

In the Matter Of:
East Chicago Waterway Management

DISTRICT BOARD OF DIRECTORS MEETING

September 16, 2020



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877-337-7379

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

**City of East Chicago, Engineering/Annex Building
4444 Railroad Avenue
East Chicago, Indiana
Via Zoom/Telephone Conference**

September 16, 2020

5:00 p.m.

**Transcript of the East Chicago Waterway Management
District Board of Directors' Meeting had in the
above-entitled matter on the 16th day of
September, 2020, at 5:00 p.m., via Zoom/telephone
conference, before Dawn M. Iseminger, RPR, and
Notary Public, within and for the County of
Porter, State of Indiana.**

District Board of Directors Meeting
09/16/2020

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. RAY LOPEZ, Board Member

MR. FERNANDO TREVINO, FMT Consulting

Also present: Tim Anderson, CliftonLarsonAllen

Bill Weaver and Tim Dull, AECOM

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1 MR. FEKETE: I'm calling to order the East
2 Chicago Waterway Management District Board
3 Meeting. Today's date is September 16, 2020, and
4 the time is 5:00 p.m.

5 The first order of business is roll call.
6 John Bakota?

7 MR. BAKOTA: Here.

8 MR. FEKETE: Henry Rodriguez?

9 MR. HENRY RODRIGUEZ: Here.

10 MR. FEKETE: Patrick Rodriguez?

11 MR. PATRICK RODRIGUEZ: Here.

12 MR. FEKETE: Ted Zagar?

13 (No response.)

14 MR. FEKETE: Kevin Doyle?

15 (No response.)

16 MR. FEKETE: Ray Lopez?

17 MR. LOPEZ: Here.

18 MR. FEKETE: John Fekete, here. We have a
19 quorum.

20 Mr. Trevino, executive director's report.

21 MR. TREVINO: Yes. Fernando Trevino with FMT
22 Consulting. I'd like to start off by going over
23 the contents of your board packet. You have the
24 agenda for today's board meeting. You have the
25 public meeting posting since the meeting was via

1 Zoom versus in person as we originally had
2 advertised it. You have the board minutes dated
3 August 19, 2020. You have the First Merchant Bank
4 statements for account ending in 608, along with
5 the one check that was cashed in the month of
6 August under 608.

7 You have First Merchant Bank statement
8 ending in 616. And also the First Merchant
9 Bank report for the 21-month CD that we just
10 opened recently. And you also have a copy of
11 the two user fee deposits that were made in the
12 month of August. You have a copy of the AECOM
13 proposal/contract for work on the agenda that
14 I'll explain later on when we get to that item,
15 but that contract and proposal is in your board
16 packet.

17 You have the BMO trust report dated
18 August 30th. You have Attorney Ellen Gregory's
19 report to the board. You have the Army Corps
20 report to the board. And you have a document
21 dated September 1, 2020, from Wood regarding
22 some questions related to the south tank farm
23 sheet pile wall. And these questions are part
24 of what AECOM's proposal/contract is in regard
25 to. And, again, I'll go through a little more

1 explanation during that item on the agenda.

2 And you have a presentation from AECOM related
3 to the Canal Street bridge project. That
4 concludes the items on the agenda.

5 Just to give a brief report, as I
6 mentioned earlier, because today's meeting was
7 supposed to be in person and it was changed to
8 video/telephone conference meeting, we had to
9 post it. So the posting that we submitted to
10 the papers and posted on our website is in your
11 board packet.

12 Yesterday a few of the Army Corps of
13 Engineers stakeholders had an opportunity to
14 meet the Corps new colonel, which is Colonel
15 Culbertson, who is taking the place of Colonel
16 Reisinger. The Corps provided the new colonel
17 an overview of the Corps projects and an
18 opportunity to hear from a few of the
19 stakeholders.

20 So we're looking forward to working with
21 Colonel Culbertson. And I'd like to take this
22 time to thank Colonel Reisinger for all of his
23 hard work and cooperation. Under his tenure
24 there was significant progress made on various
25 fronts, including the process and resolution of

1 the existing project cooperation agreement,
2 which we are close to resolving.

3 The 2020 user fees collected to date is
4 approximately \$360,000, which is around
5 94 percent of the total. We're continuing to
6 work out payment for two unpaid vendors. So
7 hopefully I'll have an updated report at our
8 October board meeting.

9 The PCA and tipping fee agreement
10 resolution, the district along with the Corps,
11 EPA, and ArcelorMittal continue to work towards
12 a resolution on the PCA and tipping fee
13 agreement. We believe we have a final amended
14 draft of the PCA that we plan to share with the
15 board by early next week. The transmittal to
16 the board will also include a summary outline
17 of the changes that were made to the PCA for
18 the board's convenience and the board's review,
19 and it will be similar to what we provided.

20 Update on the Great Lakes Legacy Act
21 project, phase one dredging, which is along the
22 Lake George Canal east section is still
23 scheduled to occur this year. In preparation
24 for this year's dredging activities, I sent out
25 an updated call-tree that was sent out on

1 September 11th in the event there is an
2 emergency response or an emergency management
3 incident related to the Corps' dredging
4 activities.

5 The Army Corps of Engineers, through an
6 inter-agency agreement with the EPA, is working
7 on the Lake George canal metal cap design, and
8 that work is ongoing. The Corps has received
9 approval of the 401C permit, which is related
10 to the approval of the place sediment from the
11 Grate Lakes Legacy Act project into the local
12 CDF. And they have also received verbal
13 approval of the MOU, which is a partner
14 agreement, also related to placing sediment
15 into the CDF. And so they're working through
16 the signature process of the MOU.

17 Meetings with Atlantic Richfield, slash,
18 BP regarding the south tank farm redevelopment
19 and sheet pile wall design are on going. The
20 sheet pile wall design team is scheduled for a
21 presentation to the city's technical review
22 committee on October 14th, which is next month.
23 AR/BP asked if groundwater management related
24 to the sheet pile wall project can be sent to
25 the city's wastewater treatment plant; so I had

1 a followup meeting with Dr. Z of the city,
2 director of utilities, to just kind of do a
3 conceptual review of AR/BP's request; and Dr. Z
4 said it is possible to accept additional water
5 from the sheet pile wall project but additional
6 information is required which would include
7 water chemistry and flow rates. So this
8 concept will be looked into further.

9 As part of AR/BP's efforts to look into
10 designing the sheet pile wall to function as a
11 docking wall, they submitted several technical
12 design questions to the district. A copy of
13 the questions memo was in your packet. And I'm
14 recommending we hire AECOM, who is the
15 engineering firm that we have working on the
16 Canal Street bridge project, to assist us with
17 those technical questions.

18 That proposal/contract from AECOM to
19 provide the district assistance on these
20 questions is in your packet for approval
21 consideration.

22 AR/BP's geotech subcontractor is doing
23 geotech work related to the sheet pile wall
24 design. The work on the land has been
25 completed and they plan on doing geotech work

1 in the waterway this Thursday and Friday.

2 I've been working on the 2020 first half
3 work-in-kind report; so hopefully I'll have
4 that done before the next board meeting.

5 The west tank farm pipeline removal
6 project has been postponed to 2021 for various
7 contractability reasons.

8 And the Canal Street bridge project, AECOM
9 has met with some of the stakeholders with our
10 recommendation and there will be presentation
11 later on on the agenda by AECOM to give the
12 board an update, and I'll summarize some of the
13 work that we've done when we get to that.

14 Army Corps of Engineers report is in your
15 packet. I believe Mike Nguyen will be joining
16 us.

17 Mike, are you with us?

18 MR. NGUYEN: I'm here.

19 MR. TREVINO: Thank you. And Attorney Ellen
20 Gregory will provide an update on various legal
21 matters.

22 And that concludes my report to the board.

23 MR. FEKETE: Any questions for Mr. Trevino?

24 (No response.)

25 MR. FEKETE: Thank you very much.

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1 Okay. The next order of business is the
2 approval consideration for the minutes from
3 last months meeting, which was dated August 19,
4 2020.

5 MR. LOPEZ: Motion to approve.

6 MR. PATRICK RODRIGUEZ: This is Patrick.
7 I second.

8 MR. FEKETE: Let's do it a little slower so
9 we make sure Dawn gets the right names.

10 All in favor say aye.

11 (All signify "aye.")

12 MR. FEKETE: Any objections or other
13 abstentions?

14 (No response.)

15 MR. FEKETE: Hearing none, the motion is
16 approved.

17 The next order of business is the
18 accounting consultant report, Mr. Anderson.

19 MR. ANDERSON: Can everybody hear me?

20 (All signify "yes.")

21 MR. ANDERSON: Fernando, do you have the
22 financials that you could pull up on the screen?

23 MR. TREVINO: Yeah.

24 MS. GREGORY: Well, we decided not to --

25 MR. TREVINO: Tim, are you comfortable

1 providing those updates on an open system?

2 MR. ANDERSON: I can just go through it.

3 MS. GREGORY: Yeah. Let's do that.

4 MR. ANDERSON: Do you all have a copy of the
5 financials?

6 MR. LOPEZ: Yeah, I have a copy.

7 MR. ANDERSON: Part of your agenda is the
8 financial report of the activity through
9 August 31st of 2020. Page No. 2 has our cash
10 receipts and disbursements. Through August we've
11 collected \$41,000 of interest on the cash
12 accounts. We've had user fee collections of
13 \$338,000. And we have the trust transfer for our
14 budget of \$276,000. So we've collected \$656,000
15 into our two operating accounts, the user fee
16 accounts, and our general operating accounts. So
17 through August we've also spent \$261,000, and Page
18 2 shows all the different lines of our expenses.
19 So our cash has increased \$395,000 from
20 January 1st. We had \$3.6 million in cash and CDs
21 at the beginning of the year. And as of
22 August 31st, we have \$4,001,000 in our cash
23 accounts and CDs. At the bottom of Page 2 it
24 shows the breakdown that there is \$833,000 in our
25 operating account. A million six in the user fee

1 account, and we've got a million five in
2 certificates of deposit. So that's the
3 \$4 million.

4 Page 3 of that report just shows each of
5 those accounts and the ins and outs of those
6 accounts. Those totals are the same on Page 3
7 as Page 2. And then the important page,
8 Page 4, of that report shows our available
9 budget. So for 2020, we have a total
10 appropriation of \$1,092,000. And we've spent
11 \$260,000 of that, as detailed on Page 2. And
12 you have a claim docket in front of you today
13 with \$26,500 of claims on it. So our unused
14 budget is \$805,000, which approximates the
15 value of the operating account. And the
16 important thing for you guys as board members
17 is the very right most column on that page, the
18 unused budget, and you can see by each line
19 after you approve the claims docket that
20 there's budget for everything that you're
21 approving.

22 So we watch that very closely on a monthly
23 basis to make sure that we're not exceeding our
24 budgeted balance for every line item.

25 The cash accounts have been reconciled.

1 We reconcile the banks each month, and that's
2 per the State Board of Accounts directives, so
3 we want to stay compliant.

4 Any questions on the reports?

5 MR. LOPEZ: Thank you.

6 MR. FEKETE: Thank you, Mr. Anderson.

7 MR. TREVINO: I had a clarification. During
8 my report I stated that the user fee collections
9 for 2020 was \$360,000. And that's actually the
10 total that we're expected to collect. The actual
11 amount collected to date is \$338,000 and some
12 change, which is exactly what -- my number happens
13 to match exactly with what Tim has in his report.
14 So I wanted to make that clarification that
15 \$360,000 is the total expected, and we're at
16 \$338,000, which is about 94 percent of the total.

17 MR. LOPEZ: Can you send us a copy of that
18 correction?

19 MR. TREVINO: Yes.

20 MR. ANDERSON: I'm confused. The "338,"
21 that's the number on Page 2, right?

22 MR. TREVINO: Right.

23 MR. ANDERSON: That ties out exactly with
24 your records?

25 MR. TREVINO: Yes. \$338,662.65 is what my --

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1 MR. ANDERSON: So we're exactly where we're
2 at. What you're saying is that you have a budget
3 of 360-?

4 MR. TREVINO: Yeah. The total that's
5 budgeted for collection of 2020 is \$360,601.95.

6 MR. PATRICK RODRIGUEZ: When you gave us your
7 report -- this is Patrick. When you gave us your
8 report, you gave us a total that was expected,
9 correct?

10 MR. TREVINO: Correct.

11 MR. PATRICK RODRIGUEZ: Okay. So what you
12 have to do is amend that in the minutes of the
13 meeting and you'll be good.

14 MR. TREVINO: Yeah. Okay.

15 MR. PATRICK RODRIGUEZ: Moving on. So you're
16 good. Just amend it.

17 MR. FEKETE: Hearing no questions from
18 Mr. Anderson, we want to thank him.

19 Moving on to the next order of business,
20 which is the accounts payable voucher register.
21 I will entertain a motion to approve that.

22 MR. PATRICK RODRIGUEZ: This is Patrick. So
23 moved.

24 MR. FEKETE: Do we have a second?

25 MR. LOPEZ: I second.

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1 MR. FEKETE: Okay. We'll have a roll call
2 vote on that. John Bakota?

3 JOHN BAKOTA: Yes.

4 MR. FEKETE: Henry Rodriguez?

5 MR. HENRY RODRIGUEZ: Yes.

6 MR. FEKETE: Patrick Rodriguez?

7 MR. PATRICK RODRIGUEZ: Yes.

8 MR. FEKETE: Ted Zagar?

9 (No response.)

10 MR. FEKETE: Kevin Doyle?

11 (No response.)

12 MR. FEKETE: Ray Lopez?

13 MR. LOPEZ: Yes.

14 MR. FEKETE: John Fekete, I vote yes. That
15 motion is approved.

16 Hopefully, we can get it all entered in a
17 more prompt fashion than we did last month. We
18 had some difficulty, but we overcame it,
19 correct, Mr. Anderson?

20 MR. ANDERSON: Yes. We had to do some last
21 minute gymnastics. There was a problem with the
22 technology, with the way we remote in, and nobody
23 could go to city hall that day, which Fernando and
24 I have been talking about a procedure to maybe
25 start on this a little earlier in the month, but I

1 think that we did the best we could. Right?

2 MR. TREVINO: Yeah, I agree. I think
3 hopefully we got over that hurdle. And like you
4 said, Tim, we'll look at what we can do in the
5 future to eliminate or minimize those kinds of
6 issues.

7 MR. FEKETE: Yeah. I guess part of it is the
8 requirement of the State Board of Accounts; is
9 that correct? That technology cannot reside on
10 our computers?

11 MR. ANDERSON: No. Just the opposite. The
12 software has to reside on yours. It can't be --

13 MR. FEKETE: Oh. It can't be on yours?

14 MR. ANDERSON: Yes. In other words, you
15 could change accountants. They don't want the
16 software to reside on our servers. And, you know,
17 it was one of those things, it would have never
18 happened, say, but for city hall could not be
19 opened because somebody had COVID. So you can
20 plan on a lot of things, but you can't plan for
21 everything, I suppose.

22 MR. FEKETE: Well, we made it and it seemed
23 to work.

24 Okay. The next order of business is the
25 approval consideration of the AECOM proposal

1 referencing the AR/BP SPW, I assume is Wood,
2 the design questions on the sheet pile wall.

3 MR. TREVINO: Yeah. "SPW" is "sheet pile
4 wall."

5 MR. FEKETE: Okay. "Sheet pile wall." Got
6 it.

7 Okay. Have we any questions? We kind of
8 reviewed it a little bit earlier. Did you want
9 to review it for the public, Fernando?

10 MR. TREVINO: Yeah. So as part of AR/BP's
11 efforts and their design of the sheet pile wall,
12 we requested that they look at designing and
13 constructing it as a dock-able wall so we can
14 maximize the future end use of the property and
15 with the possibility of bringing barges and ships
16 along that dock face since the adjacent bridge is
17 a draw bridge allowing access to basically the
18 world. So in AR/BP's review of exploring that
19 sheet pile wall to function as a dock-able wall,
20 they've had some -- they submitted several
21 technical questions related to the wall, and I
22 recommended that we hire AECOM who has expertise
23 in that area to assist us in responding to those
24 questions.

25 And so that's the proposal and contract

1 that you have before you for approval
2 consideration. And the funding for this effort
3 would come out of the budget line item that has
4 \$20,000 in it under "third party contractor's
5 consultants."

6 MR. FEKETE: Okay. Any questions for
7 Mr. Trevino?

8 MR. LOPEZ: What's the total amount on this?

9 MS. GREGORY: 5900.

10 MR. LOPEZ: 5960?

11 MR. TREVINO: Yeah.

12 MR. PATRICK RODRIGUEZ: Two questions. Who
13 wants to make it a dock? And why do they want it?

14 MR. TREVINO: Well, it started about a couple
15 years ago. AR/BP had made the statement that the
16 property would be worth a lot more than what it
17 would be without a dock-able wall, so we thought
18 it was a good idea, and so the district is kind
19 of -- or wants AR/BP to continue with that
20 commitment, exploring -- at least exploring what
21 it would take to design and construct that wall as
22 a dock-able wall.

23 MR. PATRICK RODRIGUEZ: The third followup
24 question would be: Who would be the users?
25 Anybody who is on the waterway, or it would be a

1 private dock?

2 MR. TREVINO: Well, the property belongs to
3 the Waterway Management District. So I just think
4 this would be a huge missed opportunity if we're
5 going through all the effort of building a dock
6 along that property, which is a pretty decent
7 sized property, and not go through the effort of
8 making it a dock-able wall. I think it expands
9 the possibilities of the use of that property.
10 With the fact that it's accessible to the open
11 waters of the lake and basically accessible to the
12 world. The possibilities are endless. Somebody
13 might -- a multimillion dollar, billion dollar
14 company, might decide to move in our backyard
15 because we have a dock-able wall that has access
16 to the world. And I think we need to go through
17 that effort in maximizing the property's value and
18 end use.

19 MR. PATRICK RODRIGUEZ: One more followup
20 question. Will there be a user fee, anybody who
21 wants to access the dock, or will it be free of
22 charge?

23 MR. TREVINO: Those questions are -- you
24 know, I mean, we don't have anybody that's
25 currently interested. Those are questions that

1 are in the future. But if we have a dock-able
2 wall, you know, now we have the flexibility of
3 using that property as a docking location.

4 MR. FEKETE: Well, the user fee applies to
5 whoever owns it, and right now we own it.

6 MR. TREVINO: Right.

7 MR. PATRICK RODRIGUEZ: I understand that.
8 But what I'm saying is that on the use, the
9 general -- I have concerns because if it's only --
10 if we keep it private and people go pay to use
11 that, I'm looking at liabilities. If we open up
12 to the public, anybody can use it, somebody gets
13 injured walking off the dock or stuff like that,
14 will we become liable for any type of injuries or
15 lawsuits down the line? That's my concerns.

16 MR. FEKETE: I would think that those are
17 questions down the road, because right now there's
18 no intent on us entering into developing it on our
19 own dime and continuing to own it for any
20 recreational or public use.

21 MR. PATRICK RODRIGUEZ: Okay. Those are
22 things that should be considered down the line.

23 MR. FEKETE: Oh. Absolutely. Right now, I
24 think that's our position, and we've had those
25 conversations. And again, you don't know what the

1 future holds, but if you're looking at a point in
2 time that somebody really wants to develop it,
3 they're going to have to own it and accept all
4 liabilities. All we're trying to do is make it as
5 attractive and valuable for somebody who may want
6 to come in in the future.

7 MR. TREVINO: Right. You're asking questions
8 that are currently unknown. But our current
9 position is to try to make that wall dock-able so
10 we maximize our opportunities in the future.

11 MR. FEKETE: The city may want to own it.

12 MR. TREVINO: Right.

13 MR. PATRICK RODRIGUEZ: I really appreciate
14 your input.

15 MR. FEKETE: We're just trying to make it as
16 attractive for whatever future ideas and thoughts
17 may be out there.

18 MR. PATRICK RODRIGUEZ: Okay. Thank you.

19 MR. FEKETE: Okay. So we have a motion
20 before us to approve --

21 MR. PATRICK RODRIGUEZ: You didn't state the
22 question, John.

23 MR. FEKETE: Yeah.

24 MR. PATRICK RODRIGUEZ: You did?

25 MR. FEKETE: I'm sorry. What?

1 MR. PATRICK RODRIGUEZ: I don't recall that
2 you stated the question.

3 MR. FEKETE: No. I'm basically reiterating
4 the motion.

5 MR. PATRICK RODRIGUEZ: Okay. Thank you.

6 MR. FEKETE: So starting at the beginning. I
7 will entertain a motion to approve the AECOM
8 proposal contract in reference to the AR/BP sheet
9 pile wall design question.

10 MR. LOPEZ: Approved. This is Lopez.

11 MR. PATRICK RODRIGUEZ: This is Patrick.
12 Second.

13 MR. FEKETE: Okay. I'll have a roll call
14 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: Ted Zagar?

22 (No response.)

23 MR. FEKETE: Kevin Doyle?

24 (No response.)

25 MR. FEKETE: Ray Lopez?

1 MR. LOPEZ: Yes.

2 MR. FEKETE: John Fekete, I vote yes. Okay,
3 that motion is approved.

4 MR. TREVINO: I just want to clarify
5 something, John. The draft contract that was sent
6 in the board packet has since been updated. There
7 were some typos that needed to be corrected as far
8 as -- and clarification -- on who the client was.
9 So the client is the East Chicago Waterway
10 Management District; so the contract that will be
11 signed will reflect the correct --

12 MR. FEKETE: Actually, I think we had copies
13 of that signed approved contract -- changed
14 contract. Is that correct?

15 MR. TREVINO: Say that again.

16 MR. FEKETE: We have -- you received copies
17 of the revised contract?

18 MR. TREVINO: Right.

19 MR. LOPEZ: Right.

20 MR. FEKETE: And that was included in my
21 motion to be approved.

22 MR. TREVINO: Okay.

23 MR. FEKETE: Okay. So now the next order of
24 business is AECOM presentation. For the benefit
25 of our court reporter, would you identify

1 yourselves, please.

2 MR. DULL: Tim Dull, D-u-l-l, with AECOM.

3 MR. WEAVER: I'm Bill Weaver. I'm also with
4 AECOM.

5 MR. FEKETE: Okay.

6 MR. TREVINO: Let me give the presentation
7 some context. So the board might recall that in
8 prior years, some of the federal agencies have
9 reached out to the City of the East Chicago
10 regarding safety concerns related to the Canal
11 Street bridge abutments that were left in place in
12 the early '70s. The city asked the district to
13 help assess the situation and help resolve these
14 concerns. We then entered into an MOU with the
15 City of East Chicago. That MOU defined
16 responsibilities of both parties, and it also
17 included cost sharing provisions.

18 In the district's effort to assess and
19 resolve these safety concerns, we hired AECOM
20 to provide their expertise and consulting
21 services to work on the project on behalf of
22 the district. AECOM now is ready to conclude
23 the first phase of the project. And the first
24 phase included assessing current conditions,
25 including land and topographic survey for the

1 project site, review of various options and
2 costs, and to make the recommendation after
3 reviewing those options. AECOM has met with
4 the Army Corps of Engineers and the Coast Guard
5 to present this recommendation and now is ready
6 to make this presentation to the board.

7 So with that, I'll turn it over to AECOM
8 for their presentation.

9 MR. WEAVER: Bill Weaver, I'm going to give
10 the presentation, and then we can answer questions
11 afterwards.

12 So essentially, as you know, the bridge
13 was removed in 1970s at some point. The bridge
14 was not completely removed. It's a vascular
15 bridge. So the leaves of the bridge were taken
16 off. The foundations and abutments are really
17 quite extensive as this canal is 25, 30 feet
18 deep. So to remove the abutments would be a
19 massive undertaking.

20 So apparently nothing happened until 1983,
21 and somebody might have put in a complaint to
22 the agencies. But in any event, the agencies
23 put out what they call a "violation letter."
24 And so they have the right, when a bridge is
25 removed, that all parts have to be removed, and

1 if they're not all completely removed,
2 essentially you have to apply for authorization
3 to leave them in place. So I think that letter
4 is essentially saying this was a violation, we
5 don't have anything on file to show that the
6 abutments have an agreement to stay in place or
7 that they have a "useful purpose," is a term
8 they use.

9 So nothing happened since that letter went
10 out, apparently, that we're aware of. And then
11 recently we were contacted by Fernando to help
12 the district to reinitiate agency discussions
13 on this to try to resolve this outstanding
14 violation.

15 So first we should talk about the bridge
16 setting. I think the next slide gives a bit of
17 an overview. So this is an overview, an
18 aerial, of the bridge where it used to be just
19 upstream of the CN railroad bridge. And we
20 have these three colored lines in here. The
21 width of the channel at the water edge at this
22 Canal Street bridge crossing is about 68 feet.
23 However, the abutments below water create a
24 much more narrow restriction, and that's what
25 the red line shows. And that's really the gist

1 of the whole issue, the fact that there is an
2 unseen obstruction below water. That is a
3 safety hazard for the boating community. The
4 other line on this map is the blue line at the
5 CN railroad. They have a width of the channel
6 of 67 feet, and it's demarcated with steel
7 sheet piles that extend above the water so the
8 boats can visually see what the limits are.

9 Next slide, please.

10 So we did some survey work and there was a
11 prior sonar survey that was done to get the
12 three dimensional picture of what that channel
13 looks like below the water. And on the left
14 side and the right side are two typical
15 cross sections that show the width of the
16 channel, as well as the width of the typical
17 barge setup coming through that bridge. As you
18 can see, there's very little room for them to
19 maneuver through there. And the channel, as I
20 say, as you go deeper, is more restrictive than
21 what you see on land. So it's not too hard for
22 them to miss and bump into the below water
23 structures.

24 Okay. Next slide.

25 Yeah, this is just another picture that

1 shows part of the abutments that are below
2 water that you can't see, and they are sitting
3 on top of a massive pile cap foundation with a
4 bunch of piles in the ground beneath that. And
5 you can see that that's holding up the abutment
6 at and above the water line. So removal of
7 that structure would be just an overwhelming
8 undertaking.

9 Okay. Next slide.

10 To go through what we've been doing, we've
11 had discussions with the agencies. The primary
12 agencies are the Corps of Engineers, and they
13 have several characters involved; the
14 regulatory folks, they have operations folks,
15 and the regulatory lead for the region. The
16 Coast Guard is also key, as they look out for
17 the needs of the boating industry. And then
18 there are secondary agencies that we haven't
19 talked to yet: Indiana-DEM (IDEM) and the DNR.
20 Those agencies really just deal with
21 environmental issues or any construction within
22 the waterway. So if we do anything in the
23 water, we'd have to get their permission.
24 Those should not be controversial or
25 problematic types of permits.

1 So the discussion with the Corps and the
2 Coast Guard actually went fairly well. We made
3 pretty clear that there's no way that a
4 complete removal of those abutments would be
5 feasible, and they understood that and are not
6 really pushing for that. However, they do want
7 us to apply to leave those in place. As well,
8 they have had notices from the boating industry
9 of the hazard, problems with the hazards, so
10 they want us to come up with something that
11 improves the safety of the boat passage through
12 that opening. So once we come up with some
13 options -- and we have done that -- the idea
14 would be that we would apply to the agencies to
15 leave the hazard in place and to add safety
16 features to satisfy some of the concerns. So
17 we did talk about what we were proposing and
18 what would be potentially acceptable; although,
19 we'd have to pass financial muster to make sure
20 it could be financed.

21 Go to the next slide that shows the aerial
22 photo again.

23 So what we're thinking about doing is
24 adding two dolphins at the entry coming into
25 the opening. And there's already one dolphin

1 out there, but it has failed. It's not really
2 that visible and it's fallen apart. And then
3 the second dolphin would be on the other side
4 of the river. So this would give the boating
5 industry visual cues as to where they had to
6 line up to get through the bridge safely.

7 MR. TREVINO: Bill, would you mind giving a
8 brief explanation of what a dolphin is?

9 MR. WEAVER: So a dolphin, if you've seen the
10 one that's out there, they used to be wood piles
11 driven closely together in a circle. The diameter
12 can vary. It depends on the design. And then
13 they tie -- they cable them together. Nowadays,
14 we wouldn't use wood. We would use steel piles.
15 They're sturdier, last a long longer, a lot less
16 maintenance, and they likely have a concrete cap
17 on the top.

18 So it's essentially like a bumper to make
19 sure nobody will go too far to the left or to
20 the right of the channel as they come through
21 with these big barge trains.

22 The other thing the agency brought up is
23 they may want to see lights on the dolphins.

24 MR. LOPEZ: Are you open for questions now?

25 MR. WEAVER: I'm sorry?

1 MR. LOPEZ: On the dolphins, we were out
2 there. We saw those dolphins.

3 You say you are going to put two new ones
4 on the east side and you're going to leave the
5 other one there? That wasn't damaged, was it?

6 MR. WEAVER: The other one is damaged. It
7 doesn't come up high enough. It's beyond its
8 life, so it needs to be replaced.

9 MR. LOPEZ: You'll only put one on that side?

10 MR. WEAVER: We're going to put one on each
11 side.

12 MR. LOPEZ: Coming in, you have two. Going
13 back out, you only have one. Would that be
14 enough?

15 MR. WEAVER: I don't understand the question.

16 MR. LOPEZ: Tell me again. You have two
17 dolphins, right?

18 MR. FEKETE: You're confusing "in" and "out,"
19 and you're both using it differently. Why don't
20 you describe which is either east or west, so we
21 have a better understanding.

22 MR. LOPEZ: On the west, are you going to
23 have only one dolphin?

24 MR. FEKETE: That's the one that exists right
25 now.

1 MR. TREVINO: Yeah, so the dolphins on the
2 west side, that property belongs to Canadian
3 National, so they are responsible for safe
4 entrance into their property, so to speak. So our
5 responsibility lies on the east side as vessels
6 are kind of directing themselves towards the
7 water, the canal --

8 MR. LOPEZ: Okay.

9 MR. TREVINO: -- the former Canal Street
10 bridge.

11 MR. LOPEZ: Okay. I have another question,
12 too. Are you going to leave in place those
13 obstacles or barriers --

14 MR. WEAVER: Yes.

15 MR. LOPEZ: -- under water?

16 MR. WEAVER: Those would stay in place.

17 MR. LOPEZ: Okay. Good. See, from the
18 beginning, my concern was that if we get involved
19 with this, they're going to keep adding cost and
20 they're going to want to expand it. It's good the
21 way it is now and it should stay the same. We
22 shouldn't widen it any more. They're getting in
23 and out. There's no problem with that.

24 MR. WEAVER: Yeah, they understand the city
25 is in no financial shape to be affording a project

1 that would take out those abutments. That would
2 be extremely expensive. They knew that wasn't
3 fiscally possible.

4 MR. LOPEZ: Thank you.

5 MR. FEKETE: It's my understanding that the
6 notice of violation was -- the old notice of
7 violation was because nobody asked for a waiver to
8 leave the existing abutments in place; is that
9 correct?

10 MR. WEAVER: That is correct.

11 MR. FEKETE: Okay. So that's a new piece of
12 information that I was unaware of. I thought it
13 had to do more with navigational hazards. And
14 when I saw 1983, I was curious about that. Thank
15 you for the explanation of that because that
16 clarifies a lot of things and now it makes a lot
17 more sense that what they are looking for is two
18 things. One, to apply for a waiver to keep the
19 existing ones in place; and to improve the safety
20 for people coming in by adding the two new
21 dolphins.

22 MR. PATRICK RODRIGUEZ: This is Patrick.
23 That's a very good point. I have one question.
24 Who did the notice violation go to primarily the
25 first time it was sent out?

1 MR. WEAVER: I don't have a copy of that
2 letter here with me. I don't know.

3 Fernando, do you have that?

4 MR. TREVINO: I don't have it handy, but it's
5 my understanding it went to the City of East
6 Chicago. Hang on. Let me see if I've got it.

7 MR. FEKETE: That's okay. As long as we --
8 we've identified another issue that wasn't quite
9 clear in the beginning.

10 MR. TREVINO: And you're referring to the
11 1983 letter?

12 MR. PATRICK RODRIGUEZ: Yes. Because my
13 question is since they had received the violation
14 over the span time of the years and that they did
15 nothing with respects to the violation, now the
16 Waterway Management now has assumed the liability,
17 correct?

18 MR. TREVINO: The letter is dated
19 November 21, 1983, and it's to Mayor Robert E.
20 Pastrick. So it went to the city.

21 MR. PATRICK RODRIGUEZ: Okay. And after
22 that, the Army Corps, or whoever sent it out,
23 didn't do any followups, no violations, no
24 penalties, et cetera?

25 MR. TREVINO: Right. But then the Coast

1 Guard had followed up more recently asking -- I
2 think there was some additional correspondence to
3 the city asking to address the safety concern.
4 And as I mentioned earlier, the city came to the
5 Waterway Management District and requested
6 assistance on the project, and that's how we got
7 involved.

8 MR. PATRICK RODRIGUEZ: Forgive me, but up to
9 that point, prior to the city, prior to that of
10 the city coming to the Waterway Management
11 District, the city still had liability on that,
12 correct?

13 MR. TREVINO: I'll let our attorney answer
14 that.

15 MS. GREGORY: Oh. You mean if the letter
16 went to the city? I don't have it in front of me.
17 But assuming that the letter went to the city, and
18 then the city would be responsible for replying to
19 that, and as Fernando said, they pulled us in
20 because we're the Waterway Management District and
21 it's a waterway.

22 The issue of ongoing liability for the
23 work is addressed in the MOU between the
24 Waterway Management District and the city.

25 MR. PATRICK RODRIGUEZ: So the city is still

1 involved with the sheet pile wall?

2 MR. FEKETE: It's not a sheet pile wall.
3 It's just the dolphins.

4 MR. PATRICK RODRIGUEZ: I'm sorry. The
5 dolphins. So the city will have liability with
6 respect to the financial responsibility?

7 MS. GREGORY: So the memorandum of
8 understanding that we signed with the city gives
9 each of us responsibility for 50 percent. The
10 revised MOU, which has not yet been signed by all
11 the parties, which we've presented to the city,
12 addresses the liability issues going forward.

13 MR. PATRICK RODRIGUEZ: There you go. Thank
14 you for that answer, counselor.

15 MR. LOPEZ: Patrick, for your information, in
16 the beginning when we got the letter, it was very
17 vague. The Coast Guard said there was a safety
18 hazard. What was the safety hazard? We didn't
19 know. And there's a bridge there. We don't own
20 the bridge. There's a lot of stuff there. And my
21 opinion was, "Wait a minute. They want us to fix
22 all that stuff. They want us to dig it, spread it
23 out, make all the hazards -- what is it?"

24 I don't want us to spend a million dollars
25 trying to fix it. What is our responsibility?

1 But we're going to be good neighbors about it
2 when we do this, if that's all we're going to
3 have to do.

4 MR. FEKETE: I personally want to thank AECOM
5 because I think what they did is they
6 systematically and procedurally went through all
7 of the steps and made it very clear as to what the
8 issue was, other than the fact I didn't realize
9 the 1983 letter existed. But now it's very clear
10 as to what got us into this and where we are. And
11 I think with the new MOU, it will be clear as to
12 who has the responsibility, slash, liability down
13 the road. All we're doing is to help fund the
14 engineering and installation of this remediation.

15 MR. PATRICK RODRIGUEZ: I apologize. Were
16 you still going on with your presentation, sir?

17 MR. WEAVER: So I had a few more points to
18 make. As far as the safety measures in addition
19 to the dolphins, they brought up the idea of
20 potentially including the lights for evenings.
21 They're pretty simple devices, probably solar
22 operated. The Corps has some standards, as does
23 the Coast Guard, for those.

24 The third thing that they brought up was
25 they would want a three-dimensional view of the

1 channel in electronic format, which we have,
2 and they will take that and update their
3 coastal charts to show the precise location of
4 the obstructions. And that will be on the
5 charts that they published for the boating
6 community.

7 Those are the three things that they were
8 looking for.

9 MR. PATRICK RODRIGUEZ: Mr. Weaver, this is
10 Patrick. With respect to the lights, with respect
11 to solar power with the maintenance issue, who
12 would be responsible for the maintenance? Would
13 that be the Coast Guard, or the Waterway, or the
14 City, or what, or who?

15 MR. WEAVER: That's a good question.

16 MS. GREGORY: That's covered in the MOU also.
17 So going forward, the assumption is that we had
18 agreed with the city that Waterway Management
19 District was going to be a 50/50 partner with the
20 City, and the question of liability going forward
21 will be addressed maybe through some kind of
22 insurance or some kind of financial responsibility
23 mechanism.

24 MR. LOPEZ: Ellen, you said 50/50. 50/50 on
25 what? Just on the dolphins or any other

1 construction?

2 MS. GREGORY: Anything related to the Canal
3 Street Bridge project in general.

4 MR. LOPEZ: Anything related to -- that's
5 pretty broad, isn't it?

6 MS. GREGORY: Yeah.

7 MR. TREVINO: It's broad but we have -- I
8 mean, we're doing the project management on it, so
9 we'll know what we're committing to.

10 MR. LOPEZ: But what if the city says we're
11 going to be good guys, Waterway Management is
12 paying for half of it, let's dig it up and make it
13 wider?

14 MR. TREVINO: I don't see that, because
15 they're going to be on the hook for 50 percent of
16 it.

17 MR. PATRICK RODRIGUEZ: Mr. Weaver already
18 stated in his presentation it wouldn't be
19 financially feasible on the financial end to do
20 all that work. If that's how I understand it,
21 Mr. Weaver.

22 MR. WEAVER: Yeah, we don't know what the
23 cost would be, but we know it would be many
24 multiples of what the dolphins would cost.
25 There's unknowns. The potential enviromental

1 problems with the sediment, the structural design
2 of a new bank retention system. The MOU itself
3 would be really quite involved. It would be
4 extremely expensive.

5 MR. TREVINO: There's also no existing
6 drawings of what's left behind. So that's a huge
7 unknown as well.

8 MR. LOPEZ: We haven't signed the agreement
9 yet, have we?

10 MR. TREVINO: No.

11 MR. LOPEZ: Can we look at it? Can you show
12 it to us or present it to us?

13 MR. TREVINO: Sure. Ellen did a conceptual
14 review of it, but I can show it to the board.

15 MR. LOPEZ: I mean, 50 percent of what?

16 MR. PATRICK RODRIGUEZ: I believe that's a
17 down-the-line agenda item of what it is. Because
18 I don't believe they did a cost analysis, did
19 they, Fernando, with respect to everything?

20 MR. TREVINO: Well, the only thing -- there's
21 a cost analysis of what it's going to cost for
22 these two dolphins. Right now the recommendation
23 is to install these two dolphins. So the current
24 agreement is to cost share the design of these two
25 dolphins. So we're not agreeing to 50 percent of

1 the removal and demolition of the abutments.
2 We're agreeing to 50 percent of the design and
3 installation of these two dolphins.

4 MR. PATRICK RODRIGUEZ: I apologize. But I
5 think we're putting the cart before the horse. So
6 until we see what the MOU, the final draft is, I
7 think we should bring it up for discussion. This
8 is Patrick, by the way, that said that.

9 MR. TREVINO: The MOU is not on the agenda
10 for approval today.

11 MR. PATRICK RODRIGUEZ: Thank you.

12 MR. TREVINO: When it's on the agenda, the
13 board will get it in advance, obviously, for your
14 review.

15 MR. PATRICK RODRIGUEZ: That's correct.
16 That's correct. So we need to move the discussion
17 to relinquish and give Mr. Weaver the floor again.

18 MR. LOPEZ: What we're going to approve today
19 if we vote on this is just for the dolphins?

20 MR. TREVINO: No. This is just the
21 conclusion of current work that we have with AECOM
22 for this project. What we would have is at the
23 next board meeting in October, I'm going to
24 recommend that AECOM continue to represent us on
25 this project. And then the next phase will be the

1 preparation of permits, which is what you see on
2 next steps: Phase one preparation of permits,
3 preparation of conceptual design, and finalizing
4 of -- finalization of the permits. So I'm going
5 to ask AECOM to put together a proposal for that
6 next phase for us to consider at the October board
7 meeting. So today is just the presentation on
8 where we're at and where we're going.

9 MR. LOPEZ: Okay. But we're not approving
10 anything? We only approve for them?

11 MR. FEKETE: No. We're not approving
12 anything today on this.

13 MR. TREVINO: Right.

14 MR. FEKETE: This is just the presentation of
15 where they are in the process.

16 MR. LOPEZ: Yeah, not on the presentation.
17 But prior to that, we approved AECOM, right?

18 MR. PATRICK RODRIGUEZ: This is Patrick.
19 What we approved is to give a contract to do the
20 study for us. That's it. What you're bringing up
21 is not on the agenda item. Sorry, Mr. President,
22 I am your parliamentarian, so we need to move it
23 on.

24 MR. LOPEZ: Thank you, Patrick. I got it.

25 MR. PATRICK RODRIGUEZ: Mr. Weaver, I

1 apologize. I'm not the president but, please,
2 relinquishing the floor to you, sir.

3 MR. WEAVER: No problem. I had pretty much
4 wrapped up. I think what Fernando said is the
5 next step is the permitting process to really tie
6 down exactly what the agencies are going to let us
7 do and get through that process. So I'm pretty
8 much wrapped up.

9 MR. LOPEZ: Thank you. You guys made a nice
10 presentation and you answered a lot of our
11 questions, so thank you.

12 MR. WEAVER: Thank you.

13 MR. FEKETE: Okay. Very good. The next
14 order of business is Army Corps of Engineers
15 report.

16 MR. TREVINO: Mike, are you still with us?

17 MR. NGUYEN: Yes. I'll make this quick. For
18 the dredging, the contractor is still continuing
19 to treat the water. Dredging is now scheduled to
20 start next week, I think -- I believe Wednesday,
21 if not Thursday, September 23rd or 24th. We had a
22 progress meeting today and I believe they
23 indicated it might be Thursday versus Wednesday.

24 Nothing for the oil boom coordination for
25 the PCA. Fernando already touched base on

1 this, the Corps did submit the PCA amendment to
2 the division back on 27th of August. We're
3 just waiting for them to review the documents
4 and then endorse it to move it on to
5 headquarters and the assistant secretary of the
6 army for approval.

7 For the 401C, Fernando already touched
8 base that the letter was approved and
9 headquarter approved the M-O-A basically
10 yesterday. So for the Lake George dredging,
11 we're good to go to start dredging this year.
12 For the Feddler parcel, we're still reviewing
13 the documents. And for the Parkway
14 improvements, we're preparing the closeout
15 package. And that's all I have.

16 MR. FEKETE: Any questions?

17 (No response.)

18 MR. LOPEZ: Thank you.

19 MR. NGUYEN: You're welcome.

20 MR. FEKETE: Fernando, do you want to run
21 through the BMO Harris information?

22 MR. TREVINO: Yes. Page 1 highlights the
23 historical values since 1997 and also the
24 distributions since 1997.

25 Page 2, the current value of the trust is

1 approximately \$4.5 million, and that reflects
2 an increase of \$15,877 from the last meeting,
3 which was a deposit from BP, and that was for
4 reimbursement for our 2019 work on the
5 Section 10 permit agreement. And, plus, that
6 includes some interest from the money market,
7 which was \$197. The interest on the 11-month
8 CD is paid on only at maturing.

9 And Page 3 shows the value of the money
10 market and CDs. The next CD expiration is on
11 December 31st of this year. And that concludes
12 the BMO report, trust report.

13 MR. FEKETE: Okay. So no finance committee
14 meetings in the offing?

15 MR. TREVINO: Yeah, I don't expect anything
16 until maybe the next statement, in October maybe.

17 MR. FEKETE: Okay. The next order of
18 business is the Attorney Ellen Gregory report.

19 MS. GREGORY: Thank you. Ellen Gregory with
20 Ellen Gregory Law. Both Fernando and Mike Nguyen
21 mentioned the PCA. So it's moving up the chain at
22 the Corps, and we plan to have the red-lined
23 version by next month's board meeting for the
24 board to review.

25 Canal Street bridge project, as we

1 discussed earlier the revised MOU with the city
2 was sent to the city earlier this week.
3 Hopefully, we'll have a document for the board
4 to review next month.

5 We continue to have discussions with BP
6 regarding property transfers. Also related to
7 that, the EPA has a list of sites they're
8 trying to coordinate with IDEM where each of
9 the various ECI parcels fits in, and we're
10 having ongoing discussions with EPA about that.

11 Every few weeks there's a new COVID-19
12 governor executive order that comes out
13 regarding continuation of government
14 operations, and I'm keeping my eye on that just
15 to make sure that we're consistent with all of
16 the requirements and also to find out if there
17 is a time when we'll be able to meet in person
18 again, make sure that we take all the
19 precautions that we're required to keep
20 everybody safe. And that's all I have.

21 MR. FEKETE: Okay. Any questions for
22 Miss Gregory?

23 (No response.)

24 MR. FEKETE: Thank you. Any other new
25 business to come before the board?

1 (No response.)

2 MR. FEKETE: Any other business?

3 (No response.)

4 MR. FEKETE: Any public comments?

5 MR. LOPEZ: I have a question. Is Jim [sic]
6 still there?

7 MR. ANDERSON: Yes.

8 MR. LOPEZ: Tim. Tim, yes, okay. And
9 Fernando, all of us do this, but whenever they
10 give a report, it always comes in like current
11 values of the trust is \$4.5 million. Actually,
12 it's \$49,504 -- \$509 more. What do we do with
13 that extra money?

14 MR. ANDERSON: That's a good point, Ray. The
15 reports that I give do not include the trust
16 money. The trust money is separate. So I report
17 on the operating account and the user fee
18 accounts.

19 MR. LOPEZ: Okay.

20 MR. ANDERSON: Then the bank keeps track of
21 the trust money. So you add the two together.
22 They're not combined on my report.

23 MR. LOPEZ: Okay.

24 MR. ANDERSON: That's a good question.

25 MR. TREVINO: Any money that is spent out of

1 the trust, Ray, has to be approved by IDEM, and
2 depending on certain criteria and thresholds, it
3 would also have to be approved by EPA.

4 MR. LOPEZ: Okay.

5 MR. ANDERSON: Ray, here is a good way to
6 remember this, too, we're beneficiaries of the
7 trust.

8 MR. LOPEZ: Right.

9 MR. ANDERSON: This other money that I report
10 on is actual money that's in our pocket, so to
11 speak.

12 MR. LOPEZ: So we report all our pennies
13 then, right?

14 MR. ANDERSON: Oh. Absolutely. We're
15 required to.

16 MS. GREGORY: IDEM is actually the
17 beneficiary, I mean, to get technical.

18 MR. ANDERSON: I knew Ellen was going to
19 straighten me out.

20 MR. LOPEZ: I'm on the board of directors for
21 the credit union and we insist they write all that
22 down, every nickel, dime, and penny, because it
23 adds up. Believe me, it adds up.

24 MR. ANDERSON: But the trust is separate from
25 what I report on.

1 MR. LOPEZ: Okay. Thank you.

2 MR. ANDERSON: David reports on the trust.

3 MR. LOPEZ: Okay. Thank you.

4 MR. FEKETE: Any other great questions to
5 come before the board?

6 (No response.)

7 MR. FEKETE: Hearing none, our next board
8 meeting will be October 21st, 2020, 5:00 p.m. And
9 it will probably be another Zoom meeting the way
10 things are going.

11 So I'll entertain a motion to adjourn the
12 meeting.

13 MR. BAKOTA: Motion to adjourn.

14 MR. FEKETE: Okay. All in favor, signify by
15 saying "aye."

16 (All signify "aye.")

17 MR. FEKETE: All right. Any objections or
18 extensions?

19 (No response.)

20 MR. FEKETE: Thank you very much.

21 (Meeting adjourned at 6:09 p.m.)
22
23
24
25

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 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 14th day of October, 2020.



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



District Board of Directors Meeting

09/16/2020

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