

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

City of East Chicago, Engineering/Annex Building

4444 Railroad Avenue

East Chicago, Indiana

via telephone conference

April 15, 2020

Wednesday 5:00 p.m.

**Transcript of the East Chicago Waterway Management
District Board of Directors' Meeting had in the
above-entitled matter, on the 15th day of April,
2020, at 5:00 p.m., via telephone conference,
before Dawn M. Iseminger, RPR, and Notary Public,
within and for the County of Porter, State of
Indiana.**

1 A P P E A R A N C E S

2 MR. JOHN FEKETE, President

3 MR. KEVIN DOYLE, Board Member

4 MR. HENRY RODRIGUEZ, Board Member

5 MR. PATRICK RODRIGUEZ, Board Member

6 MR. RAY LOPEZ, Board Member

7 MR. FERNANDO TREVINO, FMT Consulting

8 MS. ELLEN GREGORY, Ellen Gregory Law

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1 MR. FEKETE: Call to order. Today's date is
2 April 15, 2020. This meeting will be held by
3 teleconference in accordance with Governor
4 Holcomb's executive order during the COVID-19
5 state of emergency.

6 The first order of business is roll call.
7 John Bakota, not present. Henry Rodriguez?

8 MR. HENRY RODRIGUEZ: Present.

9 MR. FEKETE: Patrick Rodriguez?

10 MR. PATRICK RODRIGUEZ: Present.

11 MR. FEKETE: Patrick Rodriguez is present.
12 Pat Zagar, not present. Kevin Doyle?

13 MR. DOYLE: Kevin Doyle, present.

14 MR. FEKETE: Kevin Doyle is here. Ray Lopez?

15 MR. LOPEZ: Ray Lopez, present.

16 MR. FEKETE: John Fekete, and I'm present.
17 The first order of business will be the Executive
18 Director's report from Fernando Trevino.

19 MR. TREVINO: Fernando Trevino with FMT
20 Consulting. I'll start by going over the contents
21 of your board packet. You have the agenda for
22 today's board meeting dated April 15, 2020. You
23 have a copy of the public meeting notice that went
24 out in the papers and was also posted on our
25 website since there was a change in our regularly

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1 scheduled board meeting. The date and time was
2 consistent but the location was not, so it went
3 from being held at 4444 Railroad to, as John
4 mentioned, a teleconference board meeting. This
5 notice was sent to the papers on Monday and it's
6 also posted on our website.

7 You have the board minutes from March 18,
8 2020. You have the claim docket, and that's on
9 the agenda for approval consideration dated
10 April 15, 2020. You also have the affiliated
11 purchase orders for the items that are on the
12 claim docket. You have First Merchant's Bank
13 statement for accounts ending in 608 and 616.
14 And you also have the First Merchant's Bank
15 statements for the 12-month and 24-month CD
16 ending in account numbers 898 and 936
17 respectively.

18 You also have in your packet resolution
19 number 2020-1. That's related to the
20 electronic signatures, and that's on the agenda
21 for approval consideration. You have Attorney
22 Ellen Gregory's report to the board with a
23 revision date of April 14, 2020. And then you
24 have the Army Corps of Engineers report to the
25 board with a report date of April 15, 2019.

1 That's an incorrect date. That should be 2020.
2 But that's the report for the board for today's
3 board meeting.

4 And then I also sent, as part of your
5 board packet earlier today,
6 CliftonLarsonAllen's financial statement dated
7 March 31, 2020. And also I sent earlier today
8 the BMO Harris Trust Facility report dated
9 March 31, 2020. So those are the items in your
10 board packet.

11 I'd like to go over a brief report. As
12 mentioned earlier, we're having a
13 teleconference meeting today consistent with
14 Governor Holcomb's order 20-09. It was posted
15 in the papers and on our website.

16 Buckeye Pipeline sent us some information
17 related to an electrical upgrade project that
18 they're working on and they asked us to review
19 their real estate documents to see if they're
20 interested in renewing the access agreement
21 that they have and then possibly increasing the
22 footprint of the real estate that they're
23 interested in. So we'll be looking at that and
24 reporting back to the board.

25 User fees. The user fees for 2020 went

1 out last week, April 7th, and I also sent
2 followup e-mails to those stakeholders that
3 we've established an e-mail relationship with;
4 so the e-mails have also gone out. And the
5 user fees are due June 1st of 2020, so we gave
6 them a little extra time because of the issues
7 going on with COVID-19.

8 The Great Lakes Legacy Act project update.
9 The 2019 year end cost share report was sent
10 out to EPA and the stakeholders on April 10,
11 which was last year -- I mean, last week. And
12 the e-mail, when I sent it out the board was
13 copied on the e-mail; so you could have that as
14 well.

15 The Sheet Pile Wall project and the basis
16 of design report, the public comments were due
17 on the 23rd. I did not receive any public
18 comments that were connected to my e-mail. We
19 haven't confirmed whether there are any hard
20 copies left at the libraries because the
21 library staff hasn't reported to the libraries
22 since a date prior to March 23rd. So I don't
23 anticipate any public comments were left at the
24 library because an easier way of doing it was
25 to submit them to me by e-mail, but we just

1 haven't checked that box off yet, so we'll be
2 doing that as soon as the library staff are
3 reporting back to the libraries.

4 At the last board meeting we were working
5 on a gentleman from NOAA to present a
6 presentation related to the lake levels and so
7 we had to cancel that presentation due to the
8 COVID-19 virus issue. Hopefully, we will have
9 that planned some time in the future.

10 We're also working on resolving the PTA
11 and the tipping fee agreement disputes with
12 Army Corps of Engineer, EPA, and ArcelorMittal.
13 So we've had several calls to try to resolve
14 that, and I think the preliminary talks that
15 we've had are very promising. So hopefully
16 we'll be able to continue with dredging the
17 ArcelorMittal material this year and get that
18 accomplished.

19 BP submitted an updated south tank farm
20 pipeline removal report; so we'll be reviewing
21 that. So that concludes the Great Lakes Legacy
22 Act update.

23 The Canal Street bridge project, the work
24 there is ongoing. The engineering firm came
25 out and did land survey work to tie in BP's

1 biometric survey; so at the next board meeting
2 I'll report any developments.

3 The Army Corps of Engineers report to the
4 board is in your packet, and I believe Mike
5 Nguyen is attending our public meeting, so
6 he'll give a brief update on the Corps'
7 dredging project.

8 And then Attorney Ellen Gregory will be
9 reporting a couple updates on legal matters.
10 That concludes my report.

11 MR. FEKETE: Okay. This is John Fekete. Any
12 comments or additions or questions for
13 Mr. Trevino?

14 MR. LOPEZ: Yes. On the minutes you have us
15 for May 20th. Is that going to stay or is that
16 tentative for next month's meeting?

17 MR. TREVINO: Presently, our regularly
18 scheduled board meeting for May is May 20th; so we
19 don't have any final information on whether that
20 might change or not, so for now I thought we would
21 leave it and if we need to do anything different,
22 then we can do that.

23 MR. LOPEZ: Have you got a hard copy of the
24 minutes? Usually, you give me one. I don't know
25 if you have one.

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1 MR. TREVINO: Yeah, I could give you a hard
2 copy. You're talking about the March 18 board
3 minutes, right?

4 MR. LOPEZ: Yeah.

5 MR. TREVINO: Yeah, I could get you a hard
6 copy.

7 MR. LOPEZ: Thank you.

8 MR. FEKETE: The first order of business
9 after that is the approval consideration for the
10 board meeting notes for March 18, 2020. And we'll
11 do this by roll call. John Bokota, not here.

12 MR. LOPEZ: Ray Lopez makes a motion to
13 accept.

14 MR. FEKETE: Okay. Is there a second?

15 MR. HENRY RODRIGUEZ: I second.

16 MR. FEKETE: Okay. We'll accept a roll call
17 vote. John Bokota?

18 (No response).

19 MR. FEKETE: Henry Rodriguez?

20 MR. HENRY RODRIGUEZ: Yes.

21 MR. FEKETE: Patrick Rodriguez?

22 MR. PATRICK RODRIGUEZ: Patrick Rodriguez,
23 yes.

24 MR. FEKETE: Ted Zagar, not here. Kevin
25 Doyle?

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1 MR. DOYLE: Kevin Doyle, yes.

2 MR. FEKETE: Ray Lopez?

3 MR. LOPEZ: Yes.

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

5 Okay, that motion is approved.

6 The next order of business is the
7 accounting consultant report. Mr. Trevino will
8 do the honors.

9 MR. TREVINO: Let me get back to that report.
10 As I mentioned, that was sent to you this morning.
11 The first page summarizes the receipts through the
12 end of March 31st of this year. The total
13 receipts to date of interest income is \$14,025.24.
14 And there was a trust transfer of \$276,789.98.
15 Below that is a list of some of the disbursements
16 and the disbursements total \$74,880.75. And then
17 there's a total of what the increase is and a cash
18 balance as of January 1st of this year, and the
19 cash balance as of March 31st, 2020; and that cash
20 balance is \$3,821,549.06.

21 The next page shows the schedule of cash
22 account activity, and there's a total for the
23 operating account, and there's a cash balance
24 as of January 1st and an operating cash balance
25 as of March 31st of 2020, and that cash balance

1 is \$1,003,726.11. At the bottom of that sheet
2 shows the summary of the user fee account, the
3 user fee account balance as of March 31, 2020,
4 and then it also shows a certificate of deposit
5 summary for accounts ending in 898 and 936,
6 along with the interest earned in 2020 from
7 those two CDs. And the total interest received
8 so far is \$12,607.51. And then the last sheet
9 is our -- they're all important, but this is
10 the one that's important related to the
11 management of our budget and so these are our
12 budget line items. The first column is our
13 2020 budget appropriation, and the next column
14 is the accounts payable as of December 31st of
15 2019, and then the second-to-the-last column
16 shows the line items that are affiliated with
17 today's claim docket, and the claim docket
18 totals \$27,951.27.

19 And then the last column is the most
20 important one, and that shows that after the
21 claim docket transactions there are no negative
22 items that are of our budget line items. So
23 the current balance of our 2020 budget is
24 \$975,055.43. So that summarizes the financial
25 report.

1 The next item on the agenda is the
2 approval of the claim docket.

3 MR. FEKETE: Okay. I will entertain a motion
4 to approve the claim docket.

5 MR. PATRICK RODRIGUEZ: This is Pat
6 Rodriguez. So moved.

7 MR. FEKETE: Do I have a second?

8 MR. LOPEZ: Ray Lopez, and I second. We have
9 a motion and a second. Any discussion?

10 (No response).

11 MR. FEKETE: Hearing none, we'll do a roll
12 call vote.

13 John Bokota, not present. Henry
14 Rodriguez?

15 MR. HENRY RODRIGUEZ: Henry Rodriguez, yes.

16 MR. FEKETE: Patrick Rodriguez?

17 MR. PATRICK RODRIGUEZ: Patrick Rodriguez,
18 yes.

19 MR. FEKETE: Pat Zagar, not present.

20 Kevin Doyle?

21 MR. DOYLE: Kevin Doyle, yes.

22 MR. FEKETE: Ray Lopez?

23 MR. LOPEZ: Ray Lopez, yes.

24 MR. FEKETE: John Fekete, I vote yes. That
25 motion is approved.

1 The next order of business is the
2 resolution relative to electronic signatures.

3 MR. TREVINO: Yes. Ellen, would you mind
4 giving a summary of the resolution?

5 MS. GREGORY: Okay. So the resolution
6 addresses the ability and authorization to sign
7 contracts and other documents through electronic
8 signatures, and not only addresses going forward
9 the ability of board members and Fernando and
10 other people representing the Water Management
11 District to sign documents electronically but also
12 has a provision in there that states that any
13 documents that have been signed in the past using
14 electronic signatures are considered valid. I did
15 a little bit of research on this and basically the
16 way the law is set up for the Indiana agencies is
17 that you have the ability to sign electronic
18 signatures even without having a policy in place.
19 Our plan was to have this resolution today and at
20 next month's meeting have a policy proposal for
21 the board to review.

22 MR. PATRICK RODRIGUEZ: This is Pat
23 Rodriguez. Do we have to have it formally read to
24 the board or to the public?

25 MS. GREGORY: I didn't understand what the

1 question was.

2 PATRICK RODRIGUEZ: Do we have to have the
3 resolution formally read into the record?

4 MS. GREGORY: No.

5 PATRICK RODRIGUEZ: Okay.

6 MR. FEKETE: I'll entertain a motion to
7 approve the ability to electronically use
8 electronic signatures in the continuation of the
9 business that comes before the East Chicago
10 Waterway Management District Board.

11 MR. LOPEZ: Ray Lopez, I make a motion to
12 approve.

13 MR. DOYLE: Kevin Doyle, second.

14 MR. FEKETE: Ellen, was that okay with you?

15 MS. GREGORY: Yes.

16 MR. FEKETE: Okay. We have a motion. We
17 have a second. Any questions? Any discussion?

18 (No response).

19 MR. FEKETE: Hearing none, we'll move to a
20 roll call vote on the resolution.

21 John Bokota, not present. Henry
22 Rodriguez?

23 MR. HENRY RODRIGUEZ: Henry Rodriguez, yes.

24 MR. FEKETE: Patrick Rodriguez?

25 PATRICK RODRIGUEZ: Patrick Rodriguez, yes.

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1 MR. FEKETE: Ted Zagar, not present.

2 Kevin Doyle?

3 MR. DOYLE: Kevin Doyle, yes.

4 MR. FEKETE: Ray Lopez?

5 MR. LOPEZ: Ray Lopez, yes.

6 MR. FEKETE: John Fekete, I vote yes. The
7 motion is approved.

8 The next order of business is the use of
9 an Adobe software program to facilitate the use
10 of electronic signatures in the continuation of
11 our board business. The motion will include
12 the approval of the acquisition of the Adobe
13 software to be used by both Fernando and Olga
14 Cosme.

15 MR. DOYLE: I'll entertain a motion.

16 MR. HENRY RODRIGUEZ: Henry Rodriguez, I make
17 a motion to approve.

18 MR. FEKETE: Mention your name. We didn't
19 get it.

20 MR. DOYLE: Kevin Doyle, motion to approve.

21 MR. FEKETE: Kevin made the motion. I need a
22 second.

23 MR. HENRY RODRIGUEZ: Henry Rodriguez,
24 second.

25 MR. FEKETE: Henry Rodriguez, we have a

1 second.

2 Any questions? Any discussion?

3 (No response).

4 MR. FEKETE: We'll move to a roll call vote.

5 John Bokota, not present. Henry

6 Rodriguez?

7 MR. HENRY RODRIGUEZ: Yes.

8 MR. FEKETE: Patrick Rodriguez?

9 PATRICK RODRIGUEZ: Patrick Rodriguez, yes.

10 MR. FEKETE: Ted Zagar, not present. Kevin

11 Doyle?

12 MR. DOYLE: Kevin Doyle, yes.

13 MR. FEKETE: Ray Lopez?

14 MR. LOPEZ: Ray Lopez, yes.

15 MR. FEKETE: John Fekete, I vote yes. And

16 that motion is approved.

17 Is there any other new business to come
18 before the board?

19 MR. TREVINO: This is Fernando. Mr. Mike
20 Nguyen, the project manager for the Corps, is on.
21 I wasn't sure if he was going to attend or not
22 because of the special circumstances so I didn't
23 put him on the agenda when I posted it; so whether
24 it's new or other business, you know, if we could
25 give Mike the opportunity to give us an update on

1 the Corps' report.

2 MR. FEKETE: Absolutely. Mike, are you
3 there?

4 MR. NGUYEN: Yes, I'm here.

5 MR. FEKETE: Mike, the phone is all yours.

6 MR. DOYLE: Okay. This is Mike Nguyen. I'm
7 with the Army Corps of Engineers. I'm here to
8 give the progress report for the dredging.

9 Dredging and water treatment has been
10 suspended for the season and the treatment will
11 probably resume in April. As soon as the
12 ammonia level drops, the contractor can start
13 treating the water in the CDF and then treating
14 it and discharging it into the canals.

15 The scheduled pre-dredge public meeting
16 for May 20th at 6:00 p.m., right after the
17 ECWMD board meeting, that's right now tentative
18 depending on the state stay-at-home order for
19 the State of Illinois and State of Indiana.

20 For the oil boom, nothing of significance
21 to report.

22 PCA revision. The assistant secretary of
23 the Army of Civil Works approved our request to
24 negotiate the PCA amendment on 23, March.
25 Negotiations started on 31, March, and is

1 ongoing. We have basically a weekly meeting
2 with Fernando and Ellen on Thursday, with our
3 lawyer, to negotiate the PCA amendments. The
4 Corps is still discussing with EPA on the
5 agreement to dredge the Lake George branch.

6 There's nothing new on the real estate
7 resolution on Feddler.

8 The Parkway improvement construction is
9 ongoing and is scheduled to be completed by
10 April of '20.

11 And that's all I have.

12 MR. FEKETE: Okay. Any questions for Mike?

13 PATRICK RODRIGUEZ: Pat Rodriguez. With
14 respects to the franchise being built outside of
15 CDF, I happened to drive by the other day. Are
16 the contractors required to wear PPE under the
17 circumstances?

18 MR. FEKETE: That was Patrick Rodriguez
19 speaking.

20 MR. NGUYEN: You know, the contractor is in
21 charge of their own employees' safety. We don't
22 make any specific requests for them to wear those
23 masks or anything else. They should be following
24 whatever guidelines that the state or the health
25 department enforces. So we know for us, the

1 Corps, if we do go out, we do have those masks.
2 But the contractor should be looking out for their
3 own employees. I mean, if they're not within six
4 feet of one another, I don't think that should be
5 an issue.

6 PATRICK RODRIGUEZ: The reason I did ask that
7 is because as I drove by there was three or four
8 of them not -- they were standing in very close
9 proximity and having conversation and not
10 exercising the social distancing as required or as
11 suggested. That's why I asked that question,
12 Mike. Thank you.

13 MR. LOPEZ: Ray Lopez. For your information,
14 Patrick, Illinois, the governor put in there that
15 they have to wear it in public. In Indiana you
16 don't have to wear anything in public.

17 MR. PATRICK RODRIGUEZ: Thank you very much.

18 MR. FEKETE: Go ahead.

19 MR. LOPEZ: I didn't hear that. What?

20 MR. PATRICK RODRIGUEZ: I said "thank you
21 very much." This is Patrick Rodriguez.

22 MR. LOPEZ: The masks don't have to be worn
23 in public. That's not mandatory yet. Not in
24 Indiana.

25 MR. FEKETE: Okay. Any other questions for

1 Mike Nguyen?

2 (No response.)

3 MR. FEKETE: Thank you, Michael. It's not on
4 the agenda but Ellen Gregory's report.

5 MS. GREGORY: Ellen Gregory, Ellen Gregory
6 Law. For the most part, I've been working with
7 Fernando on the issue with the PCA revision and
8 having calls with the Army Corps and the other
9 interested parties in that matter.

10 Also with respect to setting up the
11 electronic meeting, I did quite a bit of
12 research into the Governor's executive order
13 and how the Governor's stay-at-home, slash,
14 shelter-in-place order impacts the operation,
15 like whether or not Fernando can do the work
16 from your office, and EPA just issued a new
17 guidance document about how the shelter in
18 place works throughout the country are
19 impacting cleanup and site work that is
20 overseen by EPA. So I'm sure going forward
21 we're going to probably have more discussions
22 with BP and EPA about what type of work can go
23 forward. So far, BP has stopped doing most of
24 their site work to comply with the shelter in
25 place orders, but as business starts opening

1 up, probably in phases, hopefully some of that
2 site work will be able to move forward, because
3 at this point BP site work is just on hold and
4 they're doing as much as they can in their
5 office and working on reports and
6 documentation.

7 That's all I have.

8 MR. FEKETE: Any questions for Ellen?

9 MR. LOPEZ: Yes. Ray Lopez. That Canal
10 Street bridge, did anything come up with that?
11 Anything coming up with that?

12 MS. GREGORY: Fernando can probably respond
13 to that one.

14 MR. LOPEZ: I looked at your report but it
15 didn't say that much about it.

16 MR. TREVINO: No. Right now they're doing
17 all of the, kind of, you know, office-type of
18 assessments. As I mentioned earlier, they did do
19 the -- they did come out to do a land survey work
20 to try to tie in the above ground coordinates with
21 the below water coordinates that BP provided,
22 their photometry report. So right now they're
23 just doing their preliminary data gathering right
24 now.

25 MR. LOPEZ: All right. Thank you.

1 MR. FEKETE: Any other questions?

2 (No response.)

3 MR. FEKETE: Hearing none, any other business
4 to come before the board?

5 PATRICK RODRIGUEZ: This is Pat Rodriguez.
6 John, Fernando, with respect to the 217B language
7 can I get a hard copy of that sent to me?

8 MR. TREVINO: Which one again? I didn't hear
9 you, Patrick.

10 PATRICK RODRIGUEZ: The 217B language that
11 you referred to earlier.

12 MR. TREVINO: Okay.

13 MS. GREGORY: Yeah, I'll send that.

14 PATRICK RODRIGUEZ: Thank you, Ellen.

15 MR. TREVINO: If you have that handy, send it
16 to the entire board, Ellen.

17 MR. FEKETE: Okay. Any other questions?

18 (No response.)

19 MR. FEKETE: Any business?

20 (No response.)

21 MR. FEKETE: Any comments from the public?

22 (No response.)

23 MR. FEKETE: Hearing none, our next board
24 meeting is scheduled for May 20, 2020, 5:00 p.m.
25 at the Engineering Facility at 4444 Railroad

1 Avenue, and let's hope everything is cleared up by
2 then; time will tell; and we'll make the
3 appropriate arrangements. So I will declare this
4 meeting adjourned.

5 MR. LOPEZ: Ray Lopez. I like this a lot.
6 This is very good. A lot of work was put into it.
7 It was a good day.

8 MR. TREVINO: Let's adjourn.

9 MR. FEKETE: Okay. Motion to adjourn
10 meeting.

11 PATRICK RODRIGUEZ: This is Pat Rodriguez.
12 So moved.

13 MR. FEKETE: Second?

14 MR. DOYLE: Kevin Doyle. I second.

15 MR. FEKETE: We'll take a voice vote on this.
16 All in favor signify by saying aye.

17 (All signify aye.)

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C E R T I F I C A T E

I, Dawn M. Iseminger, Registered Professional Reporter (RPR), and Notary Public within and for the County of Porter, State of Indiana, do hereby certify that I appeared on the aforementioned date, time, and location, for the East Chicago Waterway Management District Board of Directors Special Meeting.

I further certify that I then and there reported in machine shorthand the proceedings of said Special Meeting, 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 the proceedings.

I further certify that I am not related by blood or marriage to any of the parties, nor am I an employee of any of the parties or of their attorneys or agents, nor am I interested in any way, financially or otherwise, in the outcome of said litigation.

Dated this 11th day of May, 2020.

Dawn M. Iseminger

Dawn M. Iseminger, RPR
My Commission expires: 9/22/2025



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