve the  
20 federal parcel issues.

21 MR. FEKETE: Okay.

22 MS. GREGORY: Do you want to discuss  
23 it?

24 MR. FEKETE: And could you just give  
25 us a little background on how we selected



1           this particular firm?

2           MS. GREGORY: Originally, we had  
3           asked Nick Tillema to put together a  
4           proposal. And if you recall Nick had done  
5           the appraisal on the CDF parcel for purposes  
6           of getting credit under the PCA. The corps  
7           indicated that they would rather us use  
8           somebody from their approved appraiser list.  
9           Partly because they had rejected Nick  
10          Tillema's appraisal for the CDF. So we got  
11          Jim Weiser to identify just a couple of  
12          appraisers on that floor approved list and  
13          Jim Lee came up as a person who had worked  
14          with Jim Weiser and was respected by Jim and  
15          so we had a call with him, Jim Weiser,  
16          Fernando, and he sounded very good and very  
17          knowledgeable. And we had him put together  
18          this proposal which if approved by the board  
19          will then be sent to the corps and the corps  
20          has to approve it since they are involved in  
21          the whole process. At the end of the  
22          proposal is the cost and you will have to  
23          remind me.

24                 MR. TREVINO: \$3,000.00, I believe.

25                 MS. GREGORY: 3,000.

1 MR. FEKETE: Do we have a retainer?

2 MS. GREGORY: A retainer of 1,500 and  
3 a not to exceed of \$3,000.

4 MR. FEKETE: So I will entertain a  
5 motion to approve this consideration.

6 MR. BAKOTA: Motion to accept.

7 MR. FEKETE: Is there a second?

8 MR. DOYLE: Second.

9 MR. FEKETE: We have a motion and a  
10 second. Roll call vote. John Bakota.

11 MR. BAKOTA: Yes.

12 MR. FEKETE: Henry Rodriguez.

13 MR. RODRIGUEZ: Yes.

14 MR. FEKETE: Ray Lopez.

15 MR. LOPEZ: Yes.

16 MR. FEKETE: Patrick Rodriguez.

17 (No response.)

18 MR. FEKETE: Ted Zagar.

19 (No response.)

20 MR. FEKETE: Kevin Doyle.

21 MR. DOYLE: Yes.

22 MR. FEKETE: John Fekete. I vote yes.

23 Okay. Did you just want to mention

24 the BMA Heroes Report in our packet? Well,

25 he is not here.

1 MR. LOPEZ: We got an e-mail from him  
2 but --

3 MR. FEKETE: I have to sign a W-9?

4 MR. TREVINO: Yes. In your packet you  
5 have the BMO Harris Trust Report and it was  
6 forwarded through an e-mail with today's  
7 date. And part of the report -- or part of  
8 the transmittal was a W-9 that BMO Harris  
9 is asking that our board president, John  
10 Fekete, sign. And there is also a written  
11 summary of the trust report. I can review  
12 it if you would like, or if there is -- I  
13 think it is self-explanatory.

14 MR. FEKETE: Any discussion?

15 (No response.)

16 MR. FEKETE: Moving on then. Great  
17 Lakes Legacy Act Project update.  
18 Mr. Wescott.

19 MR. WESCOTT: Good evening. So most  
20 of the work since the last meeting has been  
21 federal partner. We have continued to do  
22 sampling, sediment sampling, or mostly  
23 sampling of the water sediment and poor  
24 water and also sampling the outfalls in  
25 conjunction with the East Chicago Sanitary

1 District. We have been -- We started to get  
2 the analytical result and I started to go  
3 through that. And I haven't done it in a  
4 great deal. I am trying to organize it,  
5 that is probably what I will do over the  
6 holidays. And letters I mentioned at the  
7 last meeting we are starting to put together  
8 the preliminary design drawings, mainly  
9 focused right now on the existing  
10 conditions. I think that is what I said.  
11 And as the board chair and Fernando  
12 mentioned we gave a presentation to the Care  
13 Committee on December 2nd and Mr. Fekete had  
14 mentioned doing the same thing here, which  
15 I could do any time in the next few months.  
16 I know that you are gone in January, I don't  
17 think that I am going to be here in  
18 February, so maybe March.

19 MR. LOPEZ: I missed it and I wanted  
20 to go.

21 MR. WESCOTT: And by then we should  
22 have the remedial investigation report and  
23 the feasibility study at least in a draft.  
24 And I can talk with Fernando in more detail,  
25 but we could probably present at this

1 meeting and then maybe have a public  
2 meeting, you know, just a general open  
3 session after that.

4 MR. LOPEZ: Okay.

5 MR. WESCOTT: This is still open to  
6 the board, but there is still some things to  
7 do, primarily in the upland areas as  
8 Fernando mentioned. We're still getting  
9 access agreements. We should have most of  
10 the access, if not all the access agreements  
11 by January, Buckeye Partners, we are meeting  
12 with them January 26th. And that should be  
13 the last piece, hopefully, to the access  
14 agreements. And I know Fernando has been  
15 working closely with BP and, hopefully,  
16 there is a lot more clarity on the  
17 construction by next spring, too, it sounds  
18 like there is a lot of interest to get  
19 funding, additional nonfederal funding. So  
20 there will be a lot more clarity, I think,  
21 to the construction schedule by March or  
22 April.

23 MR. FEKETE: Which was the landowner  
24 that you needed to get in touch with at the  
25 U.S. lead site? The one actually across the

1 river?

2 MR. WESCOTT: Yeah.

3 MR. FEKETE: Who was that?

4 MR. WESCOTT: That is the USS Lead. I  
5 don't know his name, I actually have talked  
6 to him.

7 MR. FEKETE: Okay. And are you making  
8 progress in that?

9 MR. WESCOTT: Yes, so for the Care  
10 Committee one of the interesting things that  
11 came out of that was the USS Lead site there  
12 is a landfill off of Kennedy, which maybe  
13 some of you may be familiar with, that has  
14 a large wetland area that a lot of stake  
15 holders at the Care Committee meeting  
16 expressed interest that the USS Lead  
17 property, I should place more emphasis in  
18 trying to get it improved because it was a  
19 higher value wetland, and the Buckeye  
20 property that was not as important as I had  
21 anticipated. And not that we are going to  
22 ignore it, so I have been trying to reach  
23 out to the USS Lead contact to see what the  
24 opportunity would be for US EPA and the  
25 nonfederal partners to clean up or do more

1 work on that piece of property. And I have  
2 talked to that individual who is out in  
3 California and that property has gone  
4 through bankruptcy so it is -- and there  
5 are other issues because of the RCRA clean  
6 up and the fact that trying to get EPA,  
7 because I think the USS Lead, they have to  
8 kind of work with the US EPA with activities  
9 on their property, so I have also talked to  
10 the EPA project manager and he is supposed  
11 to send me a report. So I am making headway  
12 on the USS Lead property in addition to the  
13 Buckeye property.

14 MR. FEKETE: Good.

15 MR. WESCOTT: And then Fernando is  
16 talking to BP quite a bit. It sounds like  
17 things are actually moving. You know, there  
18 is a technical track, there is a lot of the  
19 technical piece that I have been the primary  
20 on, but to make the project successful we  
21 have got to get all these other stake  
22 holders on board and I think that is  
23 starting to come together, too.

24 MR. FEKETE: Very good. Any  
25 questions?

1 MR. BAKOTA: I have a question. I  
2 mentioned to Scott Ireland during the  
3 planning and I asked for a E-coli Test as  
4 they went along on the river area.

5 MR. WESCOTT: Okay.

6 MR. BAKOTA: Are you familiar with  
7 that?

8 MR. WESCOTT: He did not mention that.

9 MR. BAKOTA: He said that he would do  
10 it. I don't know if he passed the  
11 information. But is there any way as you  
12 take your samples that you can analyze  
13 whether it is human or animal E-coli.

14 MR. WESCOTT: That I do not know. I  
15 could find out.

16 MR. TREVINO: John is referring to  
17 the concern of the outfalls, the sewer  
18 outfalls into the waterways to make sure  
19 that there is not a continuing source.

20 MR. WESCOTT: Okay. We are not  
21 looking for E-coli in the work that we are  
22 doing at the sanitary district. They are --  
23 We are looking for like EPDs and metals and  
24 some of the other chemical contaminants. I  
25 can look at adding -- because we have only



1           -- We haven't had -- We have had one sample  
2           event because we sample during rain events.  
3           So we will probably do some additional  
4           sampling in the spring. Adding E-coli to  
5           the list is probably not that expensive,  
6           so I could certainly do that.

7           (Gesturing)

8           MR. DOYLE: You are doing that on the  
9           water or sediment?

10          MR. WESCOTT: We are doing that on the  
11          water that comes in on the water body. We  
12          have been working with the sanitary district  
13          to identify outfalls that would potentially  
14          be --

15          COURT REPORTER: Outfalls?

16          MR. WESCOTT: Outfalls.

17          COURT REPORTER: Thank you.

18          MR. BAKOTA: You know, one of my  
19          concerns is that a lot of the outfalls that  
20          are storm water --

21          MR. WESCOTT: Right.

22          MR. BAKOTA: -- that go into the  
23          river. I wouldn't suspect that there would  
24          be human E-coli in there, but I would really  
25          suspect that it would be animal E-coli --

1 MR. WESCOTT: Uh-huh.

2 MR. BAKOTA: -- because it runs  
3 through the parks, you know, you have dogs  
4 in there, you have the pigeons, you have the  
5 gulls, and everything else. I don't know  
6 how much human E-coli is filtered out  
7 through the sanitary district, but with  
8 the storm water outfall there is no --  
9 uh --

10 MR. WESCOTT: Separating --

11 MR. BAKOTA: -- separating the E-coli  
12 or anything else within that. That is why  
13 if at all possible --

14 MR. WESCOTT: No, I am sure that is  
15 not very expensive.

16 MR. BAKOTA: -- to see if it is animal  
17 or what --

18 MR. WESCOTT: We can look at adding  
19 that. Expectation is we are going to sample  
20 that three times to just kind of check.  
21 So we will have two samples in the spring  
22 and I have time between now and probably in  
23 March when we start doing that again to add  
24 E-coli.

25 MR. BAKOTA: Thank you.

1 MR. WESCOTT: Any other questions?

2 MR. FEKETE: (Nodding.)

3 MR. LOPEZ: Thanks a lot.

4 MR. WESCOTT: Thank you.

5 MR. FEKETE: Thank you. The U.S. Army  
6 Corps report.

7 MS. MILLS: Natalie Mills with the  
8 U.S. Army Corps of Engineers.

9 Good evening everyone. I will sit  
10 here so that you can hear me.

11 From the CDF construction the  
12 contractor is scheduled to return to the  
13 site in the spring of 2015. Currently we  
14 are coordinating their activities for the  
15 spring as far as just their planned work  
16 and talking about quantities, how much we  
17 are intending to dredge. And just for your  
18 knowledge, we are planning to dredge  
19 approximately 400,000 cubic yards in 2015.

20 COURT REPORTER: (Nodding.)

21 MS. MILLS: This is the map.  
22 (Gesturing) And that includes some  
23 quantities from Arcelor. I think 45,000  
24 cubic yards somewhere in that order.

25 MR. FEKETE: Okay.

1 MS. MILLS: As we learn more about  
2 their schedule I will be sure to update you  
3 guys.

4 As far as the permanent well  
5 installation contract, no work on site yet,  
6 they are just doing their initial submittals  
7 prior to mobilization to the site in the  
8 spring.

9 CDF documentation, we did hear some  
10 feedback on the TSCA permit. That is  
11 T-S-C-A. So we got some feedback basically  
12 on some figures that were included as part  
13 of the permit, so we are going to clean up  
14 the figures a little bit. They said that  
15 they are too -- it needs to be more user  
16 friendly, so we are going to try to simplify  
17 that. And they also told us that they are  
18 planning a public meeting in mid April. We  
19 are requesting that the meeting be held  
20 earlier, but I will keep you all posted.  
21 And they didn't provide a firm date yet. So  
22 as I hear more I will keep you posted. And  
23 the reason we are asking for an earlier date  
24 is just so that we can plan for the dredge  
25 season because once we do receive the permit

1 it has to be included as part of the  
2 contract, so that we have to do a contract  
3 modification, so there is some work to be  
4 done on our end before we can actually issue  
5 the permit. So the earlier that we can get  
6 it, the earlier that we can get it to the  
7 contractor.

8 And we are also asking what is the  
9 timeframe from after they have the public  
10 meeting to when we may actually receive an  
11 actual permit? We want to hear that as  
12 well. The PCA revision, I have nothing for  
13 you, Ellen, I am sorry. I don't know if you  
14 have heard from Kim.

15 MS. GREGORY: I am going to call her  
16 because now that we have the consent decree  
17 we will be moving -- we probably should  
18 really get going on that.

19 MS. MILLS: Okay. And as far as the  
20 Feddeler parcel can you send the  
21 qualification sheet for -- uh -- Do you have  
22 that?

23 MS. GREGORY: For the appraisers?

24 MS. MILLS: Uh-huh.

25 MS. GREGORY: Yeah, he is going to be

1 sending that.

2 MR. TREVINO: Yeah, I will forward the  
3 whole thing to you.

4 MS. MILLS: Okay. Sounds good. Thank  
5 you.

6 And, lastly, the parkway improvement.  
7 I sent over a picture yesterday and I saw  
8 that Fernando sent it out. They are working  
9 on the piece north of the main gate, so  
10 really north. So, again, that work is  
11 proceeding.

12 MR. BAKOTA: I walked by there and it  
13 looks good.

14 MS. MILLS: Good.

15 MR. BAKOTA: Thank you for your due  
16 diligence on that.

17 MR. LOPEZ: Thank you for the e-mail,  
18 because a picture tells a thousand words.

19 MS. MILLS: Right.

20 MR. LOPEZ: (Gesturing.)

21 MS. MILLS: Thank you. I am also  
22 elated that it is finally getting done. I  
23 haven't heard when their last day of work  
24 is going to be, but when I do I will make  
25 sure that I send it to Fernando, so that you

1 guys can find it out.

2 And that is all I have at this time.

3 (Gesturing)

4 MR. FEKETE: Is it possible to get a  
5 diagram of where you plan on dredging this  
6 year --

7 MS. MILLS: Uh-huh.

8 MR. FEKETE: -- because I think we had  
9 that in the past.

10 MS. MILLS: Sure.

11 MR. TREVINO: And since -- If you  
12 could also overlay that on what has been  
13 done so far, as well, that way we would have  
14 a complete picture.

15 MS. MILLS: Okay. We just recently  
16 updated that map with all the colors.

17 (Gesturing)

18 MR. FEKETE: Right.

19 MR. TREVINO: Yeah.

20 MR. FEKETE: That is what I was  
21 visualizing so that we can enhance that  
22 in whatever fashion that we can.

23 MS. MILLS: Okay.

24 MR. FEKETE: Any questions for

25 Ms. Mills?

1 (No response.)

2 MR. LOPEZ: Thank you.

3 MS. MILLS: Thank you. Happy  
4 holidays.

5 MR. FEKETE: Our attorney, Ellen  
6 Gregory for a report.

7 MS. GREGORY: I don't have a whole lot  
8 to report, other than what we have kind of  
9 gone through. Just in terms of the switch  
10 to Bamberger, I appreciate the Waterway  
11 Management District, especially  
12 the board members agreeing to make the leap  
13 with me. It was a big decision. I am  
14 hoping the change will be seamless and that  
15 everything will get switched over fairly  
16 easily.

17 The consent decree calls, which we  
18 continue to have, there has not been a whole  
19 lot of progress so the Department of Justice  
20 is putting a little more pressure on BP to  
21 get moving to get the consent decree and the  
22 ALC finalized and as a result of that I will  
23 probably be bugging Kim Sabo more on the PCA  
24 to try and move forward on getting those  
25 revisions made so that we can be moving



1 along kind of consistent with the progress  
2 with the consent decree. I have been  
3 working with Fernando to put together the --  
4 to make sure that we are ready to send out  
5 the 2015 user fee assessments in January.  
6 And coordinating with the Attorney General's  
7 office on the -- I think that we are down  
8 to just one user that we will probably need  
9 the Attorney General's assistance in  
10 enforcing.

11 On the budget, I don't know if you  
12 mentioned, Fernando, during your  
13 presentation that we just had a brief call  
14 today with Rick Nagel and EPA is moving  
15 forward on the budget approval process, so  
16 they don't expect we will have any issues  
17 with getting that approved in time for the  
18 2015 work. That is all that I have. Does  
19 anybody have any questions?

20 (No response.)

21 MR. LOPEZ: What is this quoted  
22 section (gesturing) coming from, it was  
23 extended to 2015?

24 MS. GREGORY: The corps section ten  
25 permit is the permit that was required for

1 -- um -- basically, for BP to put the booms  
2 and to attach the booms to the bridge.

3 (Gesturing)

4 MR. LOPEZ: Okay.

5 MS. GREGORY: We were pulled in to  
6 help coordinate it.

7 MR. LOPEZ: Okay. Because that is the  
8 first time that I have seen that.

9 Thank you.

10 MS. GREGORY: Yep.

11 MR. FEKETE: Any questions? Any more  
12 questions?

13 (No response.)

14 MR. FEKETE: Hearing none. Thank you  
15 very much.

16 Any new business to come before the  
17 board?

18 (No response.)

19 MR. FEKETE: Any other business?

20 (No response.)

21 MR. FEKETE: Any public comments?

22 (No response.)

23 MR. FEKETE: Hearing none, our next  
24 board meeting is January 21st, 2015 at this  
25 facility. I will entertain a motion to

1 adjourn.

2 MR. LOPEZ: May I say something  
3 before?

4 MR. FEKETE: Yes, you may.

5 MR. LOPEZ: Now that this is the last  
6 meeting of the year and I want to wish  
7 everybody here, including our partners over  
8 there, and our reporter, and board members  
9 a Happy Christmas and a Happy New Year.

10 And I think that it has really been  
11 great for me to work with everybody here.  
12 There was no fights or anything like we  
13 had in the beginning. Everything has turned  
14 out good. A lot of legal help and all these  
15 gentlemen, (gesturing) and I hope that we  
16 have a good New Year next year.

17 Thank you.

18 MR. FEKETE: And I will just simply  
19 add that I think that we developed a strong  
20 path with a lot of momentum and basically we  
21 want to keep it going and try to get more  
22 success along the way.

23 Thank you all and have a good New  
24 Year.

25 MR. LOPEZ: All right. Thank you.

December 17, 2014

1 MR. FEKETE: All right. I will  
2 entertain a motion for adjournment.

3 MR. BAKOTA: Motion to adjourn.

4 MR. FEKETE: Do I hear a second?

5 MR. RODRIGUEZ: Second.

6 MR. FEKETE: All in favor signify by  
7 saying, "Aye".

8 ALL: Aye.

9 MR. FEKETE: Motion is -- This meeting  
10 is adjourned.

11 (T H E E N D . )  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

C E R T I F I C A T E

I, PAMELA C. MOKRZYCKI, a competent and duly qualified Court Reporter, C.S.R., do hereby certify that I did report in machine shorthand, the foregoing proceedings and that my shorthand notes so taken at said time and place were thereafter reduced to typewritten transcript under my personal direction.

I further certify that the foregoing typewritten transcript constitutes a complete record of the said proceedings taken at said time and place, so ordered to be transcribed.

Dated at Valparaiso, Indiana, this 8th day of January, 2015.

  
Pamela C. Mokrzycki



- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25