# In the Matter Of:

East Chicago Waterway Management District Board of Directors' Meeting

# **MEETING OF 10/18/2017**

October 18, 2017



Iseminger & Associates, Inc. 877-337-7379

1	EAST CHICAGO WATERWAY MANAGEMENT DISTRICT BOARD OF DIRECTORS' MEETING
2	City of East Chicago, Engineering/Annex Building 4444 Railroad Avenue
3	East Chicago, Indiana
4	October 18, 2017 Wednesday, 5:00 p.m.
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9	Transcript of the proceedings had in the
10	above-entitled matter, on the 18th day of
11	October, 2017, 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 LaPorte, State of
16	Indiana.
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21	TARKINGER & NAGOGINERA ING
22	ISEMINGER & ASSOCIATES, INC.  14 Indiana Avenue
23	Valparaiso, Indiana 46383 (219) 464-2178
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1	APPEARANCES:
2	MR. JOHN FEKETE, Board Member
3	MR. KEVIN DOYLE, Board Member
4	MR. PATRICK RODRIGUEZ, Board Member
5	MR. HENRY RODRIGUEZ, Board member
6	MR. RAY LOPEZ, Board Member
7	MR. FERNANDO TREVINO, FMT Consulting
8	MS. ELLEN GREGORY, Ellen Gregory Law
9	
10	ALSO PRESENT:
11	TIM ANDERSON, CliftonLarsonAllen
12	DAVID ALONZA, BMO Harris
13	NATALIE MILLS, U.S. Army Corps
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1	MR. FEKETE: I'd like to call to order the
2	East Chicago Waterway Management District Board of
3	Directors' meeting. It's October 18th. The time is
4	5:00 o'clock. We'll have roll call. John Bakota?
5	(No Response.)
6	MR. FEKETE: Henry Rodriguez.
7	MR. HENRY RODRIGUEZ: Here.
8	MR. FEKETE: Patrick Rodriguez.
9	MR. PATRICK RODRIGUEZ: Here.
10	MR. FEKETE: Ted Zagar?
11	(No Response.)
12	MR. FEKETE: Kevin Doyle.
13	MR. DOYLE: Here.
14	MR. FEKETE: Ray Lopez.
15	MR. LOPEZ: Here.
16	MR. FEKETE: John Fekete? Here. We have
17	a quorum.
18	First order of business, the
19	Executive Director's report, Mr. Trevino.
20	MR. TREVINO: Fernando Trevino, with FMT
21	Consulting Inc. I'd like to start off by going over
22	the contents of your Board packet. You have the
23	September 20th Board meeting notes for approval
24	consideration.
25	You have two First Merchant Bank
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1	statements, one ending in 616 and the other ending	
2	in 608; and they are both for the month of	
3	September 2017.	
4	You have CliftonLarsonAllen	
5	financial statements dated September 30, 2017.	
6	These are submitted separately after the packet had	
7	already been sent, but they were sent to you last	
8	night as well.	
9	You have the Claims Docket for	
10	today's Board meeting, dated October 18, 2017, and	
11	that's on the agenda for approval consideration.	
12	You have the 2017 overall budget	
13	as approved at the September 20th meeting, and	
14	behind that you have two letters of authorization.	
15	One is for \$11,020 and that is through BMO Harris	
16	Bank, and that's for the Trust portion of the budget	
17	amendment that was approved at the last Board	
18	meeting. The second one that's in your packet is	
19	for 2755, however that's an error. The correct	
20	amount should be \$34,930. And that one is to First	
21	Merchants Bank. And that letter of authorization is	
22	again regarding the budget amendment that was	
23	approved at the last Board meeting.	
24	Next you have a letter from IDEM	
25	dated October 3rd, 2017, approving the budget	4
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1	amendment and the transfer of \$11,020. And then you	
2	have next approval memorandum dated for October 18,	
3	2017, titled, 2017 Budget Amendment FMT Consulting,	
4	additional hours approval memo. That's related to	
5	the budget amendment that was approved at the last	
6	Board meeting. You have FMT Consulting performance	
7	evaluation form for the year 2017 and reminder that	
8	is due by the end of this month.	
9	You have in your packet a 2018	
10	overall budget dated October 18, 2017, and then	
11	second one is overall budget comparing it against	
12	2017.	
13	You have Attorney Ellen	
14	Gregory's 2018 budget summary report.	
15	And you have a memorandum,	
16	approval memorandum for 2018 FMT hours, additional	
17	hours memo, and the backup affiliated with that.	
18	You have the ECI Facility Trust	
19	report dated October 17, 2017.	
20	You have the Army Corps of	
21	Engineers report to the Board dated October 18,	
22	2017.	
23	You have Attorney Ellen	
24	Gregory's report to the Board dated, revision date	
25	of October 10, 2017.	
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1	You have a letter from Parsons
2	dated October 9, 2017, and the subject is progress
3	report number 312 for the month of September 2017.
4	And you have another Parsons report dated October 9,
5	2017, titled, monthly bird observation monitoring
6	report number 25. That's for the month of
7	September 2017.
8	You have a progress report from
9	Atlantic Richfield Company, dated October 9, 2017,
10	and it's subject is monthly progress report number
11	31 for September 2017, former ECI Refinery site
12	investigations activities.
13	You have a press release from
14	IDEM dated September 21st, regarding the title,
15	"Stakeholders take steps toward offsite disposal of
16	Indiana Harbor control sediment." And you have an
17	e-mail attachment dated September 22, 2017, from the
18	Community Strategy Group, East Chicago, Reverend
19	Rivera and Thomas Frank, and that's also regarding
20	the TSCA permit. That concludes the items in your
21	Board packet.
22	To go over a couple of items
23	here. So I mentioned the performance evaluation of
24	FMT Consulting is in your Board packet and due this
25	month.

1	Great Lakes Legacy Act as
2	mentioned and reported in the past, EPA has approved
3	the project proposal and given the go ahead to begin
4	work on negotiating the project agreement. So team
5	has been working on finalizing the language for that
6	project agreement. Parallel to the project
7	agreement is the sheet pile wall site agreement.
8	And the project team is working on finalizing that
9	as well. The project team met with the State
10	regarding contracting requirements for the sheet
11	pile wall and we also have a meeting planned with
12	the State Board of Accounts. And the plan is to
13	make sure we understand the State rules and make
14	sure we implement them in our planning process. And
15	also we're continuously working on exploring other
16	cost strategies for the remediation of the balance
17	of the East Chicago Waterway.
18	Regarding the CDF TSCA permit,
19	in September IDEM had a press release stating that
20	IDEM and EPA were investigating an option for off
21	site disposal and capping the PCB sediment. A copy
22	of that press release is in your Board packet along
23	with the e-mail that I mentioned from Reverend
24	Rivera and Thomas Frank.

We are reviewing draft

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1	appraisals that are done by Access Evaluation and
2	Begoin Appraisal regarding the dredging project.
3	Natalie Mills will be giving an update on the Corps'
4	dredging project. The dredging public meeting is
5	scheduled for 6:00 p.m. today, here in this
6	conference room, following the conclusion of this
7	Board meeting.
8	The Canal Street bridge,
9	Attorney Jim Wieser is working on scheduling a
10	meeting with the State to further discuss the
11	handling of that project.
12	The 2017 budget at last month
13	Board meeting, the board approved 2017 budget
14	amendment. Item 6 and 7 are follow-up action items
15	related to that budget amendment. Item 6 is two
16	authorization memos to transfer the dollars, one
17	from the Trust and the other from the non-trust
18	account. Agenda item number 7 is approval memo
19	dated October 18th, regarding the additional hours
20	for FMT Consulting that were part of what the Board
21	already approved.
22	The 2018 budget, Finance
23	Committee was held last week on October 12th to
24	review a couple financial subjects. One of them was
25	the 2018 budget. The results of that meeting are

1 reflected in the 2018 budget recommendation in your 2 Board packet, and that's dated October 18, 2017. 3 And that concludes my report. 4 MR. FEKETE: Any questions for Mr. 5 Trevino? (No Response.) Hearing none, next order of business is the approval consideration of the 6 7 Board meeting notes for September 20th. 8 MR. LOPEZ: Motion to approve. 9 MR. DOYLE: Second. MR. FEKETE: Motion and second. All in 10 11 favor signify by saying aye? 12 (All signify aye.) 13 MR. FEKETE any abstention or opposition? 14 (No Response.) Hearing none, the motion is 15 approved. Next order of business is the 16 17 accounting consultant report, Mr. Anderson. 18 Tim Anderson, with MR. ANDERSON: 19 CliftonLarsonAllen. You have our report in your 20 packet. Page 2 is the first page with numbers on 21 it, which are the cash receipts through 22 September 30th, which are listed. We get a little bit of interest income on our Operating Account and 23 24 User Fee Account, 3400 through September. The User 25 fees that we collected for '17, were 414,888 and

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then the money that's been transferred from the Trust account 789,000. So our total cash receipts for these two checking accounts is 1.2 million. then disbursements that we have made through So our cash September are listed 299,000 in total. from January through September in those two accounts in increased 908,000. We had 2.2 million at the beginning of the year, and as of September 30th there was 3,185,000 in the User fee and the Operating Account. And there is a little breakdown at the bottom of that page 2 of the balances in those two accounts, which are reconciled each month. And the Operating Account is basically our unspent budget and the User fee account is what we have collected over the years in User fees and haven't spent. Page 3 goes into more detail on those two accounts. Probably more detail than you want. What the State Board would like, they like to see all the monthly disbursements and the interest, and so the top section is the Operating Account beginning of the year, 230, and as of September 30, 865. And then the User fee account two million at the beginning of the year and 2.3 million on

September 30th. That User fee account is really building up nicely.

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Page 4, and I apologize for this, I think it's small on your thing again this month, but seems to be every other month. And there is a correction on this. So the left column is the budget appropriations. We have done these budget amendments. We have got the 11,020 that Fernando referred to earlier. The Trust portion we got in there, but we failed to get the non-trust. So what does that mean to you guys? If you look at the right most column, the unused budget, that second line, non-trust, it says 171. It should be 32,300, something like that. We are missing a \$32,175 amendment that you guys approved from the non-trust, which we didn't pick up. But as you can see, you have got a claims docket before you of \$22,508 and checks on it. You have got -- without that budget amendment -- you have got plenty of unused budget to cover the claims docket today. And then we'll get that corrected for next month so that what you can't have is a negative number in that unused budget. you are still covered, even without that non-trust amendment. So any questions?

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MR. FEKETE: Does that require any action

1	on our Board today or is that just
2	MR. ANDERSON: No. You guys already
3	approved the budget amendment, we just didn't get
4	it. For some reason we got the Trust portion, but
5	we didn't get the non-trust portion entered into the
6	computer system. So we'll do that. Neither one of
7	those cash transfers have occurred yet, so we need
8	to get well, actually you just approved it today.
9	MR. TREVINO: That's on the agenda.
10	MR. ANDERSON: Transfer the 11,020 out of
11	Trust and then we'll transfer the 34,000 out of the
12	User Fee Account and it will all make sense next
13	month. But you have got enough budget even without
14	those transfers to cover your claims docket today,
15	so you're good.
16	MR. FEKETE: Okay.
17	MR. ANDERSON: Thank you.
18	MR. FEKETE: Thank you. Next order of
19	business is approval consideration for accounts
20	payable voucher register dated October 18, 2017.
21	Entertain a motion to approve.
22	MR. PATRICK RODRIGUEZ: So moved.
23	MR. FEKETE: Do I have a second?
24	MR. HENRY RODRIGUEZ: Second.
25	MR. FEKETE: Roll call vote. John Bakota?

1	(No Response.)
2	MR. FEKETE: Henry Rodriguez?
3	MR. HENRY RODRIGUEZ: Yes.
4	MR. FEKETE: Patrick Rodriguez?
5	MR. PATRICK RODRIGUEZ: Yes.
6	MR. FEKETE: Ted Zagar?
7	(No Response.)
8	MR. FEKETE: Kevin Doyle?
9	MR. DOYLE: Yes.
10	MR. FEKETE: Ray Lopez?
11	MR. LOPEZ: Yes.
12	MR. FEKETE: John Fekete? I vote yes.
13	The motion is approved.
14	The next order of business is
15	the Trust and non-trust transfer authorization that
16	we just discussed about the 2017 budget amendment
17	that we did approve, but we need to approve the
18	transfer. So I'll entertain a motion to make that
19	transfer.
20	MR. TREVINO: Can I state the amounts, for
21	the record?
22	MR. FEKETE: Absolutely.
23	MR. TREVINO: The amount for the non-trust
24	is \$34,930 and that is through First Merchants Bank.
25	And the amount of the Trust is \$11,020, and that is
	13

1	through BMO Harris.
2	MR. FEKETE: And we have letters for
3	transfer approval
4	MR. TREVINO: Right.
5	MR. FEKETE: ready to go?
6	MR. TREVINO: Yes, I have them.
7	MR. LOPEZ: Motion to approve.
8	MR. FEKETE: I have a motion to approve.
9	Do I have a second?
10	MR. DOYLE: Second.
11	MR. FEKETE: Roll call vote. John Bakota?
12	(No Response.)
13	MR. FEKETE: Henry Rodriguez?
14	MR. HENRY RODRIGUEZ: Yes.
15	MR. FEKETE: Patrick Rodriguez?
16	MR. PATRICK RODRIGUEZ: Yes.
17	MR. FEKETE: Ted Zagar?
18	(No Response.)
19	MR. FEKETE: Kevin Doyle?
20	MR. DOYLE: Yes.
21	MR. FEKETE: Ray Lopez?
22	MR. LOPEZ: Yes.
23	MR. FEKETE: John Fekete? I vote yes.
24	The motion is approved.
25	Next order of business, item
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1	number 7, approval consideration of 2017 FMT
2	Consulting additional hours. We had discussed this
3	I think at last meeting and with the work on the
4	sheet pile wall moving along from fruition, we need
5	to amend and approve the additional hours. So this
6	is before us and this is for 2017. We are also
7	going to have to make the same kind of adjustment
8	for 2018?
9	MR. TREVINO: Yes.
10	MR. FEKETE: So two separate letters,
11	taking that first one first. First one, the 2017
12	first, and that would be
13	MR. PATRICK RODRIGUEZ: Motion for the
14	2017.
15	MR. FEKETE: We have a motion. Second?
16	MR. HENRY RODRIGUEZ: Second.
17	MR. FEKETE: Roll call. John Bakota?
18	(No Response.)
19	MR. FEKETE: Henry Rodriguez?
20	MR. HENRY RODRIGUEZ: Yes.
21	MR. FEKETE: Patrick Rodriguez?
22	MR. PATRICK RODRIGUEZ: Yes.
23	MR. FEKETE: Ted Zagar?
24	(No Response.)
25	MR. FEKETE: Kevin Doyle?
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	10/10/2017	
1	MR. DOYLE: Yes.	
2	MR. FEKETE: Ray Lopez?	
3	MR. LOPEZ: Yes.	
4	MR. FEKETE: John Fekete? I vote yes.	
5	The motion is approved.	
6	Now I move on to the	
7	MR. PATRICK RODRIGUEZ: With respect to	
8	the 2018, I'd like to make a motion we approve.	
9	MR. FEKETE: Okay.	
10	MR. LOPEZ: Second.	
11	MR. FEKETE: Do we have a second for that?	
12	MR. LOPEZ: Yes, second.	
13	MR. FEKETE: We have a second. Roll call	
14	vote. John Bakota?	
15	(No Response.)	
16	MR. FEKETE: Henry Rodriguez?	
17	MR. HENRY RODRIGUEZ: Yes.	
18	MR. FEKETE: Patrick Rodriguez?	
19	MR. PATRICK RODRIGUEZ: Yes.	
20	MR. FEKETE: Ted Zagar?	
21	(No Response.)	
22	MR. FEKETE: Kevin Doyle?	
23	MR. DOYLE: Yes.	
24	MR. FEKETE: Ray Lopez?	
25	MR. LOPEZ: Yes.	
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1	MR. FEKETE: John Fekete? I vote yes.
2	The motion is approved. We approved the increase
3	for FMT Consulting for both 2017 and 2018.
4	Next order of business is
5	approval consideration of the 2018 budget. Any
6	questions regarding the budget? (No Response.)
7	I'll entertain a motion to approve the budgets
8	before us.
9	MR. LOPEZ: Motion to approve.
10	MR. FEKETE: Do I have a second?
11	MR. DOYLE: Second.
12	MR. FEKETE: Roll call vote. John Bakota?
13	(No Response.)
14	MR. FEKETE: Henry Rodriguez?
15	MR. HENRY RODRIGUEZ: Yes.
16	MR. FEKETE: Patrick Rodriguez?
17	MR. PATRICK RODRIGUEZ: Yes.
18	MR. FEKETE: Ted Zagar?
19	(No Response.)
20	MR. FEKETE: Kevin Doyle?
21	MR. DOYLE: Yes.
22	MR. FEKETE: Ray Lopez?
23	MR. LOPEZ: Yes.
24	MR. FEKETE: John Fekete? I vote yes.
25	The motion is approved.
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1	Next order of business, the 2018
2	User fee rate. It was agreed that we would hold the
3	rate for linear foot that we had last year, which
4	was \$8.10. I'll entertain a motion to approve.
5	MR. HENRY RODRIGUEZ: Motion to approve.
6	MR. FEKETE: I have a motion. Second?
7	MR. DOYLE: Second.
8	MR. FEKETE: Roll call vote. John Bakota?
9	(No Response.)
10	MR. FEKETE: Henry Rodriguez?
11	MR. HENRY RODRIGUEZ: Yes.
12	MR. FEKETE: Patrick Rodriguez?
13	MR. PATRICK RODRIGUEZ: Yes.
14	MR. FEKETE: Ted Zagar?
15	(No Response.)
16	MR. FEKETE: Kevin Doyle?
17	MR. DOYLE: Yes.
18	MR. FEKETE: Ray Lopez?
19	MR. LOPEZ: Yes.
20	MR. FEKETE: John Fekete? I vote yes.
21	The motion is approved.
22	Next order of business is the
23	BMO Harris Bank Trust report, Mr. Alonzo.
24	MR. ALONZO: Good afternoon, David Alonzo,
25	BMO Harris Bank. I sent over that Trust report, so
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this is from the 17th of this month. Of course the first page shows the graph of what has been going on since 1997 up till now.

Page 2 is for the value of the Trust on October 17th was \$4,846,390. That was a difference from the last meeting of about \$55. Of course that number being so small, because that's only interest from the money market. The interest gets credited on the CD the end of this month. 2017 distributions up until the 17th have been \$789,446.

On that 3rd page, this is where we'll see that -- on that far right column we can see next interest credit date in yellow. That's going to be when the CD pays interest. Come our next meeting in November we'll be able to discuss some better interest hitting the account from all of the CDs that we have. We don't really have anything coming due until the middle of next year. We still keep quite a bit in the money markets. You normally have \$446,800 in there, and interest rate environment hasn't changed a whole lot.

We have seen the duration of terms coming down, the rates have stayed the same. So that's a good sign. Hopefully we'll see those terms come down, but interest rates having to

1	go a little bit shorter term will be able to get the	
2	better interest rate. Come June, July next year,	
3	hopefully see some good rates out there. Any	
4	questions at all on the Trust?	
5	MR. FEKETE: Okay. Thank you very much.	
6	MR. ALONZO: My schedule, my wife's and	
7	kids haven't lined up too well the last couple of	
8	months on Wednesday.	
9	MR. TREVINO: Good to see you.	
10	MR. FEKETE: The next order of business is	
11	U.S. Army Corps report. Natalie Mills.	
12	MS. MILLS: Good evening, Natalie Mills	
13	with the Army Corps of Engineers. At the site our	
14	contractors are operating the gradient control	
15	system. They did begin their dredging operation on	
16	the 30th of September, and I did note on here that	
17	they dredged approximately 30,000, but it's actually	
18	26,000 that they actually completed. So their	
19	planned dredging is about I've got 230, closer to	
20	probably 210 cubic yards. 30,000 cubic yards would	
21	be from ArcelorMittal is what is planned for.	
22	CDF documentation noted that the	
23	oil boom on Indianapolis Boulevard is open and has	
24	been open since they began the dredging operation.	
25	The Feddeler parcel, we are	
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preparing a letter which will provide the final determination on the Feddeler parcel. I saw your e-mail requesting that we talk about it beforehand, but I think it's consistent with what we discussed previously. I have on here our public meeting is scheduled for 2018. Should be 18 October, 2017. Sorry about that. So after today's meeting. And lastly, just to inform everyone, we did receive a phone call -- not a phone call -- it started with an e-mail yesterday and a phone call from IDEM regarding oil sheen in the canal. And so we did investigate it today, along with EPA, IDEM, BP and the Corps were present. it was determined that the sheen was not coming from the dredging operation because that's what it was thought to be initially. We told Koskosing and they were considerate enough to take EPA and IDEM out on their boat to look at just the canal conditions. And after that, after their evaluation, it was determined that the dredging is not the source for the oil. MR. LOPEZ: Did they say what was? MS. MILLS: Well, now there is a lot of

oil just in the canal, just in general. We have 1 2 some pictures prior to the initiation of dredging, like from 2012, pre-dredge pictures that were taken, 3 4 which showed the same type of oil that is on the 5 canal constantly. So there are, you know, the oil I think booms that are changed out on the site. 6 7 it's Tuesday and Friday that they change them out. 8 So EPA was taking the lead on actually getting 9 somebody out there with a vac truck basically and 10 then to change out the oil booms. So that was -- I mean we met this morning, wrapped up around 1:30 and 11 12 EPA was going to take the lead on the next steps. 13 We do plan to follow-up with a meeting just to 14 discuss like what can we do in the future so the oil 15 doesn't gather as much, because the oil tends to gather like in the corners, get in little pockets 16 17 and just sits there. And then it gets caught up with debris and other things. So how do we in the 18 19 future going forward, the Corps, BP, all of us, kind 20 of work together to just let people know that this 21 is happening and what do we do when we notice those 22 kind of things. 23 MR. LOPEZ: Thank you. 24 MS. MILLS: You're welcome. 25 MR. FEKETE: Okay. Any questions?

1	(No Response.)			
2	MR. FEKETE: Thank you very much.			
3	MS. MILLS: Thank you.			
4	MR. FEKETE: Attorney Ellen Gregory			
5	report.			
6	MS. GREGORY: Ellen Gregory, with Ellen			
7	Gregory Law. I don't have much in addition to what			
8	Fernando and Natalie reported. Our last ECI call			
9	was on October 12th. We continue to have those			
10	every other week.			
11	I've been working with Fernando			
12	on the project agreement and the sediment agreement			
13	with BP that he mentioned in his report, and also			
14	looking to coordinate with BP on modifications to			
15	the existing Section 10 permit agreement, which is			
16	with BP, to address investigations, driveways, boom			
17	material, and other material that will have to be			
18	disposed of during their work under the Great Lakes			
19	Legacy Act Project.			
20	And I have nothing in addition			
21	to what Natalie reported on the Feddeler parcel.			
22	And that's all I have.			
23	MR. FEKETE: Any questions for Attorney			
24	Gregory?			
25	(No Response.)			
		23		

1	MR. FEKETE: THE COURT: Hearing none, any			
2	new business to come before the Board?			
3	(No Response.)			
4	MR. FEKETE: Any other business?			
5	(No Response.)			
6	MR. FEKETE: Any public comments?			
7	(No Response.)			
8	Our next Board meeting will be			
9	November 15, 5:00 p.m. at this location. I will			
10	entertain a motion for adjournment.			
11	MR. PATRICK RODRIGUEZ: Motion to adjourn.			
12	MR. FEKETE: Do I have a second?			
13	MR. DOYLE: Second.			
14	MR. FEKETE: All in favor signify by			
15	saying aye?			
16	(All signify aye.)			
17	MR. FEKETE: Meeting is adjourned.			
18	(MEETING ADJOURNED.)			
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#### CERTIFICATE

I, Peggy S. Lalonde, Certified Shorthand
Reporter (CSR), and Notary Public within and for the
County of LaPorte, 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 18th day of October, 2017, 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 13th day of November, 2017.

SEAL \*

Leggy S. La Londe

Peggy S. LaLonde, CSR

My Commission expires: 3/14/2018

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