

In the Matter Of:  
East Chicago Waterway Management

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**EAST CHICAGO WATERWAY MANAGEMENT DISTRICT BOARD OF DIRECTORS' MEETING**

*September 19, 2018*

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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 Avenue  
5           East Chicago, Indiana  
6           September 19, 2018  
7           Wednesday, 5:00 p.m.

8  
9           Transcript of the proceedings had in the  
10          above-entitled matter, on the 19th day of  
11          September, 2018, at 5:00 p.m., at the City of East  
12          Chicago, Engineering/Annex Building, 4444 Railroad  
13          Avenue, East Chicago, Indiana, before Peggy S.  
14          LaLonde, Certified Shorthand Report and Notary  
15          Public for the County of Porter, State of  
16          Indiana.

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18  
19  
20  
21           ISEMINGER & ASSOCIATES, INC.  
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25

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

MR. JOHN FEKETE, President

MR. JOHN BAKOTA, Board Member

MR. HENRY RODRIGUEZ, Board Member

MR. KEVIN DOYLE, Board Member

MR. RAY LOPEZ, Board Member

MR. FERNANDO TREVINO, FMT Consulting

MS. ELLEN GREGORY, Ellen Gregory Law

ALSO PRESENT:

TIM ANDERSON, CliftonLarsonAllen

MIKE WINN, Army Corps of Engineers

\* \* \* \*

1 MR. FEKETE: All right. I'd like to call  
2 to order the Chicago Waterway Management District  
3 Board of Directors' meeting. Today's date is  
4 September 19th, and the time is 5:08.

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

7 MR. BAKOTA: Yes.

8 MR. FEKETE: Henry Rodriguez?

9 MR. HENRY RODRIGUEZ: Yes.

10 MR. FEKETE: Patrick Rodriguez?

11 MR. PATRICK RODRIGUEZ:

12 (No Response)

13 MR. FEKETE: Ted Zagar?

14 (No Response)

15 MR. FEKETE: Kevin Doyle?

16 MR. DOYLE: Yes.

17 MR. FEKETE: Ray Lopez?

18 MR. LOPEZ: Yes.

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

21 Next order of business is the  
22 Executive Director's Report, Mr. Trevino.

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

1 minutes for last month's Board meeting, which was  
2 August 15, 2018.

3                   You have the financial  
4 statements from CliftonLarsonAllen dated August 31,  
5 2018. You have the Claims Docket for approval  
6 consideration dated September 19, 2018. You have a  
7 budget amendment request spreadsheet, which is dated  
8 September 19, 2018, with the affiliated backups,  
9 which also includes a Letter of Authorization to  
10 transfer funds in the amount of the budget  
11 amendment, which is \$18,000.

12                   You have First Merchant's Bank  
13 statements for account ending in 608 and 616. And  
14 the two CDs approved by the Board, one ending in 898  
15 and the other ending in 936.

16                   You have the amendment to  
17 Attorney Ellen Gregory's retainer letter, dated  
18 September 19, 2018.

19                   You have MOU with the City of  
20 East Chicago regarding the Canal Street Bridge, and  
21 that's on the agenda for approval consideration.

22                   You have the ECI Facility Trust  
23 tax returns for the State and Federal returns. And  
24 that's also on the agenda for approval  
25 consideration. You have the ECI Facility Trust

1 report dated August 31, 2018, along with the  
2 backups, including the bank statements for account  
3 ending in 712.

4 You have Attorney Ellen  
5 Gregory's report to the Board, dated September 15,  
6 2018. You have a letter from Attorney Ellen Gregory  
7 to the attorney for the Corps of Engineers, Kevin  
8 Jerbi, dated September 17, 2018, regarding the  
9 written notice to dispute regarding 20-day informal  
10 resolution of the 2012 tipping fee agreement.

11 You have a report from Parsons  
12 dated August 2018, regarding the monthly bird  
13 observation monitoring report.

14 You have a flier for the 2019  
15 Sediment Conference, which will be February 11th  
16 through the 14th of next year for sediment  
17 remediation.

18 And that concludes the items in  
19 your Board packet.

20 I'd like to go over a few  
21 additional items for my report. Last month we had  
22 the IDEM Care Committee, which was held at the East  
23 Chicago Marina. The result was there was no charge  
24 for the use of that facility after all. The Board  
25 had approved paying a certain fee if the City was

1 going to charge us, and they did not charge us.

2 I met with Buckeye a couple  
3 weeks ago regarding their Emergency Response Plan  
4 and access to the waterways.

5 There is a 2018 budget amendment  
6 for Attorney Ellen Gregory's line item for the  
7 non-trust budget line item. And it's due to the  
8 significant work on negotiations that continue on  
9 the project agreement statement of work and now the  
10 cost share agreement.

11 The Canal Street Bridge project,  
12 I met with stakeholders on August 28th and we  
13 continued to talk on removing some of the  
14 obstructions related to the former Canal Street  
15 Bridge. We are trying to get a handle on the scope  
16 of work and what the Coast Guard is requesting, and  
17 compare that to what the local stakeholders might  
18 need. As I mentioned before, try to advantage of  
19 some synergies.

20 There's an MOU with the City for  
21 partnering on this project, which is in your Board  
22 packet for approval consideration. And again I  
23 mentioned this in the past, but I think it's worth  
24 bringing it up, we have asked the Corps if they ever  
25 had any issues navigating through that area, and

1 since dredging began in 2012. And it's our  
2 understanding they have had no issues navigating  
3 through that section. And we have got a follow-up  
4 meeting September 24th.

5                   The Great Lakes Legacy Act  
6 project, we continue to work on negotiations of  
7 project agreement, statement of work on a site  
8 agreement. The Board approved me sending a letter  
9 to BP, dated August 20th, that if we didn't finalize  
10 the necessary documents related to the project by  
11 October 17th Board meeting, we are going to withdraw  
12 from our Great Lakes Legacy Act proposal. Our hope  
13 is that that we will be able to finalize those  
14 documents in time. We have continued to work for  
15 the last few weeks on trying to finalize those, and  
16 I think we are making good progress. There are a  
17 handful of provisions that we are trying to get  
18 passed, so hopefully we can pass those. What is at  
19 stake is approximately \$16 million in Great Lakes  
20 Legacy Act funding for remediation in the area.

21                   Attorney Ellen Gregory will be  
22 giving an update on various legal matters. And Army  
23 Corps of Engineers project manager, Mike Winn, will  
24 be giving an update on the Corps dredging project.

25                   Just quickly go over the action



1 items on your agenda. The first one is the approval  
2 of Board minutes for August 1st; approval of the  
3 Accounts Payable Vouchers, dated September 19, 2018;  
4 approval consideration of the 2018 budget amendments  
5 and transfer authorization of \$18,000; approval  
6 consideration of Attorney Ellen Gregory's retainer  
7 letter amendment; approval consideration of the MOU  
8 with the City of East Chicago regarding the Canal  
9 Street Bridge Project; and approval consideration of  
10 the 2017 tax returns.

11 That concludes my report.

12 MR. FEKETE: Any questions for Mr.  
13 Trevino?

14 Comments/Questions: None.

15 MR. FEKETE: Thank you. Next order of  
16 business is the approval of the Board minutes for  
17 our last meeting, which was August 15, 2018.

18 MR. LOPEZ: I make a motion to approve.

19 MR. BAKOTA: Second.

20 MR. FEKETE: All in favor?

21 (All signify aye.)

22 MR. FEKETE: Any Abstention or opposition?  
23 (None) Hearing none, motion is approved.

24 Mr. Anderson, Accounting  
25 Consultant Report.

1 MR. ANDERSON: Tim Anderson, with  
2 CliftonLarsonAllen. In your Board packet you have a  
3 copy our financial statement as of August 31st and  
4 this would be for the eight months ending  
5 August 31st.

6 Page 2, I guess it has up at the  
7 top, the income of the fund, \$5,000 between the  
8 Operating Account and the User Fee Account, User  
9 fees of 357,000. And then our Trust budget  
10 transfers. So we have taken into our Operating  
11 Accounts, 587,000 and then we have spent 233,000  
12 through August 31st, that does not include the  
13 Claims Docket for today. So we have increased our  
14 operating cash 353,000 since January 1st. So there  
15 is 3.4 million between the Operating Account and the  
16 User Fee.

17 So, the Operating Accounts got  
18 795 in it, and then the User Fees. The CD, that's  
19 User Fee money or User Fee Accounts are 2.6. So you  
20 take the CD and the checking account.

21 Page 3, shows the monthly in and  
22 out of those accounts. You can see each month the  
23 fees that came into the User Fee Account when they  
24 hit, and then the cash disbursements which are  
25 really the Claims Docket for each month.

1                   Page 4, has got the important  
2 information on it, budget appropriations and what  
3 we've spent. So as of today, the cash disbursements  
4 through August for the 233 you saw on that other  
5 page. You've got a Claim Docket in front you with  
6 \$29,358 on it. And then the unused budget over to  
7 the right, which ties out to the checking account  
8 that we have. The 764 is what we have got after  
9 today's Claim Docket. So we are not -- there is a  
10 couple of accounts where it's a little close, but we  
11 are not exceeding any budget item.

12                   That's what you guys want to  
13 watch, that last column, and make sure there is no  
14 negative amount in it, so you can feel comfortable  
15 to sign the Claims Docket.

16                   Any questions on the report? We  
17 have started to upload everything to the Gateway  
18 System. They want each month everything uploaded,  
19 so we have started to do that. All the reports have  
20 been filed. You have a tax return for the Trust on  
21 your agenda, this is just the one where it showed  
22 the income of the CD and the interest, and then it's  
23 got an equal and offsetting negative amount for  
24 exclusion because we are a municipality, but we  
25 prepared that and we'll file that with the IRS. And

1 everything has been filed, you are current.

2 That's all I've have got.

3 MR. LOPEZ: That one in Gary that had  
4 trouble, is that because of the --

5 MR. ANDERSON: You probably heard about  
6 that. I was pretty excited to hear Gateway in the  
7 news. So, they didn't file, the Gary Public  
8 Transportation, the bus system in Gary, never filed  
9 their Gateway report, which is due March 1st.

10 MR. LOPEZ: We don't have to do it, but we  
11 do it.

12 MR. ANDERSON: So interestingly, the  
13 comptroller quit and they subpoenaed him. He needed  
14 to file that or they were going to throw him in  
15 jail.

16 MR. LOPEZ: He didn't answer the letters  
17 they sent him.

18 MR. ANDERSON: When the sheriff pulls up  
19 in the parking lot, it's got a way of making you  
20 want to file it. So you guys will not have to worry  
21 about that.

22 MR. FEKETE: Gateway is just a mechanism  
23 to do all of this?

24 MR. ANDERSON: So what it was, you used to  
25 fill out a form and you'd send it to the State Board

1 of Accounts. They got away from wanting to keep all  
2 those reports. They have you go on the Internet and  
3 have you enter them directly in their system, so  
4 they have done away with keypunching their report.  
5 It's not that bad. It's its hard at first. We had  
6 to learn such to get it in. It's essentially the  
7 same as the typed report. That's interesting that  
8 you heard that.

9 MR. LOPEZ: Because it comes to me.

10 MR. FEKETE: Our next order of business is  
11 the Accounts Payable Voucher register. I would  
12 entertain a motion to pay it, dated September 19,  
13 2018.

14 MR. BAKOTA: Motion to approve.

15 MR. LOPEZ: Second.

16 MR. FEKETE: I'll have a roll call vote.  
17 John Bakota.

18 MR. BAKOTA: Yes.

19 MR. FEKETE: Henry Rodriguez?

20 MR. HENRY RODRIGUEZ: Yes.

21 MR. FEKETE: Kevin Doyle?

22 MR. DOYLE: Yes.

23 MR. FEKETE: Ray Lopez?

24 MR. LOPEZ: Yes.

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

1 The motion is approved.

2 Next order of business is  
3 approval of the 2018 budget amendment and transfer  
4 authorization as explained by Mr. Trevino in his  
5 report, that amount is total \$18,000. I'll  
6 entertain a motion to approve that budget amendment.

7 MR. LOPEZ: I make a motion.

8 MR. HENRY RODRIGUEZ: Second.

9 MR. FEKETE: I'll have a roll call vote.  
10 John Bakota?

11 MR. BAKOTA: Yes.

12 MR. FEKETE: Henry Rodriguez?

13 MR. HENRY RODRIGUEZ: Yes.

14 MR. FEKETE: Kevin Doyle?

15 MR. DOYLE: Yes.

16 MR. FEKETE: Ray Lopez?

17 MR. LOPEZ: Yes.

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

19 The motion is approved.

20 Next order of business is the  
21 approval consideration for Attorney Ellen Gregory's  
22 retainer letter amendment. And as explained, that  
23 was for the additional work that seems to be thrust  
24 on us by some of the negotiations.

25 MR. TREVINO: Well, the amendment to the

1     retainer letter is regarding the change in  
2     calculating for the travel.

3             MR. FEKETE:   My mistake.   Okay.   So the  
4     motion is to represent the change in the calculation  
5     for travel expenses.

6             MR. LOPEZ:    So moved.

7             MR. BAKOTA:   Second.

8             MR. FEKETE:   I'll have a roll call vote.  
9     John Bakota?

10            MR. BAKOTA:    Yes.

11            MR. FEKETE:    Henry Rodriguez?

12            MR. HENRY RODRIGUEZ:   Yes.

13            MR. FEKETE:    Kevin Doyle?

14            MR. DOYLE:     Yes.

15            MR. FEKETE:    Ray Lopez?

16            MR. LOPEZ:     Yes.

17            MR. FEKETE:    John Fekete?   I vote yes.  
18     The motion is approved.

19                            Next order of business is  
20     approval consideration of the MOU with the City of  
21     East Chicago, regarding the Canal Street Bridge  
22     project.   I'll entertain a motion to approve MOU.

23            MR. HENRY RODRIGUEZ:   Motion to approve.

24            MR. DOYLE:     Second.

25            MR. FEKETE:    I'll have a roll call vote.

1 John Bakota?

2 MR. BAKOTA: Yes.

3 MR. FEKETE: Henry Rodriguez?

4 MR. HENRY RODRIGUEZ: Yes.

5 MR. FEKETE: Kevin Doyle?

6 MR. DOYLE: Yes.

7 MR. FEKETE: Ray Lopez?

8 MR. LOPEZ: Yes.

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

10 The motion is approved.

11 Finally, approval consideration  
12 for the filing of the 2017 tax returns.

13 MR. LOPEZ: Motion to approve.

14 MR. DOYLE: Second.

15 MR. FEKETE: I'll have a roll call vote.

16 John Bakota?

17 MR. BAKOTA: Yes.

18 MR. FEKETE: Henry Rodriguez?

19 MR. HENRY RODRIGUEZ: Yes.

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.



1 Next order of business is BMO  
2 Harris Bank Trust report. Mr. Trevino, are you  
3 going to pinch hit?

4 MR. TREVINO: Yes, I'll pinch it for  
5 Alonzo.

6 Page 1, highlights the  
7 historical value of the Trust since 1997, and also  
8 the distributions each year since 1997.

9 Page 2, the current value of the  
10 Trust is \$4.708 million as of August 31, 2018. This  
11 is increase of \$9,034 from our last meeting. This  
12 increase was due to interest on the Money Market and  
13 CD ending in 188 and CD ending in 333.

14 Page 3, shows the value of the  
15 Money Market and essential business checking account  
16 and CDs. The two CDs payout interest at the end of  
17 October. We have CDs that will mature in June and  
18 July of 2019.

19 And that concludes the BMO Trust  
20 Report.

21 MR. FEKETE: Next order of business is the  
22 Army Corps dredging project update, Mike Winn.

23 Before you start your report,  
24 I'd like to convey our appreciate to Natalie for  
25 attending the IDEM Care Committee meeting to make

1 her presentation on the updating of the dredging.

2 MR. WINN: I'll convey that to her, and  
3 actually when you informed me about that at the last  
4 Board meeting, I asked her, are you aware of this  
5 meeting? And she said, yes, I am aware. Then  
6 asked, are you going to do it or am I going to do  
7 it. She was planning on doing it already, that's  
8 why she probably didn't tell me about it.

9 For the Corps of Engineers  
10 report, for the dredging and operations of gradient  
11 control system is ongoing. Dredging began on  
12 June 4th, of 2018, total of 1.2 million cubic yards  
13 of sediment from both the federal and non-federal  
14 channel has been dredged and placed in the CDF since  
15 2012. For the fiscal year, 250,000 cubic yards,  
16 220,000 cubic yards of federal and 30,000 cubic  
17 yards non-federal sediment is currently being  
18 dredged. We are wrapping up dredging in Reach 4 and  
19 we should be completing Reach 4 and Reach 11 by this  
20 weekend.

21 The oil boom coordination,  
22 there's nothing significant to report.

23 PCA revisions, met with  
24 Indiana-1 and IDEM on 23rd of August. I believe  
25 Kevin Jerbi received the letter regarding the PCA.

1                   The Feddeler parcel, we are  
2 still working with our real estate to finalize the  
3 termination letter for the Feddeler parcel. This is  
4 our busy time of year.

5                   For the new products, the  
6 Parkway Improvement, we opened bids on August 28th.  
7 Apparent low bid was Schwartz Construction group at  
8 \$3.3 million. And we are scheduled to work that by  
9 the end of -- award that by the end of September.

10                  And for the Entrance Road  
11 Resurfacing, we opened bids on 8th August and  
12 apparent low bid was also Schwartz Excavation at  
13 \$577,000, and that contract was awarded on 28th  
14 August. And that's all I have.

15                 MR. FEKETE: Any questions for Mr. Winn?

16                 MR. BAKOTA: I talked to you about the  
17 Parkway Improvement. I had a question about storm  
18 water runoff. We kind of frown -- the City frowns  
19 -- on putting concrete down where it can be absorbed  
20 in the ground.

21                 MR. WINN: This was brought up to the  
22 hydraulic engineer and I talked with Natalie. I  
23 believe she told me that she coordinated with you  
24 and that we showed that there was a minor increase  
25 in runoff. And basically the sewer line does

1 discharge into the canal itself.

2 MR. BAKOTA: That's on Indianapolis  
3 Boulevard?

4 MR. WINN: Not all through Indianapolis.

5 MR. BAKOTA: I looked at all of them  
6 grades and none of them are marked discharging to  
7 waterway, and that should be marked on the grade.  
8 And were permits applied for through Sanitary  
9 District. I talked to the supervisor of Sanitary  
10 and I imagine a permit has to be applied there.

11 MR. WINN: For runoff?

12 MR. BAKOTA: Don't hold me to it, I  
13 believe so. I mean if it isn't, I'm going to  
14 approach him about it. I hesitate, you know, when  
15 concrete and parking lots and everything else, as  
16 far as storm water, it burdens the Sanitary  
17 District. We have combined sewers in East Chicago.  
18 The Sanitary and sewer is combined. So the more  
19 water we put into that sewer, it burdens our  
20 Sanitary system.

21 MR. WINN: I will talk to our hydraulic  
22 engineer. I'll actually make sure that we check  
23 that.

24 MR. BAKOTA: I would guess that it's not  
25 his choice at first, maybe secondary. The first

1 choice is through the City.

2 And then grading, all the grades  
3 aren't marked discharged into waterway. If they  
4 discharge in waterway, they have to be marked. Now  
5 whether they failed to mark them, I don't know.

6 MR. WINN: All right. I'll look into it  
7 and give you a definite answer next time.

8 I just want to make one more  
9 comment. I guess in the past once dredging has been  
10 completed and there's low activity at the CDF and  
11 our facility, usually -- I think -- Natalie would  
12 just send the report to Fernando and Natalie  
13 wouldn't show up to these Board meetings during the  
14 off season. So, I'm letting the Board know that  
15 more than likely I'll be at the next meeting, but  
16 once dredging ends this week, I'll be sending in a  
17 report until the dredging starts again.

18 MR. FEKETE: You will submit a report?

19 MR. WINN: I still will submit the written  
20 report.

21 MR. BAKOTA: So I can get an answer?

22 MR. WINN: You will get a definite answer  
23 next meeting.

24 MR. FEKETE: Thank you very much.  
25 Attorney Ellen Gregory's report.

1 MS. GREGORY: Ellen Gregory, Ellen Gregory  
2 Law. As Fernando mentioned, I've been working on  
3 the Great Lakes Legacy documents, which include the  
4 project agreement, the scope of work, the site  
5 agreement, and a separate second site agreement  
6 relating to Section 10 permit agreement.

7 Also I've been working on the  
8 issue that Mike Winn mentioned. I did send a letter  
9 to Kevin Jerbi, the attorney at Army Corps related  
10 to the tipping fee agreement.

11 And also, as Fernando mentioned,  
12 we have put together an MOU on the Canal Street  
13 Bridge work with the City and we'll be presenting  
14 that to the City. That's all I have.

15 MR. FEKETE: Any questions for Miss  
16 Gregory?

17 Comments/Questions: None

18 MR. FEKETE: Thank you very much.

19 Any new business to come before  
20 the Board?

21 MR. TREVINO: I would like to introduce  
22 Mr. Rick Nagley from the EPA -- who doesn't get a  
23 chance much to come visit us -- and he's been one of  
24 the team members working on the Great Lakes Legacy  
25 Act project trying to finalize the necessary

1 documents related to the Great Lakes Legacy Act  
2 project.

3 MR. NAGLEY: And fortunate enough to have  
4 free time this evening to come down, and was happy  
5 to visit again and offer up the opportunity to  
6 answer questions about how things are going from our  
7 perspective, or if you have questions generally  
8 about the progress. I'm happy to entertain any  
9 questions you have.

10 I just will start out by saying,  
11 the team is working very hard on solving the  
12 remaining handful of issues we have had in the last  
13 month. So we have done some very unique work to  
14 solve some issues of first impression.

15 The operation of maintenance  
16 issue, which you have been told about, is one of the  
17 first times we have had to solve it in the region.  
18 And so we are doing a lot of front end work for  
19 projects that will come about behind us. We are  
20 blazing a new trail, if you will. Unfortunately for  
21 us, we are working hard to solve the problems and  
22 have come up with sort of a unique solution to  
23 issues that have come up regarding that issue in  
24 particular.

25 And then from my experience now

1 -- let's see, about 14 years worth of Legacy Act  
2 work -- Legacy Act projects are non-linear. They  
3 are just not very straight forward. You have lots  
4 of partners. You have lots of stakeholder issues.

5 And my other work in Superfund,  
6 which is much more linear because the Federal  
7 Government tells you what to do. This is the  
8 opposite model. It's a partnership model. We come  
9 with money and say, "let's make a deal". Let's make  
10 a project together. And I can tell you from my  
11 experience in Sheboygan, Wisconsin, where we dug  
12 14 miles of river, where we dredged the entire  
13 Ashtabula Harbor, that those projects took a long  
14 time. We started at Ashtabula in '94 and finished  
15 dredging in '13. So that was almost 20 years to get  
16 that done.

17 So, I say that not because I  
18 want you to give us lots more time, we don't have  
19 that time. Working with the Corps of Engineers, we  
20 know that our window to use the CDF and realize cost  
21 savings in this project requires that we finish our  
22 agreements by about the same time deadline you gave  
23 us in the letter. So we know we are on the clock.  
24 But please continue to have a little patience with  
25 us as we work through these issues. We have got a



1 lot of people burning lots of hours. And that tends  
2 to be how these projects go, especially at the end  
3 as we are trying to put the final, finishing touches  
4 on things.

5 But I think we are all  
6 cautiously optimistic that we have got the minimum  
7 of 4 or 5 issues, and proposed language in some of  
8 them out there, so that we can spend the next  
9 several days standing tall and Friday probably wrap  
10 it around on Monday to get language sorted out so  
11 our deadline to get it done and to be ready for the  
12 October deadline that you guys set.

13 So, with that, if you have any  
14 questions about how things are going or general  
15 things about the Legacy Act.

16 MR. BAKOTA: As far as this project  
17 compared to other projects you have done, is this  
18 project more complicated with more people involved  
19 or agencies?

20 MR. NAGLEY: You know, it's not  
21 complicated. Because of the number of people in  
22 this case, I think we have got -- in some senses --  
23 fewer than up in Sheboygan. We had the Corps  
24 dredging to GLLI, running at the same time as the  
25 Superfund remedial project, running as to time as

1 Superfund removal. We had PCBs in the Harbor, light  
2 PCB.

3 In terms of complicated project,  
4 the work we did out there was extremely complicated  
5 on the project side. They tend to be a little  
6 easier on the agreement side because we had just  
7 boat loads of local share, and we didn't have to  
8 worry about how it was going to be together because  
9 the local share came from the Superfunds PRP and the  
10 work that they paid for was the betterment work,  
11 much like we are doing with the sheet pile wall,  
12 where we structured a betterment. They did  
13 betterment, but they took out 50,000 cubic yards of  
14 sediment.

15 MR. BAKOTA: Was that an environmental  
16 clean up?

17 MR. NAGLEY: It was primarily an  
18 environmental clean up. So what we did up there, we  
19 married Superfund clean up, paid for by the  
20 companies, and then made it bigger, wider, deeper,  
21 and longer than the Superfund remedy would have  
22 required. And so there was a little gymnastics in  
23 terms of how the share fit together. Not much in  
24 terms of paperwork, and then we had sponsors going  
25 to OMN because their Superfund obligation was to do

1 that. So we never had to solve that problem. But  
2 the coordination of the actual work in the field was  
3 a zoo.

4 MR. BAKOTA: But it didn't start out as an  
5 environmental clean up?

6 MR. NAGLEY: It did start as Superfund  
7 project, and we just made it almost twice as big.  
8 Different projects have different nuts to crack,  
9 different issues to solve. And we work with --  
10 whether it's the State, the county, city; one of  
11 those municipalities usually takes the lead on  
12 behalf of that group. Then you have got responsible  
13 parties, other companies playing ball. And after  
14 awhile, you tend to boil it down to the 5 or 6  
15 people that really need to be there and you get  
16 things done. People know that they were to be there  
17 and spend the time. They are all doing it  
18 voluntarily in some sense, except for the what the  
19 responsible parties feel. Everybody is doing it  
20 voluntarily. Bringing something to the table for  
21 all of us to work together.

22 So, there's a lot of --  
23 especially the early projects -- you have got to  
24 trust us on this, what we would ask of the parties  
25 because we hadn't done very many of these and

1 responsible parties think we are going to sue them  
2 later. We are not going to, but we can't tell you  
3 that in writing. There's lots of that.

4 So as the program matured, there  
5 is a greater understanding of those issues, but we  
6 start to get into other things, like warranty for  
7 work. So working on some of those issues. And  
8 ownership of the property and the custodian of the  
9 things we build, and those kinds of issues.

10 If you have got a straight  
11 dredging project, there is no cap to maintain.  
12 There is no wall to maintain. There is none of  
13 those things. So you don't have those tail-end  
14 issues to sort of sort out. Whereas here we do, in  
15 some sense we're doing it for the first time and  
16 trying to get it right. You have good examples for  
17 the projects that come afterwards. And the OMN  
18 issue is very important to the region because  
19 obviously Indiana, as a local sponsor, has already  
20 done a bunch of dredging in the Grand Cal and signed  
21 up to be the local sponsor and take on the OMN  
22 responsibility without really knowing what they  
23 signed up for, and exactly how it was going to be  
24 funded and kind of scope of it as well.

25 We are actually backtracking

1 with IDEM in particular to sort that out. What does  
2 that mean? This work we are doing is setting  
3 certain parameters for what that discussion with  
4 Indiana is going to look like. And then if we end  
5 up doing more projects at the canal, in East  
6 Chicago. These discussion will set parameters for  
7 how that discussion will go, for how OMN has to work  
8 for those areas. So there's lots of things to  
9 solve.

10 Sometimes we get them perfect  
11 the first time. Sometimes we do amendments and fix  
12 them. But in a sense that's the nature of the  
13 beast. We are on our second amendment for this  
14 project agreement. I think in Sheboygan we did six  
15 modifications. We did an original and six  
16 modifications to finally get all the money right, to  
17 get the responsibilities right. And in some places,  
18 we actually -- because there is only work service in  
19 kind -- work as local share and EPA can't refund the  
20 money. We don't have a checkbook to do that. We  
21 have to balance work at the end. So we are changing  
22 who's doing what work to make the books balance,  
23 which we did several times. So we trade back and  
24 forth just to make that work. And you have got to  
25 trust your partners, that you are all going to make

1 it come out right and fix those things, so nobody  
2 gets shorted or is out money at the end.

3 MR. FEKETE: You made an interesting point  
4 when you were talking about -- and you did reference  
5 the confluence of the Canal and Grand Calumet River.  
6 That's going to be another issue. That project is  
7 going to have to be worked through probably with a  
8 lot of the same types of discussion you are having,  
9 obviously the partners are going to be different.  
10 Sounds to me like you're sort of setting the stage  
11 for whatever you do on this project, so that you can  
12 also use it perhaps on that one. This is a template  
13 or at least a starting point.

14 MR. NAGLEY: Hopefully we'll be able to  
15 strip out a bunch of things and simplify it, given  
16 the dynamics. But, yeah, we'll have sorted out a  
17 bunch of things, maintenance, sorted out a bunch of  
18 things about where we can put sediment. We may have  
19 sorted out a whole bunch of things.

20 Once we know where the local  
21 share is coming from, then we can grab the  
22 agreements. We know the scope of work. Natalie is  
23 broken in by then as project manager and we'll be  
24 ready to go.

25 Taking a step back, there is

1 great excitement about finishing off this area of  
2 concern. We have got plans for the East Chicago  
3 sections, designs already done. We have got some  
4 work to do to get the sponsors and the money pulled  
5 together, and then we have got the Gary region,  
6 which we are working on.

7 MR. BAKOTA: Is that more complicated?

8 MR. NAGLEY: That's got some interesting  
9 complications. We are trying to -- Gary has got a  
10 Consent Decree. You have to be careful about work  
11 that's obligated under a legal Consent Decree, which  
12 doesn't count towards our program. So what work are  
13 they going to do that they can't count on, there's  
14 more balls in the air to get the basic project set  
15 up. But they have already done that and they are  
16 moving to 30 percent design, assuming that we are  
17 going to figure out how to get the rest of the  
18 pieces lined up.

19 The Legacy Act allows EPA a  
20 hundred percent fund design. So we are not having  
21 to burn a lot of local share to do that. It's a lot  
22 -- just so you know -- most projects have local  
23 sponsors do design because it's an easy service in  
24 kind piece of work that then doesn't count toward  
25 the cost. We don't have to look for any cash. We

1 can take that as work.

2 In any case, I think we are  
3 making good progress. We are going to try our best  
4 to meet your deadline. And again, Ellen and  
5 Fernando and handful of people at BP are putting in  
6 lots of hours. I think if we get right down to it,  
7 this is a very tough issue that we can't seem, as a  
8 staff team, to get our arms around and finalize. I  
9 think we have all committed to grabbing management  
10 folks to say, hey, we have got one last issue, and,  
11 you know, ask you. If we need to Arcelor and BP  
12 will send in someone and EPA sends in some folks,  
13 and see if the last one can't be resolved. So we  
14 are committed to getting it done.

15 We are going to try to do it at  
16 staff level because no one likes to grab their  
17 managers, if they don't have to. That's not a  
18 career enhancing move in most companies. I wanted  
19 to alert you to the fact that these folks are  
20 committed. Let's make the deadline. We may be  
21 ringing the doorbell and come by for a visit and see  
22 if we can't solve the very last issue, because  
23 everybody wants it done.

24 I talk with an BP people earlier  
25 today and they remain committed to getting it done.



1 They have got way too much invested.

2 MR. FEKETE: We appreciate your taking the  
3 time and coming down and making the presentation and  
4 explaining it to us. It's always helpful to hear  
5 from somebody, in addition to Fernando and Ellen,  
6 that's involved in this. And they keep us very  
7 apprised of what is going on, but it is also helpful  
8 to hear from you, representing EPA, in this case, to  
9 come and let us know.

10 On a personal note, we have  
11 worked together for a long time on a variety of  
12 projects and I know a lot of the work you guys do,  
13 it's certainly remarkable in the way that the things  
14 actually can be done and get accomplished. So we  
15 are looking forward to a successful conclusion to  
16 these discussions.

17 MR. NAGLEY: You and me both.

18 MR. FEKETE: Like you said, the design  
19 work has already been presented and in a starting  
20 point, maybe some tweaking of stuff along the way.  
21 The concept of it was done a couple years ago with a  
22 good input from this organization.

23 MR. NAGLEY: Exactly. Again, we have done  
24 a lot of front end work that will be useful the  
25 District designed already. The opportunity to do

1 those last two sections in East Chicago are of great  
2 interest to the agency, and so we'll be working hard  
3 to try and figure out, really thing now about the  
4 issues coming up with the cost share project, how to  
5 fund the local share. Legacy Act has been funded at  
6 a good level for the last several years. We hope  
7 that continues, and this is a priority area to get  
8 knocked off.

9                               Once we get this wrapped up  
10 shortly, we are going to turn our attention to those  
11 other two sections and see if we can't come together  
12 with some local cost share from creative sources.  
13 Ring some doorbells and see if we can't get local  
14 sponsors to participate.

15                   MR. BAKOTA: That's good to hear.

16                   MR. FEKETE: Step one is getting over this  
17 hurdle.

18                   MR. NAGLEY: I didn't mean to get ahead,  
19 but we have actually stolen Natalie from the Corps  
20 and she is going to be our project manager for this  
21 when it goes to construction.

22                   MR. FEKETE: We were able to talk to  
23 Natalie a little bit.

24                   MR. NAGLEY: I didn't know how public that  
25 was. Here I'm spouting off about Natalie.

1           MR. FEKETE: Natalie was at our Care  
2 Meeting and we had a conversation with her. She  
3 kind of explained, as best she could at that time,  
4 what she was going to be doing. That's a good  
5 thing. She is very familiar with this area.

6                       Incidentally, I saw her name  
7 crop up in news report article on the Little Calumet  
8 River Levee project she was reporting on. This is  
9 our Natalie, what is she doing over here?

10                      Thanks again, we appreciate  
11 that.

12           MR. NAGLEY: My pressure. As usual, don't  
13 hesitate to contact us if there are questions or  
14 things that come up. Fernando always does. I think  
15 one of the things we developed is a regular  
16 communication weekly and sometimes twice a week,  
17 standing calls. And of late, it's been almost  
18 daily. It's going to continue for a couple weeks  
19 until we bang this out. It's always a pleasure to  
20 see you guys and Ellen.

21           MR. FEKETE: Thank you.

22                      Any other new business to come  
23 before the Board?

24           MR. FERNANDO: Ellen -- as I mentioned  
25 earlier -- sent a letter to the Army Corps of

1 Engineers attorney, Kevin Jerbi, regarding an  
2 informal dispute process relating to the tipping fee  
3 agreement. The next part of that is the possibility  
4 of arbitration. And because our next meeting isn't  
5 until October 17th, there may be some additional  
6 actions that may be required on the District's  
7 behalf before that time.

8 So, I would like to ask the  
9 Board to delegate the authority to Ellen and I to do  
10 what is necessary regarding that dispute process.

11 MR. FEKETE: I will entertain a motion to  
12 authorize Ellen and Fernando to continue the  
13 discussions on the dispute resolution possibility.

14 MR. FERNANDO: Dispute resolution  
15 arbitration process.

16 MR. BAKOTA: I'll make the motion to  
17 approve.

18 MR. LOPEZ: Second.

19 MR. FEKETE: I'll have a roll call vote.  
20 John Bakota?

21 MR. BAKOTA: Yes.

22 MR. FEKETE: Henry Rodriguez?

23 MR. HENRY RODRIGUEZ: Yes.

24 MR. FEKETE: Kevin Doyle?

25 MR. DOYLE: Yes.

1 MR. FEKETE: Ray Lopez?

2 MR. LOPEZ: Yes.

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

4 The motion is approved.

5 Any other business to come  
6 before the Board? Any public comments? Hearing  
7 none, the next Board meeting is October 17th, at  
8 5:00 p.m. at this facility.

9  
10 I'll entertain a motion for adjournment.

11 MR. HENRY RODRIGUEZ: Motion to adjourn.

12 MR. DOYLE: Second.

13 MR. FEKETE: All signify by saying aye.

14 (All signify aye.)

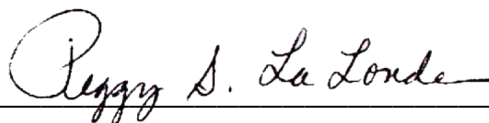
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16 \*\*\*\*\* Meeting is adjourned \*\*\*\*\*  
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C E R T I F I C A T E

I, Peggy S. Lalonde, Certified Shorthand Reporter (CSR), and Notary Public within and for the County of Porter, State of Indiana, do hereby certify that I appeared at the City of East Chicago, Engineering/Annex Building, 4444 Railroad Avenue, East Chicago, Indiana, on the 19th day of September, 2018, 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 10th day of October, 2018.



Peggy S. LaLonde, CSR

My Commission expires: 2/06/2026



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