

In the Matter Of:  
East Chicago Waterway Management

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**DISTRICT BOARD OF DIRECTORS' MEETING**

*May 19, 2021*

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Iseminger & Associates, Inc.  
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**

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**MAY 19, 2021**

**5:00 p.m.**

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**Transcript of the East Chicago Waterway Management  
District Board of Directors' Meeting had in the  
above-entitled matter on the 19th day of May,  
2021, at 5:00 p.m., via Zoom Video/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   JOHN FEKETE, President - appearing via Zoom

3   KEVIN DOYLE, Vice President - appearing via Zoom

4   RAYMOND LOPEZ, SR., Treasurer and Fiscal Officer

5   HENRY RODRIGUEZ, Secretary

6   PATRICK RODRIGUEZ, Board Member

7   FERNANDO TREVINO, FMT Consulting

8   ELLEN GREGORY, Ellen Gregory Law

9   Also Present: Tim Anderson, CliftonLarsonAllen

10                   David Alonzo, BMO Harris Bank

11                   Mike Nguyen, Army Corps

12                   of Engineers

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District Board of Directors' Meeting  
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1 MR. FEKETE: I'd like to call to record the  
2 meeting of the East Chicago Waterway Management  
3 District Board of Directors. Today's date is  
4 May 19, 2021, and the time is 5:04.

5 The first order of business is the roll  
6 call vote.

7 John Bakota?

8 (No response).

9 MR. FEKETE: Henry Rodriguez?

10 MR HENRY RODRIGUEZ: Here.

11 MR. TREVINO: Patrick Rodriguez?

12 MR. PATRICK RODRIGUEZ: Patrick, here.

13 MR. FEKETE: Ted Zagar?

14 (No response).

15 MR. FEKETE: Kevin Doyle?

16 MR. DOYLE: Here.

17 MR. FEKETE: Ray Lopez?

18 MR. LOPEZ: Here.

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

21 The next order of business is the  
22 executive directors' report. Mr. Trevino.

23 MR. TREVINO: Fernando Trevino with FMT  
24 Consulting. First, I would like to go over the  
25 contents of your board packet. You have today's

District Board of Directors' Meeting  
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1 agenda. You have the public meeting, the posting  
2 that was sent out to stakeholders for today's  
3 meeting. You have the board minutes for April 21  
4 and April 28, 2021. You have a budget amendment  
5 request spreadsheet with a date of May 19, 2021.  
6 You have a Tetra Tech contract for professional  
7 services agreement, and with the affiliated  
8 attachment which is the contract proposal. And  
9 that contract proposal is dated May 17, 2021.

10 You have an access agreement related to  
11 the Lake George canal middle cap project, and  
12 that's m-i-d-d-l-e.

13 You have the BMO trust report for today's  
14 board meeting. You have the First Merchant  
15 Bank statements for accounts ending in 608 and  
16 the affiliated checks for account 608. Also  
17 account ending in 616. And those statements  
18 are for the month of April 2021.

19 You have also a certificate, a First  
20 Merchant certificate of deposit statement with  
21 a run date of -- I'm sorry, May 17th. And then  
22 I mentioned earlier, it's the ECI facility  
23 trust report for BMO Harris dated April 30,  
24 2021. You have Attorney Ellen Gregory's report  
25 to the board with a revision date of May 17,

1 2021.

2 You have the Army Corps of Engineer's  
3 report to the board, dated May 19, 2021. You  
4 have a letter from myself to the Army Corps of  
5 Engineers project manager, Mike Nguyen, related  
6 to the PCA Lerr credits. L-e-r-r, Lerr  
7 credits.

8 You also have a copy of the May 14, 2021,  
9 user fee transmittal letter, and the 2021  
10 communicator, also dated May 14, 2021. You  
11 have a letter dated April 23, 2021, from board  
12 president John Fekete to Eric Larson of BP  
13 related to the south tank farm redevelopment  
14 features.

15 You have a copy of a signed letter  
16 agreement between BP and the Waterway  
17 Management District related to reimbursement  
18 for appraisal work for parcels BP is interested  
19 in acquiring.

20 You have a report from Parsons, dated May  
21 4, 2021, related to monthly bird observation  
22 monitoring report number 68. That's for the  
23 month of April 2021.

24 And that concludes the items in your board  
25 packet.

1           You have a couple updates and report. A  
2 couple of months ago we shared copies of  
3 appraisal reports for west shore and NIPSCO  
4 lease and easements. We continue to work on  
5 finalizing the lease and easement agreements,  
6 and hopefully we will have those agreements and  
7 all of the affiliated documents ready and  
8 finalized for the June board meeting. I might  
9 ask Attorney Wieser to attend to present those  
10 documents.

11           In the past, we shared a letter from BP  
12 pipeline requesting to consent of assignment of  
13 right of way. We've asked for additional  
14 information related to their request; and so  
15 we're still working on that matter.

16           Last month the board approved a COVID-19  
17 safety plan. And today is the first day we're  
18 meeting remotely and in person. The safety  
19 plan includes provisions for having in-person  
20 board meetings. It includes filling out and  
21 signing a questionnaire for those that are  
22 attending in person, temperature checks, social  
23 distancing, proper sanitary practices. And for  
24 the record, all those attending in person have  
25 filled out and signed the report questionnaire

1 and have had their temperature checked and are  
2 all below the 100.4 Fahrenheit requirement  
3 that's stipulated in the safety plan. And we  
4 also have present hand sanitizer, Lysol  
5 disinfectant wipes, and spray. And so there  
6 are five of us attending in person.

7       Regarding finances, we have a 2021 budget  
8 amendment request on today's agenda, and I'll  
9 explain that a little more clearly during the  
10 Great Lakes Legacy Act project update.

11       Regarding the 2021 user fees, the user fee  
12 package was transmitted on Friday, May 14th,  
13 with a user fee due date of July 14, 2021.  
14 This year we had the communicator  
15 professionally printed by a third party in a  
16 booklet form. A copy of the communicator and  
17 the transmittal cover sheet for the user fees  
18 is in your packet.

19       Regarding the Great Lakes Legacy Act  
20 project, the south tank farm sheet pile wall  
21 design is ongoing. BP sent a memo to the  
22 district on March 12, 2021, that basically  
23 summarizes costs for redevelopment features for  
24 the south tank farm. The district sent a  
25 response memo dated April 23, 2021. As I

1 mentioned, a copy of that response letter is in  
2 your board packet.

3 A reminder that the phase one dredging for  
4 the Lake George canal east was completed on  
5 December 13th of last year. The Lake George  
6 Canal middle cap project is ongoing. The Corps  
7 submitted 100 percent design and specs to the  
8 project team, and the Corps is working on  
9 bidding out the construction of the remediation  
10 for that section of the waterway.

11 The project team has been working  
12 diligently to finalize the access agreement  
13 related to the cap project, which is now  
14 completed and is on today's agenda for board  
15 approval consideration. We have received a  
16 last minute comment from EPA. So when we get  
17 to that item on the agenda, I'll have Attorney  
18 Ellen Gregory explain that.

19 The west tank farm and south tank farm  
20 pipeline removal work is expected to recommence  
21 next month and take about eight to twelve weeks  
22 to complete. A kickoff meeting was held this  
23 past Monday with BP. Their engineering  
24 contractor, Stantec, and the Army Corps  
25 discussed the schedule and project

1 coordination.

2 A reminder that last month the board  
3 approved the Great Lakes Legacy Act project  
4 agreement fourth modification. The amended  
5 project agreement includes budgetary and scope  
6 modifications. Part of the scope modification  
7 includes the remedial design for the Grand Cal  
8 River three junction reaches, which are located  
9 in the City of East Chicago and is part of the  
10 scope modification that the district is  
11 responsible for.

12 Since the board approved the project  
13 modification, I have been working with Tetra  
14 Tech to finalize their proposal and contract  
15 completing the remedial design.

16 You might recall, Tetra Tech was the  
17 engineering firm that performed the remedial  
18 investigation feasibility study and the  
19 remedial design for the district a few years  
20 ago. So we anticipate Tetra Tech's  
21 institutional project knowledge will result in  
22 cost and schedule efficiencies.

23 Tetra Tech's remedial design proposal is  
24 for \$195,000, and the current 2021 budget for  
25 this budget line item is \$50,000. So approval

1 of Tetra Tech's proposal/contract will require  
2 a budget amendment. I'm recommending a budget  
3 amendment of \$200,000 for a new total of  
4 \$250,000 for the budget line item. This will  
5 cover Tetra Tech's engineering work and allow  
6 for out-of-scope work and/or additional scope  
7 tendency.

8 So the budget amendment and the Tetra Tech  
9 proposal and contract is on today's agenda for  
10 approval consideration.

11 Regarding the remediation of the Grand Cal  
12 River junction reaches, we anticipate  
13 continuing conversations with EPA on the  
14 process and the schedule for preparing a new  
15 project agreement for the remediation of the  
16 Gran Cal River junction reaches, which will  
17 happen after the remedial design is completed.

18 Regarding the BP term sheet agreement for  
19 the parcel that BP is interested in acquiring,  
20 a reminder that the board approved a letter  
21 agreement last month regarding reimbursement  
22 for the two appraisals that we are  
23 coordinating, which is with Burgoyne and Nick  
24 Telema (phonetic). And we had a site visit  
25 this morning with the two appraisers and along

1 with a representative from BP, Ron Dippel  
2 (phonetic).

3 Regarding the Canal Street bridge project,  
4 the remedy design for the two dolphins is  
5 ongoing. I received a draft summary memo of  
6 the Canal Street bridge dolphin design. I plan  
7 to meet with the engineering firm, which is  
8 AECOM, to review several questions and comments  
9 that I have, and give an update to the board at  
10 the June board meeting.

11 The Army Corps of Engineers report is in  
12 your board packet. The PCA amendment  
13 negotiations is ongoing and Mike Nguyen is in  
14 attendance to give an update from the Corps.

15 And that concludes my report. Any  
16 questions?

17 MR. FEKETE: Yeah, I have one. It was a  
18 little unclear as to what was the total amount of  
19 budget amendment that you were requesting or  
20 suggesting?

21 MR. TREVINO: Yeah. So the current budget in  
22 2021 for that line item, which is the Great Lakes  
23 Legacy Act project, is \$50,000. So the budget  
24 amendment recommendation is to add \$200,000 to  
25 that budget line item for a new budget line item

1 of \$250,000.

2 MR. FEKETE: Okay. Thank you.

3 Any other questions for Mr. Trevino?

4 MR. PATRICK RODRIGUEZ: This is Patrick  
5 Rodriguez. With respect to Tetra Tech's  
6 agreement, I just read a provision that I'm having  
7 difficulty understanding, because it says on the  
8 execution, the third line, it says, "All party  
9 negotiation, representations, or agreement either  
10 written or oral..." I have a problem with the  
11 word "oral" because that turns into a he said/she  
12 said kind of thing.

13 MR. TREVINO: Where are you at?

14 MR. PATRICK RODRIGUEZ: I'm in the execution  
15 part.

16 MR. TREVINO: What page?

17 MR. PATRICK RODRIGUEZ: The first page. It  
18 says, Tetra Tech and Grand Junction. With my  
19 experience, a grievance should be written, not  
20 oral.

21 MR. TREVINO: The bottom.

22 MS. GREGORY: Execution.

23 MR. PATRICK RODRIGUEZ: The execution. I  
24 think that should be struck out.

25 MS. GREGORY: Well, it's just saying that

1 this written agreement is the entire agreement and  
2 supersedes all prior negotiations,  
3 representations, or agreements either written or  
4 oral.

5 Basically, it's saying this written  
6 agreement is what controls and if there was an  
7 oral agreement beforehand, it's been  
8 superceded.

9 MR. PATRICK RODRIGUEZ: Right. But, again, I  
10 understand what it says, but you're familiar with  
11 contracts. Everything is in writing. And "oral"  
12 would just cause us --

13 MS. GREGORY: Right. But it's saying there  
14 will be no oral agreements because this written  
15 agreement is superceding anything that came  
16 before, whether it's written or oral. So it's not  
17 saying there is any oral agreement that's in  
18 effect. It has been superceded.

19 MR. PATRICK RODRIGUEZ: Again --

20 MR. TREVINO: Your concern is being satisfied  
21 by the language.

22 MR. PATRICK RODRIGUEZ: Basically, if someone  
23 says they have an agreement for them to go do  
24 something, and we say no and there was a  
25 misunderstanding and they went and did it, they

1 said, "Well, Fernando said it's okay to do this or  
2 that."

3 MS. GREGORY: But this written agreement says  
4 that that oral agreement isn't admissible because  
5 it's been superceded by this written agreement.

6 MR. PATRICK RODRIGUEZ: Okay. I want to be  
7 clear on that.

8 MR. TREVINO: Your concern is satisfied by  
9 this provision because it's basically nullifying  
10 any if there were any. So if there is a -- if two  
11 people thought they made an oral agreement, this  
12 is saying it doesn't matter, it doesn't count.

13 MS. GREGORY: That's a good thing to raise.  
14 We went back and forth a little bit with the  
15 attorney for Tetra Tech and we had some other  
16 comments that got put in there that wasn't in  
17 their form contract. So Fernando --

18 MR. PATRICK RODRIGUEZ: I just want to make  
19 sure, because oral agreements are really hard.

20 MR. FEKETE: Of course.

21 MR. PATRICK RODRIGUEZ: Thank you for  
22 clarifying that.

23 MR. FEKETE: As of the signing, there are  
24 none?

25 MR. PATRICK RODRIGUEZ: Right.

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1 MR. FEKETE: Okay.

2 MR. TREVINO: Any other questions on my  
3 report?

4 MR. FEKETE: Any questions?

5 (No response).

6 MR. FEKETE: Okay. We need to move on to the  
7 approval consideration meetings notes for  
8 April 21, 2021, and April 28, 2021.

9 And we will deal with them separately. So  
10 I will entertain a motion to approve the  
11 April 21, 2021, meeting.

12 MR. LOPEZ: Motion to approve the minutes.

13 MR. PATRICK RODRIGUEZ: Second. Kevin.

14 MR. FEKETE: Quick roll call vote.

15 Henry Rodriguez?

16 MR. PATRICK RODRIGUEZ: Yes.

17 MR. FEKETE: Patrick Rodriguez?

18 MR. PATRICK RODRIGUEZ: Abstain.

19 MR. FEKETE: Ted Zagar?

20 (No response).

21 MR. FEKETE: John Bakota?

22 (No response).

23 MR. FEKETE: Kevin Doyle?

24 MR. DOYLE: Yes.

25 MR. FEKETE: John Fekete, I vote yes. That

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1 motion is approved.

2 The next motion is for the April 28, 2021,  
3 meeting, the special meeting that we had. I'll  
4 entertain a motion to approve.

5 MR HENRY RODRIGUEZ: Motion to approve.

6 MR. FEKETE: Okay.

7 MR. PATRICK RODRIGUEZ: Patrick Rodriguez,  
8 second.

9 MR. FEKETE: Thank you. Roll call.  
10 John Bakota?

11 (No response).

12 MR. FEKETE: Henry Rodriguez?

13 MR HENRY RODRIGUEZ: Yes.

14 MR. FEKETE: Patrick Rodriguez?

15 MR. PATRICK RODRIGUEZ: Yes.

16 MR. FEKETE: Ted Zagar?

17 (No response).

18 MR. FEKETE: Kevin Doyle?

19 MR. DOYLE: Yes.

20 MR. FEKETE: Ray Lopez?

21 MR. LOPEZ: Yes.

22 MR. FEKETE: John Fekete, I vote yes. That  
23 motion is approved.

24 The next order of business is the  
25 accounting consultant report, Mr. Trevino. Did

1 you want to just go get the highlights?

2 MR. TREVINO: Yeah. So I'll be pinch-hitting  
3 for Mr. Tim Anderson.

4 I mentioned earlier when I went through  
5 the contents in your board packet, I didn't --  
6 I forgot to mention the financial report from  
7 CliftonLarsonAllen from April 30, 2021, and  
8 also the claim docket and the purchase orders.  
9 That was sent as an item sent. So that should  
10 be reflected as part of your board packet. But  
11 it was sent separately. So I will hit the  
12 highlights of the financial report.

13 So Page 2 shows a summary of the receipts,  
14 disbursements, and the increase in cash. It  
15 shows the cash balance as of January 1, 2021,  
16 and the cash balance at the end of April 30th,  
17 or April 30, 2021.

18 And it also shows a tally of the total for  
19 the operating account, the user fee account,  
20 and the certificate of deposit, for a total of  
21 all of those three items of \$3.99 million.

22 The Page 3 shows for the four months ended  
23 April 30, and it shows the total for the  
24 operating account cash balance as of January 1,  
25 2021, and the operating cash balance at the end

1 of April, or April 30, 2021. And then it also  
2 shows the same summary for the user fee  
3 account, the cash balance as of January 1,  
4 2021, and the user fee account balance as of  
5 April 30, 2021. And then the third item is the  
6 certificate of deposit. The balance as of  
7 January 1, 2021, and it shows the accumulated  
8 interest, and then the total as of April 30,  
9 2021, for the CDs.

10 Then Page 4, as Tim always says it's the  
11 important budget management summary, and as of  
12 May 19, 2021, the first column shows the 2021  
13 summary of budget appropriations for each line  
14 item. The next column is the accounts payable  
15 that were reflected on December 31, 2020. And  
16 then the third column is the 2021 budget  
17 amendments, and you'll see \$30,000 on the very  
18 last line item, which is titled "ECI parcel  
19 appraisals."

20 As a reminder, that budget amendment was  
21 approved at the last board meeting.

22 And then second-to-the-last column is the  
23 claim docket and it shows all of the items that  
24 are being paid on today's claim docket, which  
25 is dated May 19, 2021. And the total for the

1 claim docket is \$43,316.70. And then if you  
2 look at the very last column, it's the total of  
3 unused budget for 2021; and you'll see that all  
4 of our items have a balance in there. And so  
5 of course if any of these items were in the  
6 negative, you know, it would not be a good  
7 thing, but none of them are.

8 So we have plenty of money left to pay for  
9 our bills. So that concludes a summary of the  
10 financial report.

11 MR. FEKETE: Any questions?

12 MR. LOPEZ: Yes, I have a question. I don't  
13 have those copies.

14 MR. TREVINO: Yeah. So this was an e-mail  
15 sent today.

16 MR. LOPEZ: Okay. I don't have this.

17 MR. TREVINO: Yeah, you don't have a hard  
18 copy, Ray, but it was --

19 MR. LOPEZ: It was not in here either.

20 MR. FEKETE: It's a separate e-mail.

21 MR. DOYLE: Separate e-mail.

22 MR. TREVINO: It was a separate e-mail sent  
23 today.

24 MR. LOPEZ: It was sent today?

25 MR. TREVINO: Yeah.

1 MR. PATRICK RODRIGUEZ: I have a question.  
2 This is Patrick.

3 Refresh my memory, what do we use the  
4 arbitrator for?

5 MR. TREVINO: The arbitrator is to resolve  
6 any unpaid user fees. Or if any of the companies  
7 decided to appeal the user fees, then they go to a  
8 process, an appeal process.

9 MR. PATRICK RODRIGUEZ: So we did use him, or  
10 is that --

11 MR. TREVINO: We haven't gone through -- the  
12 budget line item is -- CliftonLarsonAllen titled  
13 it "arbitrator," but it's also for resolving any  
14 unpaid user fees.

15 MR. PATRICK RODRIGUEZ: So, like, letters.

16 MR. TREVINO: Kenny Wieser, when he legally  
17 is pursuing unpaid user fees, it's also charged to  
18 that line item.

19 MR. PATRICK RODRIGUEZ: Okay. Thank you.

20 MR. FEKETE: Budget summary, thank you. Any  
21 more questions for Mr. Trevino?

22 (No response).

23 MR. FEKETE: The next order of business is  
24 the approval of the accounts payable voucher  
25 register, dated today's date, May 19, 2021. I'll

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1 entertain a motion to approve.

2 MR. PATRICK RODRIGUEZ: This is Patrick  
3 Rodriguez. Motion to approve.

4 MR. FEKETE: Okay. And do we have a second?

5 MR. DOYLE: Kevin Doyle. Second.

6 MR. FEKETE: Okay. Roll call vote.

7 John Bakota?

8 (No response).

9 MR. FEKETE: Henry Rodriguez?

10 MR HENRY RODRIGUEZ: Yes.

11 MR. FEKETE: Patrick Rodriguez?

12 MR. PATRICK RODRIGUEZ: Yes.

13 MR. FEKETE: Ted Zagar?

14 (No response).

15 MR. FEKETE: Kevin Doyle?

16 MR. DOYLE: Yes.

17 MR. FEKETE: Ray Lopez?

18 MR. LOPEZ: Yes.

19 MR. FEKETE: John Fekete, I vote yes. That  
20 motion is approved. And thank you very much.

21 The next order of business is the 2021  
22 budget amendment in reference to the Great  
23 Lakes Legacy Act project.

24 MR. LOPEZ: Lopez. Motion to approve.

25 MR. FEKETE: Okay. Do I have a second?

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1 MR HENRY RODRIGUEZ: Henry Rodriguez.

2 Second.

3 MR. FEKETE: Okay. We'll have a roll call  
4 vote.

5 John Bakota?

6 (No response).

7 MR. FEKETE: Henry Rodriguez?

8 MR HENRY RODRIGUEZ: Yes.

9 MR. FEKETE: Patrick Rodriguez?

10 MR. PATRICK RODRIGUEZ: Yes.

11 MR. FEKETE: Ted Zagar?

12 (No response).

13 MR. FEKETE: Kevin Doyle?

14 MR. DOYLE: Yes.

15 MR. FEKETE: Ray Lopez?

16 MR. LOPEZ: Yes.

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

18 And the next order of business is the  
19 Tetra Tech proposal contract that Mr. Trevino  
20 was explaining.

21 I'll entertain a motion to approve.

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

24 MR. LOPEZ: Lopez seconds.

25 MR. FEKETE: Okay. Thank you very much for

1 speaking up.

2 Roll call vote. John Bakota?

3 (No response).

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 MR. LOPEZ: Yes.

10 MR. FEKETE: Kevin Doyle?

11 MR. DOYLE: Yes.

12 MR. FEKETE: Ray Lopez?

13 MR. LOPEZ: "Yes" again.

14 MR. FEKETE: I vote yes also.

15 MR. PATRICK RODRIGUEZ: So strike his first  
16 vote out and make a note that he voted on the  
17 second one correctly.

18 MR. FEKETE: The next item for approval is  
19 the Great Lakes Legacy Act Lake George canal  
20 middle cap project, the access agreement. I'll  
21 entertain a motion to approve.

22 MR. TREVINO: John, before we entertain that  
23 motion I'm going to ask Attorney Gregory to make  
24 one clarification, because we got a last minute  
25 e-mail from EPA and we want to make sure that it's

1 taken into consideration.

2 MR. FEKETE: Okay.

3 MS. GREGORY: So Rick Nagle, the attorney for  
4 EPA, sent an e-mail, actually like right as we  
5 were starting the meeting, basically asking for  
6 one minor change to the access agreement which  
7 would address Paragraphs 8, which deals with  
8 liability, and Paragraph 19, which deals with  
9 governing law. The access agreement, for those  
10 that want to follow along at home, starts at  
11 Page 80 of your board packet.

12 And the change would be: Paragraph 8  
13 refers to the Federal Tort Claims Act and  
14 states that the federal government is covered  
15 by the Federal Tort Claims Act. And then  
16 later, in Paragraph 19, states that the  
17 agreement will be governed by the laws of the  
18 State of Indiana. And so the proposal from  
19 Rick Nagle is to add language to that last  
20 paragraph saying that "unless otherwise  
21 specified, the laws of the State of Indiana  
22 will govern." So that that takes into account  
23 Paragraph 8 that refers to the Federal Tort  
24 Claims Act. And I think that would be an  
25 appropriate change. So we request that the

1 board approve the document that's in front of  
2 you with that one minor change.

3 MR. LOPEZ: With or without the change?

4 MS. GREGORY: With the change.

5 MR. FEKETE: What paragraph was that again?

6 MS. GREGORY: Paragraph 8 is the liability  
7 section. Paragraph 19 is the governing law  
8 section.

9 MR. LOPEZ: You got that this morning and  
10 you're now approving it?

11 MS. GREGORY: I got the e-mail at, like,  
12 4:01.

13 MR. LOPEZ: You had time to review it?

14 MS. GREGORY: Yeah. That was the only  
15 change. He proposed putting in the governing law  
16 section to say, "The agreement will be governed by  
17 the laws of Indiana unless otherwise specified."  
18 And then that takes into account the Paragraph 8  
19 which addresses the Federal Tort Claims Act.

20 MR. FEKETE: All righty.

21 MR. PATRICK RODRIGUEZ: This is a contract.

22 MR. TREVINO: I mean, so if there's a  
23 contract proposed and the proposed contract is  
24 submitted for approval with X/Y modification, then  
25 you can vote on that.

1 MS. GREGORY: At any time, yeah.

2 MR. TREVINO: Ellen?

3 MS. GREGORY: We've done that on contracts in  
4 the past. What I could do is just read the exact  
5 language and so you would be -- rather than  
6 approving a concept, you would be approving the  
7 exact language. And then we would make sure that  
8 that's the language that everybody else is signing  
9 as well.

10 MR. PATRICK RODRIGUEZ: Well, then, I  
11 think -- this is Patrick speaking. I think it  
12 should be a two-is step motion, a primary and an  
13 incidental motion, because the primary motion  
14 would be accepting the contract with the  
15 incidental motion with each following amendments  
16 to the contract. That will cover us. I think it  
17 will cover us under Roberts. One whole motion to  
18 include the amendment. So I move that we adopt  
19 the contract with the proposed amendment changes;  
20 and then mention 8 and 19 respectively.

21 MR. LOPEZ: You hear that, John?

22 MR. FEKETE: Yeah.

23 MR. PATRICK RODRIGUEZ: That way we're  
24 covered.

25 MR. TREVINO: I think we're saying the same

1 thing.

2 MR. PATRICK RODRIGUEZ: It has to be stated.

3 MR. TREVINO: Yeah, you're approving the  
4 contract with the --

5 MR. PATRICK RODRIGUEZ: And to include the  
6 proposed amendment --

7 THE REPORTER: You're talking over each other  
8 and cutting each other off.

9 MR. PATRICK RODRIGUEZ: -- changes of  
10 Paragraph 8 and 19. Is that right?

11 MS. GREGORY: Paragraph 8 is not going to be  
12 amended.

13 MR. PATRICK RODRIGUEZ: Okay.

14 MS. GREGORY: Paragraph 19 will be amended.

15 MR. PATRICK RODRIGUEZ: Let me retract that.  
16 Motion to amend Paragraph 19.

17 MR. FEKETE: Okay.

18 MR. PATRICK RODRIGUEZ: That's the proposal,  
19 John.

20 MR. FEKETE: You're making that a two-step  
21 process, correct?

22 MR. LOPEZ: And Lopez seconds the motion.

23 MR. FEKETE: Roll call vote on that. John  
24 Bakota?

25 (No response).

District Board of Directors' Meeting  
05/19/2021

1 MR. FEKETE: Henry Rodriguez?

2 MR HENRY RODRIGUEZ: Yes.

3 MR. FEKETE: Patrick Rodriguez?

4 MR. PATRICK RODRIGUEZ: Yes.

5 MR. FEKETE: Ted Zagar?

6 (No response).

7 MR. FEKETE: Kevin Doyle?

8 MR. DOYLE: Yes.

9 MR. FEKETE: Ray Lopez?

10 MR. LOPEZ: Yes.

11 MR. FEKETE: John Fekete, I vote yes. So the  
12 amendment as presented has been approved.

13 Now, we will vote on the access agreement  
14 as amended. A motion for that?

15 MR. PATRICK RODRIGUEZ: So moved.

16 MR. TREVINO: That was Patrick. So moved?

17 MR. PATRICK RODRIGUEZ: So moved.

18 MR. FEKETE: Do we have a second?

19 MR HENRY RODRIGUEZ: Henry Rodriguez, a  
20 second.

21 MR. FEKETE: Henry has seconded.

22 Roll call vote. John Bakota?

23 (No response).

24 MR. FEKETE: Henry Rodriguez?

25 MR HENRY RODRIGUEZ: Yes.

District Board of Directors' Meeting  
05/19/2021

1 MR. FEKETE: Patrick Rodriguez?

2 MR. PATRICK RODRIGUEZ: Yes.

3 MR. FEKETE: Ted Zagar?

4 (No response).

5 MR. FEKETE: Kevin Doyle?

6 MR. DOYLE: Yes.

7 MR. FEKETE: Ray Lopez?

8 MR. LOPEZ: Yes.

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

10 Okay, so the amended access agreement is  
11 now in effect.

12 MS. GREGORY: Well, it's signed --

13 MR. FEKETE: It will be when we sign it, but  
14 we've approved it. Okay. All righty. Thank you  
15 very much.

16 Getting back to the agenda. That's it as  
17 far as approvals.

18 The next order of business is the BMO  
19 Harris Bank trust report.

20 MR. TREVINO: I can give a quick update.

21 So Page 1 highlights the historical value  
22 of the trust since 1997 and also the  
23 distribution each year since '97.

24 Page 2, the current value of the trust is  
25 \$4.391 million and some change. The increase

1 of \$28 from our last meeting is from entrance  
2 from the money market.

3 Page 3 shows the value of the money market  
4 and CDs. Both CDs will mature in a few months,  
5 with a 13-month coming due in June, and the  
6 11-month coming due at the end of July. So we  
7 will need to have a call with the finance  
8 committee in June to discuss direction of those  
9 CDs that will be maturing. And that concludes  
10 the BMO trust report.

11 MR. FEKETE: Okay. Any questions?

12 (No response).

13 MR. FEKETE: Thank you very much. The next  
14 order of business is the Attorney Ellen Gregory  
15 report.

16 MS. GREGORY: Yes. Ellen Gregory with Ellen  
17 Gregory Law. Just a few items. A few of them,  
18 Fernando had gone over the various legal matters  
19 that we've been dealing with in the last month,  
20 including negotiating the Tetra Tech contract for  
21 the Grand Cal River junction reaches, Great Lakes  
22 Legacy Act work, the access agreement, which we  
23 just went over.

24 The PCA negotiations, we're waiting word  
25 back from the Army Corps on some proposed

1 language changes that Todd Relue of Plews  
2 Shadley had forwarded to Kevin Jerby  
3 (phonetic), who is the attorney for the Army  
4 Corps.

5 Then we continue with periodic calls with  
6 BP regarding property transfers of parcels in  
7 both Hammond and East Chicago, and Jim Wieser  
8 is preparing a time line to present to the  
9 group on proposed timing for the various tasks  
10 related to the property transfer work.

11 And that's all I have.

12 MR. FEKETE: Any questions?

13 (No response).

14 MR. FEKETE: Thank you very much. Army  
15 Corps, Mr. Nguyen.

16 MR. NGUYEN: Hi. This is Mike Nguyen with  
17 the Army Corps of Engineers. To give an update on  
18 the CDF construction and dredging: So for  
19 dredging, the contractor has shutdown since last  
20 winter for dredging operations, and they've  
21 continued to demobilize their equipment, including  
22 their piping equipment and other dredging  
23 equipment. So they should be completing the  
24 demobilization of the piping and other equipment  
25 on the facility probably this month, end of this

1 month. But the barges won't leave the canal until  
2 probably end of September.

3 And the contractor is going to resume  
4 dredging soon. I think once the -- probably  
5 early in June they're going to be starting the  
6 water treatment of the CDF water.

7 For the dike raise, the contractor is  
8 continuing to prepare their submittals.  
9 Currently, they're scheduled to mobilize to the  
10 sites at the end of this month, if not early in  
11 June. And then they're going to start site  
12 preparation and raising the perimeter dike.

13 For the CDF documentation, nothing to  
14 report on the oil boom. Ellen already  
15 discussed the PCA revision. Currently, it's at  
16 our headquarters. We've submitted some  
17 requests after discussing with Ellen and your  
18 attorney, the other attorney. So we're still  
19 waiting to hear back from our headquarters.

20 The Feddeler parcel resolution, we've  
21 received the letter update this week requesting  
22 a credit of \$95,261.82.

23 And Parkway improvements, we're moving  
24 forward to closing out the contract. And then  
25 that's all I have.

1 MR. FEKETE: Okay. Thank you very much. At  
2 some point in time, I know that Patrick Rodriguez  
3 had a question about the second lift. But,  
4 Patrick, is it okay if we hold off until we're  
5 farther along on the design?

6 MR. PATRICK RODRIGUEZ: Yeah. That would be  
7 fine, John. That will be fine.

8 MR. FEKETE: Okay.

9 MR. NGUYEN: Is it something regarding the  
10 design or the phase of construction? Or, I  
11 mean --

12 MR. FEKETE: We'll hold off. We'll get to  
13 that at the appropriate time and we'll give you  
14 ample advanced notice of what the question may be  
15 so that you're fully prepared to answer it.

16 MR. Nguyen: Thank you.

17 MR. FEKETE: Okay. Any new business to come  
18 before the board?

19 (No response).

20 MR. FEKETE: Any new business?

21 (No response).

22 MR. FEKETE: Any other business to come  
23 before the board?

24 (No response).

25 MR. FEKETE: Any public comment?

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(No response).

MR. FEKETE: Hearing none, the next board meeting is June 16, 2021, at 5:00 p.m. And it will probably still be a Zoom -- a hybrid meeting I guess it's called. And all the notices will be properly advanced.

Concluding that, I want to wish everybody to have a good and safe day. Enjoy the rest of the week, and this meeting it concluded.

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 15th day of June, 2021.

*Dawn M. Iseminger*

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



District Board of Directors' Meeting

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