

In the Matter Of:
East Chicago Waterway Management

DISTRICT BOARD OF DIRECTORS' MEETING

July 17, 2019



Iseminger & Associates, Inc.
877-337-7379

District Board of Directors' Meeting
07/17/2019

1 **EAST CHICAGO WATERWAY MANAGEMENT**
2 **DISTRICT BOARD OF DIRECTORS' MEETING**
3 **City of East Chicago, Engineering/Annex Building**
4 **4444 Railroad Avenue**
5 **East Chicago, Indiana**
6 **July 17, 2019**
7 **Wednesday, 5:00 p.m.**
8
9

10 Transcript of the proceedings had in the
11 above-entitled matter, on the 17th day of
12 July, 2019, at 5:00 p.m., at the City of East
13 Chicago, Engineering/Annex Building, 4444 Railroad
14 Avenue, East Chicago, Indiana, before Peggy S.
15 LaLonde, Certified Shorthand Report and Notary
16 Public for the County of Porter, State of
17 Indiana.

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

District Board of Directors' Meeting
07/17/2019

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. PATRICK RODRIGUEZ, Board Member

MR. KEVIN DOYLE, Board Member

MR. RAY LOPEZ, Board Member

MR. FERNANDO TREVINO, FMT Consulting

MS. ELLEN GREGORY, Ellen Gregory Law

ALSO PRESENT

MR. TIM ANDERSON

MR. DAVID ALONZO

MR. MICHAEL NGUYEN

* * * *

District Board of Directors' Meeting
07/17/2019

1 MR. FEKETE: All right. I'd like to call
2 to order the East Chicago Waterway Management
3 District Board of Directors' meeting. Today's date
4 is July 17th, and the time is 5:04.

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: Yes.

12 MR. FEKETE: Ted Zagar?

13 (No Response)

14 MR. FEKETE: Kevin Doyle?

15 MR. DOYLE: Yes.

16 MR. FEKETE: Ray Lopez?

17 MR. LOPEZ: Yes.

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

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

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

District Board of Directors' Meeting
07/17/2019

You have the Board minutes for June 19, 2019, for approval consideration.

You have an agreement with Boyce Software License/Maintenance, terms and conditions, related to renewal of the annual software agreement. That's in your Board packet.

You have the CliftonLarsonAllen financial statement dated June 30, 2019.

You have the Claim Docket for approval consideration with the date of July 17, 2019.

You have a letter of authorization to transfer funds to First Merchants Bank, and that's related to the Budget Amendment that was approved at the last Board meeting.

You have First Merchants Bank statements for the month of June for accounts ending in 608 and 616, along with the User Fee deposit memos that were made during that month. And you also have an update on the 12-month CD and 24-month CD, with a report created date of July 15th, and that's for account ending in 898 and 926.

You have an engagement letter between the District and State Board of Accounts, regarding the ongoing audit.

You have Resolution 2019-1, Investment Procedures Policy. And you have Resolution 2019-2, which is in regard to adopting Internal Control Standards and Materiality Standard.

You have the ECI Facility Trust report dated June 30th. And the BMO Harris Bank Trust report for the month of June, for account ending in 712. You have a Letter of Direction to BMO Harris regarding the CD that expires on July 25th.

You have the report from the Army Corps of Engineers to the Board, dated July 17, 2019. And you also have a copy of the Army Corps News release regarding the start of 2019 dredging season. You have a picture of the wall that the Corps intends to install along the CDF, along Indianapolis Boulevard.

You have Attorney Ellen Gregory's report to the Board, with revision date of July 12th.

You have a Parsons report dated July 8, 2019, and it's the monthly bird observation monitoring report, number 46, for the month of June.

You have a weekly report from Stan-Tech, and this one is dated June 28th for week

District Board of Directors' Meeting
07/17/2019

1 five, and the next one is week six, dated July 5,
2 2019.

3 You have a letter from Indiana
4 Department of Environmental Management, EPA, Diana
5 Maly, dated May 30, 2,019 regarding the PDS permit
6 expiring.

7 You have a copy of ArcleR Mittal
8 letter dated July 11, 2019, to Kim Sable, of the
9 Corps and Todd Relue, of Plews Shadley, regarding
10 the 2012 Tipping Fee Agreement dispute on proposal.

11 And that concludes the items in
12 your Board packet. Just to give you a couple of
13 updates on a few items. Dave Ryan, from Lake Shore
14 Chamber has reached out to us regarding sponsoring a
15 luncheon to present the ongoing and future
16 remediation work along the Waterway. If we end up
17 coordinating and agreeing to participate, we are
18 kind of looking at an October timeframe. So I will
19 be gathering additional information for the Board to
20 consider and present it as it's developing.

21 On your agenda is the Board
22 resolutions. The first is approval of Investment
23 Procedure Policy. I think we have reported in the
24 past that the current Investment Policy will be
25 expiring in August, which is next month. So this

District Board of Directors' Meeting
07/17/2019

1 basically is a approving a new policy that will be
2 good for another four years. My understanding is
3 that there weren't any significant changes. Right,
4 Ellen?

5 MS. GREGORY: Right.

6 MR. TREVINO: The State Board of Accounts,
7 as I reported at the last meeting, has started their
8 audit and there is an engagement letter that's
9 included in your Board packet as part of the
10 approval consideration. So consistent with the last
11 audit, I signed and submitted their Form 13, which
12 basically states we're providing accurate financial
13 and other relevant information. We've been
14 providing financial documents, between myself and
15 Tim Anderson's staff, and Nick -- who is Nick
16 Canham, who's the field examiner -- sent an e-mail
17 the audit is going well, and so it should be
18 concluding soon. So, hopefully by the next meeting
19 we'll be able to report on the conclusion of the
20 audit.

21 As a result of the audit
22 process, we are proposing to adopt -- through Board
23 resolution -- Internal Control Procedures, which we
24 are required to have. And the Board resolution for
25 the Internal Control Procedures is in your Board

District Board of Directors' Meeting
07/17/2019

1 packet and on the agenda for approval consideration.
2 The draft that you have has been shared with Nick,
3 from the State Board of Accounts, and he thought
4 they both looked good.

5 The User Fees, as reminder, the
6 Board approved a deadline extension to July 15th and
7 we still have some checks that are coming in. I
8 have been notified by various companies that their
9 mail with the check payments have been returned and
10 marked return to sender. So, we had this problem
11 last year. I'm going to look into buying our own
12 dedicated mailbox and hopefully avoid this in
13 future. And I'm recommending that we grant the
14 companies a one month extension, to August 19th, for
15 their 2019 User Fee payments.

16 The Great Lakes Legacy Act
17 Project, as reminder, we are in the process of
18 amending the existing project agreement to include
19 the ArcelorMittal SEP project, which we will hope and
20 produce approximately \$8 million in cost share
21 dollars. BP and the District agreed we needed to
22 enter into a new site agreement, also known as the
23 Cost Share Agreement, regarding the ArcelorMittal
24 Project, rather than amending the existing one. So
25 we started work on amending the site agreement, but

District Board of Directors' Meeting
07/17/2019

1 just recently BP has proposed to add one of their
2 projects to the project agreement. So we are now
3 exploring amending the project agreement to add BP's
4 project, and of course that will impact the site
5 agreement. So we'll be amending the site agreement
6 to incorporate the BP project.

7 BP has started their pipeline
8 removal project. Most of their efforts to-date
9 involves identifying buried pipelines and making
10 sure that they're dead lines.

11 Regarding the Dredging Project.
12 The Corps has started their dredging activities for
13 this year. The Corps report is in your Board packet
14 and the Corps project manager, Mike Nguyen, is here
15 to give an update on the Dredging Project.

16 And Attorney Ellen Gregory will
17 be giving an update on various legal matters.

18 That concludes my report.

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

21 Next order of business is the
22 Approval Consideration of the Board meeting notes
23 for our past meeting, which was dated June 19, 2019.
24 I would entertain a motion to approve.

25 MR. BAKOTA: Motion to approve.

District Board of Directors' Meeting
07/17/2019

1 MR. HENRY RODRIGUEZ: Second.

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

4 (All signify aye).

5 MR. FEKETE: Motion is approved.

6 I would like to entertain a
7 motion to grant the one month extension on the User
8 Fees, due to the mailbox issue that we have run
9 into. So I would entertain that motion.

10 MR. PATRICK RODRIGUEZ: So moved.

11 MR. DOYLE: Second.

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

13 All in favor signify aye.

14 (All signify aye).

15 MR. FEKETE: Motion is approved.

16 Next order of business, the
17 approval consideration for the Boyce Software
18 License Maintenance Renewal Agreement. Entertain a
19 motion to approve this agreement.

20 MR. BAKOTA: Motion to approve.

21 MR. LOPEZ: Second.

22 MR. FEKETE: Motion and a second. Roll
23 call vote. John Bakota?

24 MR. BAKOTA: Yes.

25 MR. FEKETE: Henry Rodriguez?

District Board of Directors' Meeting
07/17/2019

1 MR. HENRY RODRIGUEZ: Yes.
2 MR. FEKETE: Patrick Rodriguez?
3 MR. PATRICK RODRIGUEZ: Yes.
4 MR. FEKETE: Kevin Doyle.
5 MR. DOYLE: Yes.
6 MR. FEKETE: Ray Lopez?
7 MR. LOPEZ: Yes.
8 MR. FEKETE: John Fekete? I vote yes.

9 Motion carries.

10 Next order of business is
11 Accounting Consultant Report, Mr. Anderson.

12 MR. ANDERSON: Tim Anderson,
13 CliftonLarsonAllen. Everybody got a copy of the
14 financial through June. Page 2, so this has been a
15 six months ending, June 30th. January through June
16 receipts are interest income, User Fees, and then
17 the money we take out of the Trust. So there's been
18 receipts into our Operating accounts of 585,000.
19 And then the disbursements, we have made checks out
20 for 177,000. And you can see what lines -- what
21 those expenses are. And so our cash in our
22 Operating accounts, which is the User Fee, checking
23 and CDs, and the Operating budget account, have
24 increased 408,000. Most of that is the User Fees
25 and the interest income that you have earned on the

1 | accounts.

Our Operating accounts at the beginning of the year were 3.3 million and now they are 3.7. And you can see the balance there is 841 in our budget account. The User Fee account has got 857,000 in it. And the Certificate of Deposits, which are tied to the User Fees has two million.

21 Last page shows that unspent
22 budget. The first column is the budget for this
23 year. Second column is the AP from last year, that
24 gets added to the budget. So our total to spend is
25 one million 16. We have written 176,000 through

District Board of Directors' Meeting
07/17/2019

1 June. You have got a Claim Docket in front of you
2 today of 33,812. So that unused budget of 806. So
3 if you take the unused budget of 806 and add to it
4 today's Claim Docket, you get back to that balance
5 in that account, but you have got to add the
6 interest to have it balance exactly. But there is
7 nothing, again, in that right most column, that we
8 are even close to. I guess there is a couple that
9 we are close to, but, you know, you wouldn't want to
10 see a negative number in that column as a Board
11 member. So we have been very good about spending in
12 compliance with the budget. Any questions?

13 MR. FEKETE: Looks good.

14 MR. ANDERSON: We are -- as Fernando
15 talked about -- we are working with the State Board
16 on the audit. He's got lots of questions and lots
17 of information requests. We have given him
18 everything he's asked for to-date and we wait
19 eagerly for his wrap up and to go over his report.

20 MR. FEKETE: We have a couple of
21 resolutions I think that tie right into what you are
22 talking about, your discussion with the State Board
23 of Accounts.

24 MR. ANDERSON: So far, so good.

25 MR. FEKETE: I'd like to entertain a

District Board of Directors' Meeting
07/17/2019

1 motion for the accounts payable voucher register
2 dated July 17, 2019.

3 MR. LOPEZ: Motion to approve.

4 MR. FEKETE: Do I have a second?

5 MR. DOYLE: Second.

6 MR. FEKETE: Roll call vote. 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: Yes.

12 MR. FEKETE: Kevin Doyle.

13 MR. DOYLE: Yes.

14 MR. FEKETE: Ray Lopez?

15 MR. LOPEZ: Yes.

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

17 That motion is approved.

18 Next order of business, Approval
19 Consideration for the First Merchants, Letter of
20 Authorization referencing the 2019 Budget Amendment,
21 which we approved, I believe, at the last meeting.
22 So I will entertain a motion to approve this Letter
23 of Authorization.

24 MR. HENRY RODRIGUEZ: Motion to approve.

25 MR. FEKETE: Do I have a second?

District Board of Directors' Meeting
07/17/2019

1 MR. DOYLE: Second.

2 MR. FEKETE: I have motion and second.

3 Roll call vote. John Bakota?

4 MR. BAKOTA: Yes.

5 MR. FEKETE: Henry Rodriguez?

6 MR. HENRY RODRIGUEZ: Yes.

7 MR. FEKETE: Patrick Rodriguez?

8 MR. PATRICK RODRIGUEZ: Yes.

9 MR. FEKETE: Kevin Doyle.

10 MR. DOYLE: Yes.

11 MR. FEKETE: Ray Lopez?

12 MR. LOPEZ: Yes.

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

14 Motion carries.

15 Next order of business is the
16 State Board of Accounts engagement letter that we
17 discussed earlier in our Executive Council meeting.
18 Are there any questions? (None) Hearing none, I'll
19 entertain a motion to approve.

20 MR. BAKOTA: Motion to approve.

21 MR. FEKETE: Do I have a second?

22 MR. HENRY RODRIGUEZ: Second.

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

24 MR. BAKOTA: Yes.

25 MR. FEKETE: Henry Rodriguez?

District Board of Directors' Meeting
07/17/2019

1 MR. HENRY RODRIGUEZ: Yes.
2 MR. FEKETE: Patrick Rodriguez?
3 MR. PATRICK RODRIGUEZ: Yes.
4 MR. FEKETE: Kevin Doyle.
5 MR. DOYLE: Yes.
6 MR. FEKETE: Ray Lopez?
7 MR. LOPEZ: Yes.
8 MR. FEKETE: John Fekete? I vote yes.

9 Motion carries.

10 Next order of business to
11 approval of Board Resolution entitled 2019-1,
12 Investment Policy. As was discussed earlier, the
13 Investment Policy was only good for four years. It
14 expires in August and we need to entertain a motion
15 to approve a new one. So I will accept a motion to
16 approve.

17 MR. LOPEZ: Motion to approve.
18 MR. FEKETE: Do I have a second?
19 MR. DOYLE: Second.
20 MR. FEKETE: Roll call vote. John Bakota?
21 MR. BAKOTA: Yes.
22 MR. FEKETE: Henry Rodriguez?
23 MR. HENRY RODRIGUEZ: Yes.
24 MR. FEKETE: Patrick Rodriguez?
25 MR. PATRICK RODRIGUEZ: Yes.

District Board of Directors' Meeting
07/17/2019

1 MR. FEKETE: Kevin Doyle.

2 MR. DOYLE: Yes.

3 MR. FEKETE: Ray Lopez?

4 MR. LOPEZ: Yes.

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

6 Motion carries.

7 One of the recommendations of
8 the State Board of Accounts was to have an Internal
9 Control Policy, that is before us. I will entertain
10 a motion to approve Board Resolution 2019-2
11 entitled, Internal Control Policy.

12 MR. DOYLE: Motion to approve.

13 MR. FEKETE: Entertain a second.

14 MR. HENRY RODRIGUEZ: Roll call vote.

15 John Bakota?

16 MR. BAKOTA: Yes.

17 MR. FEKETE: Henry Rodriguez?

18 MR. HENRY RODRIGUEZ: Yes.

19 MR. FEKETE: Patrick Rodriguez?

20 MR. PATRICK 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.

District Board of Directors' Meeting
07/17/2019

1 Motion carries.

2 Next we have BMO Harris Bank
3 Trust Report, Mr. Alonzo.

4 MR. ALONZO: David Alonzo, BMO Harris
5 Bank. All right. We'll go through our normal
6 report here with some updates. So the first page
7 gives the charts of what the money has been doing
8 since 1997.

9 If we jump to page 2, down on
10 the left-hand column, the value of the Trust, as of
11 June 30th, was \$4,727,473, and that was a difference
12 of \$197,621 from our last meeting. And then the
13 disbursements for 2019 were \$240,038.

14 The third page will give a
15 little more detail about the change in value. That
16 \$194,927 was from BP deposit, that happened in June,
17 beginning of the month. That money was deposited to
18 the Money Market Account. And also, if you see
19 where I highlighted that in yellow, the four-year CD
20 matured, that money was deposited into the Money
21 Market also, which now currently holds \$1,621,948.

22 Our 33-month CD will be coming
23 due here on July 25th, and that will also be
24 deposited to the Money Market account. So that will
25 bring close to about three million dollars. We

District Board of Directors' Meeting
07/17/2019

1 typically like to keep around 750,000 in there. We
2 talked about meeting again here in August and coming
3 up with some ideas for putting some of that money to
4 better use in CDs, once we have got it all combined
5 into one. CD rates right now, they have really been
6 coming down. The Feds are again talking about
7 cutting rates, so depending on where the rates are
8 at that time. Right now we are sitting at about
9 11-month CD at about 2.4 percent. There is nothing
10 too exciting really beyond that.

11 Just putting that in context of
12 5-year CD at 2.65 percent. So short-term is where
13 the money is at right now. And when we reconvene in
14 August, we'll come with ideas what our rates are and
15 we could take a look at what is available at that
16 time.

17 There was some interest that was
18 earned beyond just deposits, about \$2,694 in
19 interest that was earned from that CD that matured,
20 and also a little bit of that was from the Money
21 Market interest from month over month. But other
22 than that, we will have two CDs come due in January
23 of 2020 and see what the rates are again at that
24 point. Any questions?

25 MR. LOPEZ: Thank you.

District Board of Directors' Meeting
07/17/2019

1 MR. ALONZO: I know there is a Letter of
2 Direction for the CDs coming due. Once that's done,
3 we can put that in the Money Market.

4 MR. FEKETE: That's the next item. Thank
5 you very much.

6 And that's the next order of our
7 business, to approve the Letter of Direction that
8 Mr. Alonzo mentioned in his report. So I'll
9 entertain a motion.

10 MR. BAKOTA: Motion to approve.

11 MR. FEKETE: Do I have a second?

12 MR. HENRY RODRIGUEZ: Second.

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

14 MR. BAKOTA: Yes.

15 MR. FEKETE: Henry Rodriguez?

16 MR. HENRY RODRIGUEZ: Yes.

17 MR. FEKETE: Patrick Rodriguez?

18 MR. PATRICK RODRIGUEZ: Yes.

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 Motion carries.

25 And the next order of business

District Board of Directors' Meeting
07/17/2019

1 is the U.S. Army Corps report.

2 MR. NGUYEN: Mike Nguyen, Army Corps of
3 Engineers. For the facilities dredging operation
4 plans, we already started dredging on June 25th.
5 With the holiday of 4th of July, we had a short
6 week.

7 TSCA dredging started on
8 July 15th and should be completed by July 26th.
9 After this then move forward to LTV dredging to
10 cover the TSCA material and dredging will continue
11 till the Fall.

12 For the oil boom, there is
13 nothing significant to report.

14 PCA revision, the Corps sent a
15 letter citing the proposal alternative Resolution of
16 the Tipping Fee discrepancy dated 24 June to
17 ArclerMittal, for the agreement with the Lake
18 George. The Corps has started discussion with ECWD
19 and the EPA and actually start coordinating with our
20 division office to see if we could include both
21 parties, both ECWD and EPA as signatory to the
22 agreement. We are still waiting back from our
23 division office on guidance.

24 And for the Feddeler parcel,
25 nothing new to report.

The Corps submitted to ECWD third credit. And for new product parkway and entrance road, the construction is both ongoing. That's all.

MR. FEKETE: Thank you. That photograph you provided looks pretty good.

MR. NGUYEN: Oh, for the fence.

MR. FEKETE: Right. Thank you. All right.

Next order of business is
Attorney Ellen Gregory report.

MS. GREGORY: Ellen Gregory, Ellen Gregory Law. Following up what Mike Nguyen mentioned on the dispute with the Corps regarding ArcleR Mittal Tipping Fee Agreement. We have received on June 24th the Corps formal Position Statement, which was in response to the Waterway Management District Position Statement that we submitted last month. Actually in May, sorry. The Corps Position Statement was submitted on June 24th.

Fernando and I are in the process of working with Plews Shadley to submit a reply to the Corps Position Statement, that will be due 30 days after the Corps Position Statement was submitted. On the same day, June 24th, the Corps

1 submitted a letter, which Mike Nguyen mentioned in
2 his statement, proposing an alternate resolution to
3 the Tipping Fee dispute.

4 We received a letter, that was
5 in your Board packet, from ArcelorMittal Legal,
6 basically saying that they are considering the
7 proposal, but reserving all their rights.

8 Fernando and I have been working
9 on coordinating the Great Lakes Legacy Act PA
10 modification and revised site agreement as he
11 mentioned, incorporating a BP project that was just
12 raised last week on a group call.

13 And other than that, I have been
14 working with both Tim and Fernando on financial
15 items, including the State Board of Account review.
16 I guess the State Board of Accounts is not calling
17 it an audit, but basically it's renew of finances.
18 And then putting together new Investment Policy, as
19 Fernando mentioned, and the Internal Control
20 Standards Policy, that's required by the State Board
21 of Accounts. And that's all I have.

22 MR. FEKETE: Any questions for Miss
23 Gregory? (None) Thank you very much.

24 Any other business to come
25 before the Board, new or otherwise? (None) Any

District Board of Directors' Meeting
07/17/2019

1 public comments?

2 MR. PATRICK RODRIGUEZ: There's beach
3 clean up taking place August 17th, 9:00 a.m.,
4 sponsored by the City of East Chicago and Indiana
5 Harbor Lions Club. Hope to see you out there.

6 MR. FEKETE: What was the date and time
7 again?

8 MR. PATRICK RODRIGUEZ: Starting at
9 9:00 a.m. until 12, August 17th.

10 MR. FEKETE: Any other business? (None)
11 Hearing none, next Board meeting is August 21, 2019,
12 at 5:00 p.m., at this facility.

13 I'll entertain a motion for
14 adjournment.

15 MR. BAKOTA: Motion to adjourn.

16 MR. PATRICK RODRIGUEZ: Second.

17 MR. FEKETE: All in favor signify by
18 saying aye?

19 (All signify aye).

20 MR. FEKETE: This meeting is closed.

21

22

23 ***** Meeting is adjourned *****.

24

25

C E R T I F I C A T E

3 I, Peggy S. Lalonde, Certified Shorthand
4 Reporter (CSR), and Notary Public within and for the
5 County of Porter, State of Indiana, do hereby certify
6 that I appeared at the City of East Chicago,
7 Engineering/Annex Building, 4444 Railroad Avenue, East
8 Chicago, Indiana, on the 17th day of July, 2019, to
9 report the proceedings had of the District Board of
10 Directors' Meeting.

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

17 Dated this 14th day of August, 2019.

20
21 Peggy S. La Londe

22 | Peggy S. LaLonde, CSR

23 My Commission expires: 2/06/2026



District Board of Directors' Meeting

07/17/2019

Index: \$1,6..bala

\$	2019-2 5:3 17:10	8	alternative 21:15
	2020 19:23		amending 8:18,24,25 9:3,5
\$1,621,948	18:21	24 21:16	Amendment 4:14 14:20
\$194,927	18:16	24-month 4:20	Anderson 11:11,12 13:14,24
\$197,621	18:12	25,000 12:18	Anderson's 7:15
\$2,694	19:18	25th 5:10 18:23 21:4	annual 4:5
\$240,038	18:13	26th 21:8	AP 12:23
\$4,727,473	18:11	28th 5:25	approval 4:2,10 6:22 7:10 8:1 9:22 10:17 14:18 16:11
\$8	8:20	898 4:22	approve 9:24,25 10:19, 20 14:3,22,24 15:19,20 16:15,16,17 17:10,12 20:7,10
		3	approved 4:15 8:6 10:5,15 14:17,21
1	3 12:8	9	approving 7:1
11	6:8	926 4:22	approximately 8:20
11-month	19:9	A	Arclermittal 6:7 8:19, 23 21:17
12-month	4:20	accept 16:15	Army 5:12,13 21:1,2
12th	5:20	account 4:22 5:7 11:23 12:5,9,11,15 13:5 18:18,24	Attorney 5:18 9:16
13	7:11	Accounting 11:11	audit 4:25 7:8,11,17,20, 21 13:16
15th	4:21 8:6 21:8	accounts 4:17,24 7:6 8:3 11:18,22 12:1,2 13:23 14:1 15:16 17:8	August 6:25 8:14 16:14 19:2,14
16	12:25	accurate 7:12	authorization 4:13 14:20,23
17	4:10 5:12 14:2	Act 8:16	avoid 8:12
176,000	12:25	activities 9:12	aye 10:3,4,13,14
177,000	11:20	add 9:1,3 13:3,5	
17th	3:4	added 12:24	B
19	4:2 9:23	additional 6:19	back 13:4 21:22
1997	18:8	adopt 7:22	Bakota 3:6,7 9:25 10:20,23,24 14:6,7 15:3,4,20,23,24 16:20, 21 17:15,16 20:10,13, 14
19th	8:14	adopting 5:3	balance 12:4 13:4,6
2	5 6:1	agenda 3:25 6:21 8:1	
2 11:14	18:9	agreed 8:21	
2,019	6:5	agreeing 6:17	
2.4	19:9	agreement 4:3,5 6:10 8:18,22,23,25 9:2,3,5 10:18,19 21:17,22	
2.65	19:12	Alonza 18:4	
2012	6:10	Alonzo 18:3,4 20:1,8	
2019	4:2,8,11 5:13,14, 22 6:2,8 8:15 9:23 14:2, 20 18:13		
2019-1	5:1 16:11		
		712 5:8	
		750,000 19:1	

District Board of Directors' Meeting

07/17/2019

Index: Bank..EPA

Bank 4:14,16 5:6 18:2,5	Chamber 6:14	Council 15:17	District 3:3 4:24 8:21
basically 7:1,12 12:9	change 18:15	couple 6:12 13:8,20	division 21:20,23
beginning 12:3 18:17	charts 18:7	cover 21:10	Docket 4:9 13:1,4
bird 5:22	check 8:9	created 4:21	documents 7:14
bit 19:20	checking 11:22 12:15	current 6:24	dollars 8:21 18:25
BMO 5:6,9 18:2,4	checks 8:7 11:19	cutting 19:7	Doyle 3:14,15 10:11 11:4,5 14:5,12,13 15:1, 9,10 16:4,5,19 17:1,2, 12,21,22 20:19,20
Board 3:3,24 4:1,6,15, 24 5:12,19 6:12,19,21 7:6,9,22,24,25 8:3,6 9:13,22 12:20 13:10,15, 22 15:16 16:11 17:8,10	Chicago 3:2	D	draft 8:2
boom 21:12	citing 21:15	date 3:3 4:10,21 5:19	dredging 5:14 9:11,12, 15 21:3,4,7,9,10
bottom 12:14	Claim 4:9 13:1,4	dated 4:8 5:6,12,21,25 6:1,5,8 9:23 14:2 21:16	due 10:8 18:23 19:22 20:2
Boulevard 5:17	Cliftonlarsonallen 4:7 11:13	Dave 6:13	E
Boyce 4:3 10:17	close 13:8,9 18:25	David 18:4	e-mail 7:16
BP 8:21 9:1,6,7 18:16	column 12:22,23 13:7, 10 18:10	dead 9:10	eagerly 13:19
BP's 9:3	combined 19:4	deadline 8:6	earlier 15:17 16:12
bring 18:25	companies 8:8,14	deal 12:20	earned 11:25 12:18 19:18,19
budget 4:14 11:23 12:5,10,13,22,24 13:2, 3,12 14:20	completed 21:8	decision 12:19	East 3:2
buried 9:9	compliance 13:12	dedicated 8:12	ECI 5:5
business 3:5 9:21 10:16 11:10 14:18 15:15 16:10 20:7,25	concludes 6:11 9:18	Department 6:4	ECWD 21:18,21
buying 8:11	concluding 7:18	depending 19:7	efforts 9:8
C		deposit 4:18 18:16	Ellen 5:18 7:4 9:16
call 3:1,6 10:23 14:6 15:3,23 16:20 17:14 20:13	consistent 7:10	developing 6:20	end 6:16
Canham 7:16	Consultant 11:11	Diana 6:4	ending 4:17,22 5:8 11:15
carries 11:9 15:14 16:9 17:6 18:1 20:24	Consulting 3:23	difference 18:11	engagement 4:23 7:8 15:16
cash 11:21 12:11	contents 3:24	Direction 5:8 20:2,7	Engineers 5:12 21:3
CD 4:20,21 5:9 12:16 18:19,22 19:5,9,12,19	context 19:11	Director's 3:20	enter 8:22
CDF 5:16	continue 21:10	Directors' 3:3	entertain 9:24 10:6,9, 18 13:25 14:22 15:19 16:14 17:9,13 20:9
CDS 11:23 12:18,20 19:4,22 20:2	Control 5:4 7:23,25 17:9,11	disbursements 11:19 12:10 18:13	entitled 16:11 17:11
Certificate 12:6	coordinating 6:17 21:19	discrepancy 21:16	Environmental 6:4
	copy 5:13 6:7 11:13	discussed 15:17 16:12	EPA 6:4 21:19,21
	Corps 5:12,13,16 6:9 9:12,13,14 21:1,2,14,18	discussion 13:22 21:18	
	cost 8:20,23	dispute 6:10	

District Board of Directors' Meeting

07/17/2019

Index: exam..Mate

examiner 7:16	funds 4:13	included 7:9	<hr/>
exciting 19:10	future 6:15 8:13	income 11:16,25	L <hr/>
Executive 3:20 15:17	<hr/>	incorporate 9:6	Lake 6:13 21:17
existing 8:18,24	G <hr/>	increased 11:24	Lakes 8:16
expenses 11:21	gathering 6:19	Indiana 6:3	left-hand 18:10
expires 5:9 16:14	Gentlemen 3:22	Indianapolis 5:17	Legacy 8:16
expiring 6:6,25	George 21:18	information 6:19 7:13	legal 9:17
exploring 9:3	give 6:12 9:15 18:14	13:17	letter 4:12,23 5:8 6:3,8
extension 8:6,14 10:7	giving 9:17	install 5:16	7:8 14:19,22 15:16
<hr/>	good 7:2 8:4 13:11,13,	intends 5:16	20:1,7 21:15
F	24 16:13	interest 11:16,25 13:6	License 10:18
facilities 21:3	grant 8:13 10:7	19:17,19,21	License/maintenance
Facility 5:5	Great 8:16	Internal 5:4 7:23,25	4:4
Fall 21:11	Gregory 7:5 9:16	17:8,11	lines 9:10 11:20
favor 10:2,13	Gregory's 5:19	Investment 5:2 6:22,	looked 8:4
Feddele 21:24	groups 12:8,14	24 16:12,13	Lopez 3:16,17 10:21
Feds 19:6	guess 13:8	involves 9:9	11:6,7 14:3,14,15
Fee 4:18 6:10 8:15	guidance 21:23	issue 10:8	15:11,12 16:6,7,17
11:22 12:5,15 21:16	<hr/>	item 20:4	17:3,4,23,24 19:25
Fees 8:5 10:8 11:16,24	H <hr/>	items 6:11,13	20:21,22
12:7	<hr/>	<hr/>	lots 13:16
Fekete 3:1,8,10,12,14,	happened 18:16	J <hr/>	LTV 21:9
16,18 9:19 10:2,5,12,	Harris 5:6,9 18:2,4	January 11:15 19:22	luncheon 6:15
15,22,25 11:2,4,6,8,	Hearing 15:18	John 3:6,18 10:23 11:8	<hr/>
13:13,20,25 14:4,6,8,	Henry 3:8,9 10:1,25	14:6,16 15:3,13,23	M
10,12,14,16,25 15:2,5,	11:1 14:8,9,24 15:5,6,	16:8,20 17:5,15,25	<hr/>
7,9,11,13,21,23,25	22,25 16:1,22,23 17:14,	20:13,23	made 4:19 11:19
16:2,4,6,8,18,20,22,24	17,18 20:12,15,16	July 3:4 4:10,21 5:10,	mail 8:9
17:1,3,5,13,17,19,21,	highlighted 18:19	12,20,22 6:1,8 8:6 14:2	mailbox 8:12 10:8
23,25 20:4,11,13,15,17,	holds 12:9 18:21	18:23 21:5,8	Maintenance 10:18
19,21,23	holiday 21:5	jump 18:9	making 9:9
Fernando 3:22 13:14	hope 8:19	June 4:2,8,17 5:6,7,23,	Maly 6:5
field 7:16	<hr/>	25 9:23 11:14,15 13:1	Management 3:2 6:4
financial 4:8 7:12,14	I <hr/>	18:11,16 21:4,16	manager 9:14
11:14	<hr/>	<hr/>	marked 8:10
FMT 3:23	ideas 19:3,14	K <hr/>	Market 18:18,24 19:21
Form 7:11	identifying 9:9	Kevin 3:14 11:4 14:12	20:3
forward 21:9	impact 9:4	15:9 16:4 17:1,21 20:19	Market also 18:21
four-year 18:19	include 8:18 21:20	Kim 6:8	material 21:10
front 13:1	<hr/>	kind 6:18	Materiality 5:4

District Board of Directors' Meeting

07/17/2019

Index: matt..Ryan

matters 9:17	notes 9:22	pipelines 9:9	recommending 8:13
matured 18:20 19:19	notified 8:8	plans 21:4	reconvene 19:13
meeting 3:3,25 4:15 7:7,18 9:22,23 14:21 15:17 18:12 19:2	number 5:23 13:10	Plews 6:9	referencing 14:20
member 13:11	O	point 12:13 19:24	regard 5:3
memos 4:19	observation 5:22	policy 5:2 6:23,24 7:1 16:12,13 17:9,11	register 14:1
mentioned 20:8	October 6:18	present 6:15,20	related 4:5,14
Merchants 4:13,16 14:19	office 21:20,23	problem 8:10	release 5:14
Mike 9:14 21:2	oil 21:12	Procedure 6:23	relevant 7:13
million 8:20 12:3,7,16, 25 18:25	ongoing 4:25 6:15	Procedures 5:2 7:23, 25	Relue 6:9
minutes 4:1	Operating 11:18,22,23 12:2,9	process 7:22 8:17	remediation 6:16
money 11:17 18:7,17, 18,20,24 19:3,13,20 20:3	operation 21:3	produce 8:20	reminder 8:5,17
monitoring 5:23	order 3:2,5 9:21 10:16 11:10 14:18 15:15 16:10 20:6,25	project 8:17,18,19,24 9:2,3,4,6,8,11,14,15	removal 9:8
month 4:17,19 5:7,23 6:25 8:14 10:7 18:17 19:21	P	projects 9:2	renewal 4:5 10:18
monthly 5:22	packet 3:24 4:6 6:12 7:9 8:1 9:13	proposal 6:10 21:15	report 3:20 4:21 5:6,7, 11,19,21,23,24 7:19 9:13,18 11:11 13:19 18:3,6 20:8 21:1,13,25
months 11:15 12:19	parcel 21:24	proposed 9:1	reported 6:23 7:7
motion 9:24,25 10:5,7, 9,12,15,19,20,22 11:9 14:1,3,17,22,24 15:2, 14,19,20 16:9,14,15,17 17:6,10,12 18:1 20:9, 10,24	Parsons 5:21	proposing 7:22	requests 13:17
move 21:9	part 7:9	providing 7:12,14	required 7:24
moved 10:10	participate 6:17	put 20:3	resolution 5:1,3 7:23, 24 16:11 17:10 21:15
N	parties 21:21	putting 19:3,11	resolutions 6:22 13:21
needed 8:21	Patrick 3:10,11 10:10 11:2,3 14:10,11 15:7,8 16:2,3,24,25 17:19,20 20:17,18	Q	Response 3:13
negative 13:10	payable 14:1	questions 9:20 13:12, 16 15:18 19:24	result 7:21
News 5:14	payments 8:9,15	quorum 3:19	return 8:10
Nguyen 9:14 21:2	PCA 21:14	R	returned 8:9
nice 12:20	PDS 6:5	rates 19:5,7,14,23	revision 5:19 21:14
Nick 7:15 8:2	percent 19:9,12	Ray 3:16 11:6 14:14 15:11 16:6 17:3,23 20:21	Rodriguez 3:8,9,10,11 10:1,10,25 11:1,2,3 14:8,9,10,11,24 15:5,6, 7,8,22,25 16:1,2,3,22, 23,24,25 17:14,17,18, 19,20 20:12,15,16,17, 18
normal 18:5	permit 6:5	reached 6:14	roll 3:6 10:22 14:6 15:3, 23 16:20 17:14 20:13
noted 12:17	picture 5:15	receipts 11:16,18	roughly 12:12
	pipeline 9:7	recently 9:1	run 10:8
		recommendations 17:7	Ryan 6:13

District Board of Directors' Meeting

07/17/2019

Index: Sabl..Zaga

S	T	V
Sable 6:8	talked 13:15 19:2	vote 10:23 11:8 14:6,16 15:3,13,23 16:8,20 17:5,14,25 20:13,23
season 5:15	talking 13:22 19:6	
sender 8:10	Ted 3:12	voucher 14:1
SEP 8:19	terms 4:4	
Shadley 6:9	thought 8:3	
share 8:20,23	tie 13:21	wait 13:18
shared 8:2	tied 12:7	waiting 21:22
Shore 6:13	ties 12:12	wall 5:15
short 21:5	till 21:11	Waterway 3:2 6:16
short-term 19:12	Tim 7:15 11:12	week 5:25 6:1 21:6
shows 12:8,21	time 3:4 19:8,16	weekly 5:24
signatory 21:21	timeframe 6:18	work 6:16 8:25
signed 7:11	Tipping 6:10 21:16	working 13:15
significant 7:3 21:13	to-date 9:8 13:18	wrap 13:19
signify 10:2,4,13,14	today 13:2	written 12:25
site 8:22,25 9:4,5	today's 3:3,25 13:4	
sitting 19:8	Todd 6:9	Y
software 4:4,5 10:17	total 12:24	year 8:11 9:13 12:3,23
spend 12:24	transfer 4:13	years 7:2 16:13
spending 13:11	Trevino 3:21,22 7:6 9:20	yellow 18:19
sponsoring 6:14	Trust 5:5,7 11:17 18:3, 10	
staff 7:15	TSCA 21:7,10	Z
Stan-tech 5:25	typically 19:1	Zagar 3:12
Standard 5:4		
Standards 5:4		
start 3:23 5:14 21:19		
started 7:7 8:25 9:7,12 21:4,7,18	U	
State 4:24 7:6 8:3 13:15,22 15:16 17:8	U.S. 21:1	
statement 4:8	understanding 7:2	
statements 4:17	unspent 12:13,21	
states 7:12	unused 13:2,3	
submitted 7:11	update 4:20 9:15,17	
	updates 6:13 18:6	
	User 4:18 8:5,15 10:7 11:16,22,24 12:5,7,15	