

In the Matter Of:  
East Chicago Waterway Management

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**DISTRICT BOARD OF DIRECTORS' MEETING**

*June 16, 2021*

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Iseminger & Associates, Inc.  
877-337-7379

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

4  
5           **City of East Chicago, Engineering/Annex Building**  
6                       **4444 Railroad Avenue**  
7                       **East Chicago, Indiana**  
8                       **Via Zoom/Telephone Conference**

9  
10                               **June 16, 2021**

11                               **5:00 p.m.**  
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14  
15           **Transcript of the East Chicago Waterway Management**  
16           **District Board of Directors' Meeting had in the**  
17           **above-entitled matter on the 16th day of June,**  
18           **2021, at 5:00 p.m., commencing at 5:00 p.m., at**  
19           **the location of City of East Chicago,**  
20           **Engineering/Annex Building, 4444 Railroad Avenue,**  
21           **East Chicago, Indiana, and via Zoom**  
22           **Video/Telephone conference, before Dawn M.**  
23           **Iseminger, RPR, and Notary Public, within and for**  
24           **the County of Porter, State of Indiana.**  
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A P P E A R A N C E S

1 JOHN FEKETE, President - appearing via Zoom

2 RAYMOND LOPEZ, SR., Treasurer and Fiscal Officer

3 HENRY RODRIGUEZ, Secretary - appearing in person

4 PATRICK RODRIGUEZ, Board Member - appearing in  
5 person

6 JOHN BAKOTA - appearing in person

7 FERNANDO TREVINO, FMT Consulting- appearing in  
8 person

9 ELLEN GREGORY, Ellen Gregory Law - appearing in  
10 person

11 JIM WIESER, Attorney - appearing in person

12 JANNA OLTHOFF, Buckeye Pipeline and West Shore  
13 Pipeline Company - appearing via Zoom

14 TIM ANDERSON, CliftonLarsonAllen - appearing via  
15 Zoom

16 MIKE NGUYEN, Army Corps of Engineers - appearing  
17 via Zoom.

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District Board of Directors' Meeting  
06/16/2021

1 MR. FEKETE: I'd like to call to order the  
2 East Chicago Waterway Management District Board of  
3 Directors' Meeting. Today's date is June 16,  
4 2021, and the time is 5:03.

5 All matters before the board for  
6 consideration will be addressed by voice vote  
7 with each board member stating their name.  
8 This will also apply to those entertaining a  
9 motion and anyone making a second. We'll start  
10 off by roll call.

11 John Bakota?

12 MR. BAKOTA: Here.

13 MR. FEKETE: Henry Rodriguez?

14 MR. HENRY RODRIGUEZ: Here.

15 MR. FEKETE: Patrick Rodriguez?

16 MR. PATRICK RODRIGUEZ: Here.

17 MR. FEKETE: Ted Zagar?

18 (No response.)

19 MR. FEKETE: Kevin Doyle?

20 (No response.)

21 MR. FEKETE: Ray Lopez?

22 MR. LOPEZ: Here.

23 MR. FEKETE: John Fekete, present.

24 The first order of business is the  
25 executive directors' report, Mr. Trevino.

1 MR. TREVINO: Yes. I'd like to start off by  
2 going over the contents of your board packet. It  
3 includes, of course, the agenda for today's board  
4 meeting. I also included a copy of the public  
5 meeting notice. You have the board minutes for  
6 May 19, 2021. I have to scroll through my  
7 contents here. You have First Merchants Bank  
8 statement ending in 608 and 616 for the month of  
9 May 2021; and also included are the images of the  
10 checks that were cashed during the month of May.

11 Then you have an activity deposit account  
12 report with a run date of June 14, 2021, for  
13 the CD that we have with First Merchants. You  
14 have an access agreement with some highlights  
15 of some changes -- two changes that were  
16 corrected. I'll go over that a little bit more  
17 in detail later when we get to that on the  
18 agenda.

19 And then I have a second access agreement,  
20 and that one is signed by all parties and it's  
21 the same access agreement.

22 Then you have a copy of the 2021 budget  
23 amendment spreadsheet, and then the letter of  
24 authorization to transfer dated June 16, 2021,  
25 and that's affiliated with that budget

1 amendment.

2 You have a lease agreement between the  
3 East Chicago Waterway Management District and  
4 West Shore Pipeline. Then you have also two  
5 easements. One with West Shore and one with  
6 NIPSCO.

7 And also the Agreement to Pay Balance  
8 agreement with NIPSCO is also in your packet.  
9 Let's see. You have a copy of the directors'  
10 and officers' insurance policy proposal, the  
11 accompanying invoice affiliated with that, and  
12 then you have a summary of the policy. And the  
13 summary of the policy is the one that was  
14 approved in 2020; so we're basically approving  
15 the same policy. It's just a renewal. So our  
16 insurance agent says they don't give you the  
17 policy until you buy it and then they give you  
18 the policy. But I wanted you to know what you  
19 were getting, so I included a copy of last  
20 year's policy.

21 Let's see. Then you have BMO trust report  
22 and the notes from Mr. Alonzo, and they're  
23 dated June 16, 2021. Then you have the Army  
24 Corps report to the board dated June 16, 2021,  
25 Attorney Ellen Gregory's report to the board

1 with a revision date of June 14th, 2021. Then  
2 you have a letter to Congressman Frank Murvan  
3 dated June 8, 2021, from board president, John  
4 Fekete. That concludes the items in your board  
5 packet.

6 I'd like to go over my report to the  
7 board. As I mentioned, you have copies of the  
8 NIPSCO and West Shore Pipeline lease  
9 agreements. So for a couple months now we've  
10 been working with West Shore Pipeline and  
11 NIPSCO on two easements and a lease agreement.  
12 We've concluded the negotiations effort and the  
13 documents have now been finalized and they're  
14 on today's agenda for approval consideration.

15 Attorney Wieser, who took the lead on this  
16 effort on behalf of the district, is present  
17 today to present the recommendation and answer  
18 any questions you might have. Also present is  
19 Janna Olthoff of West Shore.

20 Is Wayne present?

21 MR. WEISER: I don't see Wayne.

22 MR. TREVINO: Okay, Wayne isn't present.

23 I mentioned there is an insurance policy  
24 renewal for the annual directors' and officers'  
25 insurance; so that's in your board packet.

1 Board resolution 2021, which is the First  
2 Amended Electronic Meetings Policy, is on  
3 today's agenda and in your packet. It  
4 basically incorporates Indiana's latest changes  
5 to the policy. When we get to that, if there's  
6 any questions, Attorney Gregory or I can answer  
7 any questions you might have.

8 And also I mentioned there's a letter in  
9 your packet to Congressman Murvan regarding  
10 financial -- a letter of support for the dike  
11 raising project for the CDF.

12 As far as finances, at our last board  
13 meeting the board approved a \$200,000 budget  
14 amendment to finance the Tetra Tech engineering  
15 design for the Great Lakes Legacy Act project.  
16 On today's board agenda is the authorization to  
17 transfer said funds which are affiliated with  
18 that budget amendment.

19 And I'm evaluating the budget line item  
20 for the legal effort for these easement and  
21 lease agreements, so we might be recommending a  
22 budget amendment at our next board meeting. So  
23 I'll be talking to Beth and Rick Nagle and  
24 consulting with them on how to best handle  
25 that.

1           Regarding 2021 user fees, we received  
2 several payments. To date we've collected and  
3 deposited approximately \$165,000, which is  
4 about 45 percent of the total invoiced. Also  
5 affiliated with the user fees, you might recall  
6 we've been working on collection efforts for  
7 prior years unpaid user fees from M&M  
8 Management, and Attorney Wieser has been taking  
9 the lead on that collection process. We've  
10 negotiated a settlement agreement with the new  
11 company, which is Modern Heart Chrome of  
12 Indiana, that now owns the property -- or do  
13 they own it yet?

14           MR. LOPEZ: Not yet. Close.

15           MR. TREVINO: Okay. They're in the process  
16 of owning it. And we're recommending approval of  
17 the settlement, and that's later on in the agenda.

18           Update on the Great Lakes Legacy Act  
19 project, the south tank farm sheet pile wall  
20 design is ongoing. BP collected their second  
21 round of groundwater sampling and will share  
22 the results of that sampling with the City and  
23 the district once it's completed.

24           BP has requested access to other south  
25 parcels south of the canal and for pressiometer

1 installation for the sheet pile design so they  
2 can better understand the groundwater modeling.  
3 So Attorney Gregory and I are working on a  
4 draft for consideration.

5 The Lake George canal middle cap project,  
6 at last month's board meeting the board  
7 approved an access agreement affiliated with  
8 this project. After we approved and signed  
9 this access agreement, we forwarded it to BP  
10 and EPA for countersignatures. And it was  
11 discovered there were a couple minor typos in  
12 the draft we approved. So to make sure we're  
13 contractually sound, we're recommending and  
14 asking the board approve the amendments to the  
15 access agreement. And this action item is on  
16 today's agenda for approval for consideration.

17 BP pipeline removal project, BP mobilized  
18 this week to start the West Tank farm pipeline  
19 removal project. As part of that effort, BP  
20 transmitted a project fax sheet with area  
21 stakeholders informing them of the start of  
22 this project. The project agreement fourth  
23 modification, a couple board meetings ago -- in  
24 April -- the board approved the fourth  
25 modification to the Great Lakes Legacy Act

1 agreement. After we signed the document, we  
2 forwarded it to EPA to coordinate approvals and  
3 signatures from ARCO, BP and EPA, and that  
4 process is ongoing.

5 We were informed that the document has to  
6 be presented to ARCO's board of directors for  
7 approval. So all three entities, ARCO, BP and  
8 EPA have communicated to us that they don't  
9 anticipate any issues with these approvals.

10 Grand Calumet River remedial design, that  
11 work which is being spearheaded by Tetra Tech  
12 is ongoing for the remedial design of the three  
13 Grand Cal' River junction reaches. We have a  
14 project team site visit scheduled for early  
15 July, and we're doing an assessment of property  
16 access needs.

17 The BP term sheet project, we drafted a  
18 list of activities and a schedule we feel  
19 necessary to transfer parcels. The two  
20 appraisals affiliated with that process is  
21 ongoing. Attorney Wieser and I met with the  
22 new city planner, Doug Powers, to review city  
23 provisions for construction of flood zones. So  
24 we're hoping to put a button on that soon.  
25 I'll report any updates as we move forward.

1 Canal Street bridge project, the dolphin  
2 design is ongoing. PCA modification, we're  
3 continuing to work with the Corps and Plews on  
4 finalizing the PCA amendment. We're getting  
5 close. There's one item left to resolve; so  
6 hopefully we'll get that done in time for the  
7 next board meeting.

8 The Corps report is in your packet and  
9 Attorney Ellen Gregory will give an update on  
10 various legal matters.

11 That concludes my report.

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

13 (No response.)

14 MR. FEKETE: Thank you very much.

15 MR. PATRICK RODRIGUEZ: Hold on, John. One  
16 question. This is Patrick. What is the company  
17 that is purchasing M&M?

18 MS. GREGORY: Modern Heart Chrome.

19 MR. TREVINO: Yeah, Modern Heart Chrome of  
20 Indiana.

21 MR. PATRICK RODRIGUEZ: Heart or hard?

22 MR. TREVINO: Heart, H-e-a-r-t.

23 Any other questions?

24 (No response.)

25 MR. FEKETE: Okay. Thank you. Again, I

1 appreciate you mentioning Jim Wieser in attendance  
2 and Janna Olthoff. I wanted to make sure we have  
3 that in the record.

4 The first order of business is the  
5 approval consideration of the board meeting  
6 notes for May 19, 2021. I'll entertain a  
7 motion.

8 MR. BAKOTA: Motion to approve, Bokota.

9 MR. LOPEZ: Second.

10 MR. FEKETE: Who seconded it?

11 MR. TREVINO: Ray.

12 MR. FEKETE: Remember, if you're making a  
13 motion or if you're making a second, you have to  
14 mention your name. Thank you.

15 Roll call. John Bakota?

16 JOHN 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?

District Board of Directors' Meeting  
06/16/2021

1 MR. LOPEZ: Yes.

2 MR. FEKETE: John Fekete, I vote yes. The  
3 next order of business is the accountant  
4 consultant report.

5 MR. ANDERSON: Hi, guys. Okay, glad to be  
6 back, and thanks for your patience with me the  
7 last couple of months.

8 Does everybody have a copy of the  
9 financials?

10 (All signify "yes")

11 MR. ANDERSON: Okay. Good. Page 2 is the  
12 statement of cash receipts and disbursements just  
13 of the two accounts that we manage: The operating  
14 account and the user fee account. At the end of  
15 May there was a combined total of \$3,952,000 in  
16 those different accounts. The cash receipts were  
17 basically the interest income earned on the money  
18 and a transfer from the trust of \$250,000. So  
19 we've taken in \$253,000 and we've spent about  
20 \$212,000 through May. So at the beginning of the  
21 year there was 3.911 in our cash accounts, and at  
22 the end of May there was \$3,952,000.

23 The next page, which is Page 3, just shows  
24 the three different accounts that we have: The  
25 operating account, which has got \$1.5 million

1 in it, the user fee account which has \$915,000  
2 in it, and then the CDs have \$1.5 million. So  
3 that's the breakdown of the 3.9 that we have in  
4 those accounts.

5 The last page is the important page.  
6 Page 4, that shows what our budget is for 2021.  
7 I don't think I've recorded the \$200,000, the  
8 recent amendment, but we will get that in.

9 So our total "spend" for 2021 is the  
10 \$1,745,000 that's in the 2021 total  
11 appropriation column. To date we've spent  
12 \$212,000. That's the number from the prior  
13 form. And today's claim docket has \$33,020 on  
14 it. And so that right most column, the unused  
15 budget column, shows what we've got left to go.  
16 And the unused budget column is the balance of  
17 our operating account. And we watch that  
18 column very closely to make sure that we don't  
19 go over any particular line on that sheet. But  
20 through May we spent \$212,000 on a budget of  
21 \$1,700,000, and that's why our operating  
22 account is so high at the end of May.

23 And you guys have before you the claims  
24 docket with all of the checks, they were  
25 basically for May, the invoices through May.

1 And then those will be paid as soon as you  
2 approve them.

3 The central district report was filed with  
4 the state board end of February, first of  
5 March. I have to file a Form 1041 for the  
6 trust by September 15th. But, otherwise, we're  
7 in total compliance with everybody that wants  
8 to know about our financing at this point. So  
9 that's my report through May 31st.

10 Any question?

11 MR. LOPEZ: I have a question. I see over  
12 here on this arbitrator, \$483.75. I don't  
13 remember that one.

14 MR. ANDERSON: Where do you see that?

15 MR. TREVINO: That arbitrator, although it's  
16 titled "arbitrator," it's for all of the work that  
17 we do to pursue unpaid user fees. So that's  
18 probably Jim Wieser's efforts that are the 483  
19 that you're looking at.

20 MR. ANDERSON: Should that move, Fernando?  
21 Should that be moved?

22 MR. TREVINO: No. That's accurate. That  
23 budget line item is for any efforts to resolve  
24 either user fee appeals or unpaid user fees.

25 MR. ANDERSON: We haven't had a lot on that

1 historically because your users are -- they pay  
2 pretty good. So I think there's one -- one or two  
3 that Mr. Wieser has to work on; but, otherwise, we  
4 don't have a lot of disputes on those.

5 MR. LOPEZ: That was a different column,  
6 right?

7 MR. TREVINO: Actually, the title of that  
8 budget line item "arbitrator" is not, you know,  
9 very accurate on what that line item --

10 MR. ANDERSON: What should we call it,  
11 Fernando?

12 MR. TREVINO: I'll come up with --

13 MR. ANDERSON: Okay.

14 MR. TREVINO: "Pursue of user fees."

15 MR. ANDERSON: "Collection actions" or  
16 something like that.

17 MR. FEKETE: I said "user fee resolution."

18 MR. ANDERSON: "User fee resolution." Okay.

19 MR. TREVINO: That might be confused with a  
20 board resolution.

21 MR. ANDERSON: Fernando, will want to think  
22 about this for, like, three days, John. So let  
23 him and we'll change it to whatever.

24 MR. FEKETE: Okay. Any other questions for  
25 Mr. Anderson?

District Board of Directors' Meeting  
06/16/2021

1 (No response.)

2 MR. FEKETE: The next order of business is  
3 the approval consideration for the accounts  
4 payable voucher register for today's date,  
5 June 16, 2021. Motion to approve?

6 MR. PATRICK RODRIGUEZ: This is Patrick, so  
7 moved.

8 MR. FEKETE: Do we have a second?

9 MR. BAKOTA: Second, Bakota.

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

11 JOHN BAKOTA: Yes.

12 MR. FEKETE: Henry Rodriguez?

13 MR HENRY RODRIGUEZ: Yes.

14 MR. FEKETE: Patrick Rodriguez?

15 MR. PATRICK RODRIGUEZ: Yes.

16 MR. FEKETE: Kevin Doyle?

17 (No response.)

18 MR. FEKETE: Ray Lopez?

19 MR. LOPEZ: Yes.

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

21 The next order of business is the approval  
22 consideration for the Great Lakes Legacy Act  
23 middle cap project, the access agreement  
24 amendment. I believe we have an amendment  
25 that's going to be presented by --

1 MR. PATRICK RODRIGUEZ: Is that the wording,  
2 John, or is that the one with reference to the  
3 letter of authorization?

4 MR. TREVINO: No. This is the access  
5 agreement. After the board approved and signed an  
6 access agreement there was some minor typos found,  
7 and so just to be contractually sound, we're  
8 recommending that the board approve the amendment.

9 MR. PATRICK RODRIGUEZ: This is Patrick  
10 Rodriguez. Motion to approve the corrections of  
11 two typos to change the highlighted word to  
12 "officers," and to include Line 6 of Section B2,  
13 to insert the word "they" between the words "that"  
14 and "shall."

15 MR. FEKETE: Do I have a second?

16 MR. LOPEZ: Lopez seconds the motion.

17 MR. FEKETE: We have a motion and a second.  
18 Any questions?

19 (No response.)

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

21 JOHN BAKOTA: Yes.

22 MR. FEKETE: Henry Rodriguez?

23 MR HENRY RODRIGUEZ: Yes.

24 MR. FEKETE: Patrick Rodriguez?

25 MR. PATRICK RODRIGUEZ: Yes.

District Board of Directors' Meeting  
06/16/2021

1 MR. FEKETE: Ted Zagar?

2 (No response.)

3 MR. FEKETE: Kevin Doyle?

4 (No response.)

5 MR. FEKETE: Ray Lopez?

6 MR. LOPEZ: Yes.

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

8 The next order of business is the letter  
9 of authorization of the transfer of the 2021  
10 Great Lakes Legacy Act budget amendment.

11 MR. PATRICK RODRIGUEZ: John, this is Pat  
12 Rodriguez. Motion to amend authorization letter,  
13 authorization of reference of 2021 Great Lakes  
14 Legacy project budget to include letter of  
15 authorizations for transfer of funds.

16 MR. FEKETE: Okay. Thank you. I need a  
17 second.

18 MR. HENRY RODRIGUEZ: A second, Henry  
19 Rodriguez.

20 MR. FEKETE: Any questions?

21 (No response.)

22 MR. FEKETE: Roll call. John Bakota?

23 JOHN BAKOTA: Yes.

24 MR. FEKETE: Henry Rodriguez?

25 MR HENRY RODRIGUEZ: Yes.

District Board of Directors' Meeting  
06/16/2021

1 MR. FEKETE: Patrick Rodriguez?

2 MR. PATRICK RODRIGUEZ: Yes.

3 MR. FEKETE: Ted Zagar?

4 (No response.)

5 MR. FEKETE: Kevin Doyle?

6 (No response.)

7 MR. FEKETE: Ray Lopez?

8 MR. LOPEZ: Yes.

9 MR. FEKETE: John Fekete, I vote yes. The  
10 next order of business is the approval  
11 consideration for the West Shore lease and  
12 easement agreements.

13 Mr. Trevino, do you want to --

14 MR. TREVINO: I'll hand that over to Attorney  
15 Wieser to present and make our recommendation.

16 MR. WEISER: We were fortunate to have a bit  
17 of discussion about it in the executive session so  
18 to bring that out here to the regular meeting.

19 We have negotiated those lease and the  
20 easement agreements?

21 MR. TREVINO: Yes. There's one action item,  
22 the lease and easement agreements.

23 MR. WEISER: Okay. So we have two easement  
24 agreements: One with NIPSCO, one with West Shore,  
25 that were negotiated. And Janna Olthoff is on the

1 call with us or in the meeting with us. If she  
2 has any comments, I'd like to hear it. She was  
3 the chief negotiator and easy to work with, and we  
4 appreciated everything that she did. And so we've  
5 come to an agreement. We have the agreements  
6 before you. The agreements provide for the  
7 easements for both West Shore to utilize an  
8 easement, for NIPSCO to utilize an easement.  
9 There's consideration for those easements, which  
10 has been agreed by all of the parties. Both  
11 Fernando and I believe that these are agreements  
12 that are very responsible and reasonable, and we  
13 recommend their approval. As far as the West  
14 Shore lease goes, as we previously explained,  
15 there had been an existing lease that had lapsed.  
16 And so we took that existing lease, reformatted it  
17 and brought it current, and provided in that lease  
18 for an annual lease payment, and we also added a  
19 parcel. There had been three parcels that had  
20 been included in the original lease. They were  
21 parcels A, B, C. There was a parcel D extending  
22 to the west, I think it was, that was added. We  
23 agreed to an annual fee that remains constant  
24 throughout the term of the lease. The lease is  
25 annual but is automatically renewable for a period

1 of 50 years. Nearing the prior lease, we also  
2 provided for the payment of unpaid lease payments  
3 during the period of time that it had lapsed,  
4 which we agreed was a 14-year period of time;  
5 brought that current. We believe that lease is  
6 also fair to both parties, both West Shore and the  
7 district, and we would recommend the approval of  
8 those as well. And upon approval and notification  
9 of both NIPSCO and West Shore, the payments that  
10 are outstanding will be made. And I'm happy to  
11 respond to any questions, or if Janna wants to say  
12 anything on behalf of West Shore.

13 MR. FEKETE: Miss Olthoff?

14 MS. OLTHOFF: I have nothing further to add  
15 unless the board has questions for me.

16 MR. FEKETE: Okay.

17 MR. TREVINO: I want to add that there were  
18 two recent appraisals that were done that were  
19 reflected in our negotiations. It was Rainer and  
20 Bell, right?

21 MR. WEISER: Two appraisers, pursuant to  
22 statute were appointed. The appraisers came back  
23 and we made sure that the dollar figures that we  
24 were talking about were consistent with the  
25 average of the two appraisals.

1 MR. FEKETE: Very good. I will entertain a  
2 motion to approve the agreements.

3 MR. PATRICK RODRIGUEZ: John, this is  
4 Patrick. I have a question for Attorney Wieser.

5 With respect to the West Shore lease  
6 agreement, they're not the ones paying the  
7 balance of the late fees that occurred years  
8 ago, the 11 year's of the late fees? That's  
9 NIPSCO, right?

10 MR. WEISER: No. It's West Shore.

11 MR. PATRICK RODRIGUEZ: Okay. With respect  
12 to the NIPSCO easement and the agreement to pay  
13 balance of -- what's the dollar of that?

14 MR. WEISER: There's no balance. It's a  
15 going forward. It's a one-time fee for the use of  
16 the easement. And that's in the agreement and  
17 that's \$7,000 -- well, it's not in the agreement  
18 because it's got to be recorded. It's \$7,000 --  
19 believe \$7,225, Fernando. Wait a minute. I have  
20 it in front of me. I should look at this.

21 MS. OLTHOFF: Which amount was that you were  
22 looking for, Mr. Wieser?

23 MR. TREVINO: The NIPSCO easement.

24 MR. WEISER: The NIPSCO easement.

25 JOHN BAKOTA: The NIPSCO easement was \$7,225.

1 MR. WEISER: That's what I thought.

2 MR. PATRICK RODRIGUEZ: Is that two separate  
3 motions, or are we doing a primary and a  
4 incidental motion?

5 MR. TREVINO: There's one motion -- or one  
6 action to approve the West Shore lease and  
7 easement agreements, and then once that's  
8 completed, a second action is to approve the  
9 NIPSCO easement and agreement to pay balance. So  
10 one is affiliated with the West Shore agreements,  
11 and then the other is affiliated with the NIPSCO  
12 agreements.

13 MR. PATRICK RODRIGUEZ: So there's two  
14 separate motions.

15 MR. WEISER: I think that would be an  
16 appropriate thing to do, Pat.

17 MR. PATRICK RODRIGUEZ: With respect to the  
18 NIPSCO easement agreement, should we include the  
19 \$2,225 amount instead of having it read here -- it  
20 says "agreement to pay balance," it says on the  
21 agenda. Would that be inclusive?

22 MR. WEISER: It is contained in the  
23 agreement. So I think if you approve the  
24 agreement to pay balance with that, that's  
25 covered.

1 MR. TREVINO: Right.

2 MR. WEISER: So I think a motion would need  
3 to be made that would authorize John Fekete to  
4 sign on behalf of the board and approve the  
5 easement agreement, because then once we get that  
6 all signed and approved, I will record those  
7 agreements.

8 MR. FEKETE: The first motion is West Shore,  
9 or is the first motion NIPSCO?

10 MR. TREVINO: The first motion on the agenda  
11 is West Shore lease and easement agreements.

12 MR. FEKETE: Okay. So I will entertain a  
13 motion to approve the West Shore lease and  
14 easement agreement.

15 MR. HENRY RODRIGUEZ: So moved, Henry  
16 Rodriguez.

17 MR. FEKETE: Okay. And a second?

18 MR. LOPEZ: Second, Ray Lopez.

19 MR. FEKETE: Okay. Roll call vote.

20 John Bakota?

21 JOHN BAKOTA: Yes.

22 MR. FEKETE: Henry Rodriguez?

23 MR. HENRY RODRIGUEZ: Yes.

24 MR. FEKETE: Patrick Rodriguez?

25 MR. PATRICK RODRIGUEZ: Yes.

District Board of Directors' Meeting  
06/16/2021

1 MR. FEKETE: Ted Zagar?

2 (No response.)

3 MR. FEKETE: Kevin Doyle?

4 (No response.)

5 MR. FEKETE: Ray Lopez?

6 MR. LOPEZ: Yes.

7 MR. FEKETE: John Fekete, I vote yes. That  
8 motion is approved.

9 The next half of the discussion is  
10 approval consideration for the NIPSCO easement  
11 and agreement. I will entertain a motion.

12 MR. BAKOTA: Motion to approve, Bakota.

13 MR. FEKETE: And a second?

14 MR. HENRY RODRIGUEZ: Second, Henry  
15 Rodriguez.

16 MR. FEKETE: Okay. Any questions?

17 (No response.)

18 MR. FEKETE: John Bakota?

19 JOHN BAKOTA: Yes.

20 MR. FEKETE: Henry Rodriguez?

21 MR. HENRY RODRIGUEZ: Yes.

22 MR. FEKETE: Patrick Rodriguez?

23 MR. PATRICK RODRIGUEZ: Yes.

24 MR. FEKETE: Ted Zagar?

25 (No response.)

District Board of Directors' Meeting  
06/16/2021

1 MR. FEKETE: Kevin Doyle?

2 (No response.)

3 MR. FEKETE: Ray Lopez?

4 MR. LOPEZ: Yes.

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

6 Thank you both to Mr. Weiser and  
7 Miss Olthoff for your participation in that  
8 discussion.

9 MS. OLTHOFF: You're very welcome.

10 MR. FEKETE: The next order of business is  
11 the board resolution 2021-01, our first amended  
12 electronic meeting policy.

13 MR. PATRICK RODRIGUEZ: This is Patrick  
14 Rodriguez, so moved.

15 MR. FEKETE: And a second?

16 MR. HENRY RODRIGUEZ: Second, Henry  
17 Rodriguez.

18 MR. FEKETE: We have a motion and a second.  
19 Any questions?

20 (No response.)

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

22 John Bakota?

23 JOHN BAKOTA: Yes.

24 MR. FEKETE: Henry Rodriguez?

25 MR HENRY RODRIGUEZ: Yes.

District Board of Directors' Meeting  
06/16/2021

1 MR. FEKETE: Patrick Rodriguez?

2 MR. PATRICK RODRIGUEZ: Yes.

3 MR. FEKETE: Ted Zagar?

4 (No response.)

5 MR. FEKETE: Kevin Doyle?

6 (No response.)

7 MR. FEKETE: Ray Lopez?

8 MR. LOPEZ: Yes.

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

10 And the next order of business for  
11 approval consideration is the DNO fiduciary  
12 insurance renewal. I'll entertain a motion to  
13 approve.

14 MR. LOPEZ: Motion to approve, Lopez.

15 MR. FEKETE: And a second?

16 MR. PATRICK RODRIGUEZ: This is Patrick  
17 Rodriguez, second.

18 MR. FEKETE: Any questions?

19 (No response.)

20 MR. FEKETE: Okay. Roll call.

21 John Bakota?

22 MR. BAKOTA: Yes.

23 MR. FEKETE: Henry Rodriguez?

24 MR. HENRY RODRIGUEZ: Yes.

25 MR. FEKETE: Patrick Rodriguez?

District Board of Directors' Meeting  
06/16/2021

1 MR. PATRICK RODRIGUEZ: Yes.

2 MR. FEKETE: Ted Zagar?

3 (No response.)

4 MR. FEKETE: Kevin Doyle?

5 (No response.)

6 MR. FEKETE: Ray Lopez?

7 MR. LOPEZ: Yes.

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

9 All right. The next order of business is  
10 the US Army Corps board report. Mike Nguyen,  
11 with the Army Corps of Engineers.

12 MR. NGUYEN: For the dredging and (inaudible)  
13 operation, the contractor has shut down the  
14 operation and has demobilized their piping and  
15 discharge equipment from the sites. The  
16 contractor is going to be resuming water treatment  
17 in late June.

18 For the dike raise contract, the  
19 contractor has mobilized last week, starting on  
20 the 7th of June. And the construction is  
21 scheduled to start in late June, probably in  
22 the next week or two.

23 For the oil boom, nothing else to report.  
24 PCA, I think there's still ongoing coordination  
25 with the Corps and ECWMD to reach an agreement

1 on our headquarters proposed changes to the PCA  
2 amendment. I think there's just one  
3 outstanding issue, I think, to resolve that.

4 For Feddeler parcel, we receive the letter  
5 on May 18, requesting Lerr's credit in the  
6 amount of \$95,261.82. And for the Parkway  
7 improvement, we're working on the closeout for  
8 the contract.

9 And that's all I have.

10 MR. FEKETE: Any questions for Mr. Nguyen?

11 (No response.)

12 MR. FEKETE: Thank you for joining us.

13 The next order of business is the Attorney  
14 Ellen Gregory report.

15 MS. GREGORY: Ellen Gregory with Ellen  
16 Gregory Law. Most of the legal items that are  
17 ongoing, Mr. Trevino mentioned. I'll go through  
18 them quickly.

19 On the property transfers, for the  
20 transfer of properties to BP, Attorney Jim  
21 Wieser has taken the lead on that and has  
22 prepared a timeline for key items that need to  
23 get done in order for the property transfers to  
24 be finalized.

25 The fourth modification project agreement

1 for the Great Lakes legacy east and middle  
2 section, we're awaiting signatures from EPA and  
3 BP. The PCA revisions, as Mike Nguyen  
4 mentioned, we have one outstanding issue we're  
5 trying to discuss with the Army Corps.

6 The access agreement for BP to access  
7 various parcels south of the canal, not  
8 including the south tank farm, Mr. Trevino and  
9 I are coordinating discussing negotiating that  
10 agreement with BP.

11 And then, finally, the first amended  
12 electronic meetings policy which was just  
13 approved was modified to take into account  
14 changes in the law that went into effect in  
15 April. Basically, the law separates out what  
16 the board needs to do in terms of electronic  
17 meetings both during disaster emergencies and  
18 when there is no disaster emergency. We're  
19 still proceeding under an emergency. My  
20 understanding is that in early July, the  
21 COVID-19 disaster emergency will be lifted and  
22 the electronic meetings policy section dealing  
23 with non-emergencies will go into effect. The  
24 most important part of that is that we will now  
25 have to have at least four board members

1 physically present for board meetings and board  
2 members will not be able to participate  
3 remotely more than two consecutive meetings  
4 unless they have a good reason, which would  
5 include military service or some type of  
6 medical emergency.

7 And that's all I have.

8 MR. FEKETE: Thank you. Any questions for  
9 Miss Gregory?

10 (No response.)

11 MR. FEKETE: One thing we kind of skipped  
12 over, Fernando, was the BMO Harris report. Did  
13 you want to summarize that quickly?

14 MR. TREVINO: Yes. Okay. Page 1 highlights  
15 the historical value of the trust since 1997 and  
16 also distributions each year since 1997.

17 Page 2, the current value of the trust is  
18 approximately \$4.39 million. It's an increase  
19 of \$30 from our last meeting, which is for  
20 interest from the money market.

21 Page 3 shows the values of the money  
22 market and CDs. Both CDs will mature soon with  
23 the 13-month coming due at the end of June and  
24 the 11-month coming due at the end of July. So  
25 we'll need to have a finance committee meeting

1 soon to discuss options for those expiring CDs.

2 That concludes the BMO report.

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

4 (No response.)

5 MR. FEKETE: Thank you. Any new business to  
6 come before the board?

7 MR. PATRICK RODRIGUEZ: John, this is Patrick  
8 Rodriguez. With respect to user fees, I  
9 understand that we had a -- M&M that they're in  
10 some agreement that there was somebody that paid  
11 the \$2,500 delinquent fee negotiated. Is that a  
12 business we need to take care of today?

13 MR. WEISER: This is Jim Wieser speaking,  
14 John. There's a possibility -- there's a decent  
15 possibility that they will close that sale and the  
16 bankruptcy court will approve before your next  
17 meeting occurs, so I think there needs to be some  
18 motion that recommends we agree to the settlement  
19 of \$2,500 and maybe authorize either John or  
20 Fernando to execute any documents associated with  
21 that because we do have to -- I know what it is,  
22 we have to file a release of lien. If they close  
23 prior to your next board meeting, if there's a  
24 closing scheduled, the title company won't release  
25 the funds until we submit the release of lien.

1 MR. TREVINO: Should we give some context to  
2 that? Did we discuss the context yet?

3 MR. WEISER: I'm sorry. We may not have. I  
4 forgot. John, I'll give context.

5 M&M Mechanical was a user and was subject  
6 to a user fee. They paid initially, then  
7 began -- then failed to pay. And despite our  
8 requests for payment, they refused to pay or  
9 just failed to pay. We filed a lawsuit and  
10 obtained a judgment against the company. The  
11 company then subsequently filed bankruptcy. So  
12 we have a judgment sitting out there that's not  
13 collectable right now. This Modern Heart  
14 Chrome company is coming in and they're buying  
15 the -- they're not buying the business.  
16 They're just buying the asset and they're going  
17 to locate there. And they're willing to pay us  
18 \$2,500 that we negotiated, that amount of money  
19 toward a release of that lien. So in order to  
20 release the lien, I have to prepare a release  
21 of lien, which is very simple but someone on  
22 behalf of the district will have to sign that.  
23 And the odds are that that -- or there's a good  
24 chance that that's going to close prior to your  
25 next board meeting, so if we could get an

1 authorization to approve the release of lien  
2 for \$2,500 and authorize Fernando to sign it so  
3 that we can get that to the title company,  
4 they'll release the funds when they close.

5 MR. TREVINO: We're asking the board, I  
6 guess, to agree to the settlement?

7 MR. WEISER: Correct.

8 MR. TREVINO: And also authorize either me or  
9 John Fekete to sign on behalf of the district any  
10 documents that are necessary to exercise this  
11 agreement, right?

12 MR. WEISER: That's correct --

13 MR. TREVINO: Okay.

14 MR. WEISER: -- to execute the agreement.

15 MR. FEKETE: I'll entertain a motion to that  
16 effect.

17 MR. PATRICK RODRIGUEZ: John, this is Pat  
18 Rodriguez. Motion to accept the \$2,500 user fee  
19 as the negotiated agreement to resolve our past  
20 due user fees from Modern Heart Chrome of Indiana  
21 to be paid upon the closing of the sale of M&M  
22 property to Modern Heart Chrome of Indiana, and to  
23 authorize John Fekete or Fernando Trevino to sign  
24 the agreement of release of lien.

25 MR. LOPEZ: Lopez seconds.

1 MR. FEKETE: We have a second. Roll call  
2 vote.

3 John Bakota?

4 JOHN BAKOTA: Yes.

5 MR. FEKETE: Henry Rodriguez?

6 MR. HENRY RODRIGUEZ: Yes.

7 MR. FEKETE: Patrick Rodriguez?

8 MR. PATRICK RODRIGUEZ: Yes.

9 MR. FEKETE: Ted Zagar?

10 (No response.)

11 MR. FEKETE: Kevin Doyle?

12 (No response.)

13 MR. FEKETE: Ray Lopez?

14 MR. LOPEZ: Yes.

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

16 All right. Any other new business to come  
17 before the board, Mr. Trevino?

18 MR. TREVINO: No, no other new business.

19 MR. FEKETE: Okay. Any other business?

20 (No response.)

21 MR. FEKETE: Did you want to mention the  
22 letter to the congressman?

23 MR. TREVINO: Sure. So I mentioned earlier  
24 in the board packet is a copy of a letter to  
25 Congressman Murvan basically supporting the

1 funding of the dike raising project. So, I mean,  
2 that is something that Mr. Nguyen has been giving  
3 us updates on a monthly basis. They're in the  
4 process of mobilizing the contractor to start the  
5 work; and we just wanted to support the funding of  
6 that project and so that's what is reflected in  
7 that letter.

8 And, Mike, if you'd like, I can share a  
9 copy of that with you.

10 MR. FEKETE: He just signed off.

11 MR. TREVINO: Okay. You can send him a copy.

12 MR. LOPEZ: What about the senators, do we  
13 send anything to the senators?

14 MR. TREVINO: The letter was requested from  
15 the congressman's office; so we sent it --

16 MR. LOPEZ: I'm saying we keep contact with  
17 the congressmen. What about the senators?

18 MR. TREVINO: We could forward a copy of it  
19 but --

20 MR. LOPEZ: Just to be -- protection, because  
21 they both have to vote if it comes up.

22 MR. TREVINO: We can do that. Go ahead,  
23 John.

24 MR. FEKETE: Well, the context of the letter  
25 was requested because the congressman was looking

1 for a letter of support for some action that he  
2 was going to take; and so in that vein, the letter  
3 was directed to him. But you're right, we can  
4 send copies to whomever we think appropriate.  
5 Good input, Ray. Thank you.

6 Any other business?

7 (No response.)

8 MR. FEKETE: Any public comments?

9 (No response.)

10 MR. FEKETE: Our next board meeting is  
11 July 21, 2021, at 5:00 p.m., and I will declare  
12 this meeting adjourned.

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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 Meeting.

I further certify that I then and there reported in machine shorthand the proceedings of said meeting, and then reduced to typewriting from my original shorthand notes the foregoing transcript as 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 21st day of July, 2021.



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



<b>\$</b>	<b>1997</b> 32:15,16	<b>A</b>	<b>amend</b> 19:12
<b>\$1,700,000</b> 14:21	<b>2</b>	<b>access</b> 4:14,19,21 8:24 9:7,9,15 10:16 17:23 18:4,6 31:6	<b>amended</b> 7:2 27:11 31:11
<b>\$1,745,000</b> 14:10	<b>2</b> 13:11 32:17	<b>accompanying</b> 5:11	<b>amendment</b> 4:23 5:1 7:14,18,22 11:4 14:8 17:24 18:8 19:10 30:2
<b>\$1.5</b> 13:25 14:2	<b>2020</b> 5:14	<b>account</b> 4:11 13:14,25 14:1,17,22 31:13	<b>amendments</b> 9:14
<b>\$165,000</b> 8:3	<b>2021</b> 3:4 4:6,9,12,22,24 5:23,24 6:1,3 7:1 8:1 12:6 14:6,9,10 17:5 19:9,13	<b>accountant</b> 13:3	<b>amount</b> 23:21 24:19 30:6
<b>\$2,225</b> 24:19	<b>2021-01</b> 27:11	<b>accounts</b> 13:13,16,21, 24 14:4 17:3	<b>Anderson</b> 13:5,11 15:14,20,25 16:10,13, 15,18,21,25
<b>\$2,500</b> 33:11,19	<b>3</b>	<b>accurate</b> 15:22 16:9	<b>annual</b> 6:24 21:18,23, 25
<b>\$200,000</b> 7:13 14:7	<b>3</b> 13:23 32:21	<b>Act</b> 7:15 8:18 9:25 17:22 19:10	<b>anticipate</b> 10:9
<b>\$212,000</b> 13:20 14:12, 20	<b>3.9</b> 14:3	<b>action</b> 9:15 20:21 24:6, 8	<b>appeals</b> 15:24
<b>\$250,000</b> 13:18	<b>3.911</b> 13:21	<b>actions</b> 16:15	<b>apply</b> 3:8
<b>\$253,000</b> 13:19	<b>31st</b> 15:9	<b>activities</b> 10:18	<b>appointed</b> 22:22
<b>\$3,952,000</b> 13:15,22	<b>4</b>	<b>activity</b> 4:11	<b>appraisals</b> 10:20 22:18,25
<b>\$30</b> 32:19	<b>4</b> 14:6	<b>add</b> 22:14,17	<b>appraisers</b> 22:21,22
<b>\$33,020</b> 14:13	<b>45</b> 8:4	<b>added</b> 21:18,22	<b>appreciated</b> 21:4
<b>\$4.39</b> 32:18	<b>483</b> 15:18	<b>addressed</b> 3:6	<b>appropriation</b> 14:11
<b>\$483.75</b> 15:12	<b>5</b>	<b>affiliated</b> 4:25 5:11 7:17 8:5 9:7 10:20 24:10,11	<b>approval</b> 6:14 8:16 9:16 10:7 12:5 17:3,21 20:10 21:13 22:7,8 26:10 28:11
<b>\$7,000</b> 23:17,18	<b>50</b> 22:1	<b>agenda</b> 4:3,18 6:14 7:3,16 8:17 9:16 24:21 25:10	<b>approvals</b> 10:2,9
<b>\$7,225</b> 23:19,25	<b>5:03</b> 3:4	<b>agent</b> 5:16	<b>approve</b> 9:14 12:8 15:2 17:5 18:8,10 23:2 24:6, 8,23 25:4,13 26:12 28:13,14 33:16
<b>\$915,000</b> 14:1	<b>6</b>	<b>agree</b> 33:18	<b>approved</b> 5:14 7:13 9:7,8,12,24 18:5 25:6 26:8 31:13
<b>\$95,261.82</b> 30:6	<b>6</b> 18:12	<b>agreed</b> 21:10,23 22:4	<b>approving</b> 5:14
<b>1</b>	<b>608</b> 4:8	<b>agreement</b> 4:14,19,21 5:2,7,8 6:11 8:10 9:7,9, 15,22 10:1 17:23 18:5,6 21:5 23:6,12,16,17 24:9,18,20,23,24 25:5, 14 26:11 29:25 30:25 31:6,10 33:10	<b>approximately</b> 8:3 32:18
<b>1</b> 32:14	<b>616</b> 4:8	<b>agreements</b> 6:9 7:21 20:12,20,22,24 21:5,6, 11 23:2 24:7,10,12 25:7,11	<b>April</b> 9:24 31:15
<b>1041</b> 15:5	<b>7</b>	<b>Alonzo</b> 5:22	<b>arbitrator</b> 15:12,15,16 16:8
<b>11</b> 23:8	<b>7th</b> 29:20		<b>ARCO</b> 10:3,7
<b>11-month</b> 32:24	<b>8</b>		
<b>13-month</b> 32:23	<b>8</b> 6:3		
<b>14</b> 4:12			
<b>14-year</b> 22:4			
<b>14th</b> 6:1			
<b>15th</b> 15:6			
<b>16</b> 3:3 4:24 5:23,24 17:5			
<b>18</b> 30:5			
<b>19</b> 4:6 12:6			



10:10,12 11:2	25:5,11,14 26:10	<b>fax</b> 9:20	<b>forwarded</b> 9:9 10:2
<b>detail</b> 4:17	<b>easements</b> 5:5 6:11 21:7,9	<b>February</b> 15:4	<b>found</b> 18:6
<b>dike</b> 7:10 29:18	<b>east</b> 3:2 5:3 31:1	<b>Feddeler</b> 30:4	<b>fourth</b> 9:22,24 30:25
<b>directors</b> 10:6	<b>easy</b> 21:3	<b>fee</b> 13:14 14:1 15:24 16:17,18 21:23 23:15 33:11	<b>Frank</b> 6:2
<b>directors'</b> 3:3,25 5:9 6:24	<b>ECWMD</b> 29:25	<b>feel</b> 10:18	<b>front</b> 23:20
<b>disaster</b> 31:17,18,21	<b>effect</b> 31:14,23	<b>fees</b> 8:1,5,7 15:17,24 16:14 23:7,8 33:8	<b>funds</b> 7:17 19:15 33:25
<b>disbursements</b> 13:12	<b>effort</b> 6:12,16 7:20 9:19	<b>Fekete</b> 3:1,13,15,17,19, 21,23 6:4 11:12,14,25 12:10,12,17,19,21,23, 25 13:2 16:17,24 17:2, 8,10,12,14,16,18,20 18:15,17,20,22,24 19:1, 3,5,7,16,20,22,24 20:1, 3,5,7,9 22:13,16 23:1 25:3,8,12,17,19,22,24 26:1,3,5,7,13,16,18,20, 22,24 27:1,3,5,10,15, 18,21,24 28:1,3,5,7,9, 15,18,20,23,25 29:2,4, 6,8 30:10,12 32:8,11 33:3,5	<hr/> <b>G</b> <hr/>
<b>discharge</b> 29:15	<b>efforts</b> 8:6 15:18,23		<b>George</b> 9:5
<b>discovered</b> 9:11	<b>electronic</b> 7:2 27:12 31:12,16,22		<b>give</b> 5:16,17 11:9
<b>discuss</b> 31:5 33:1	<b>Ellen</b> 5:25 11:9 30:14, 15		<b>glad</b> 13:5
<b>discussing</b> 31:9	<b>emergencies</b> 31:17		<b>good</b> 13:11 16:2 23:1 32:4
<b>discussion</b> 20:17 26:9 27:8	<b>emergency</b> 31:18,19, 21 32:6		<b>Grand</b> 10:10,13
<b>disputes</b> 16:4	<b>end</b> 13:14,22 14:22 15:4 32:23,24		<b>Great</b> 7:15 8:18 9:25 17:22 19:10,13 31:1
<b>distributions</b> 32:16	<b>ending</b> 4:8		<b>Gregory</b> 7:6 9:3 11:9, 18 30:14,15,16 32:9
<b>district</b> 3:2 5:3 6:16 8:23 15:3 22:7	<b>engineering</b> 7:14		<b>Gregory's</b> 5:25
<b>DNO</b> 28:11	<b>Engineers</b> 29:11	<b>Fernando</b> 15:20 16:11, 21 21:11 23:19 32:12 33:20	<b>groundwater</b> 8:21 9:2
<b>docket</b> 14:13,24	<b>entertain</b> 12:6 23:1 25:12 26:11 28:12	<b>fiduciary</b> 28:11	<b>guys</b> 13:5 14:23
<b>document</b> 10:1,5	<b>entertaining</b> 3:8	<b>figures</b> 22:23	<hr/> <b>H</b> <hr/>
<b>documents</b> 6:13 33:20	<b>entities</b> 10:7	<b>file</b> 15:5 33:22	<b>H-E-A-R-T</b> 11:22
<b>dollar</b> 22:23 23:13	<b>EPA</b> 9:10 10:2,3,8 31:2	<b>filed</b> 15:3	<b>half</b> 26:9
<b>dolphin</b> 11:1	<b>equipment</b> 29:15	<b>finalized</b> 6:13 30:24	<b>hand</b> 20:14
<b>Doug</b> 10:22	<b>evaluating</b> 7:19	<b>finalizing</b> 11:4	<b>handle</b> 7:24
<b>Doyle</b> 3:19 12:23 17:16 19:3 20:5 26:3 27:1 28:5 29:4	<b>execute</b> 33:20	<b>finally</b> 31:11	<b>happy</b> 22:10
<b>draft</b> 9:4,12	<b>executive</b> 3:25 20:17	<b>finance</b> 7:14 32:25	<b>hard</b> 11:21
<b>drafted</b> 10:17	<b>existing</b> 21:15,16	<b>finances</b> 7:12	<b>Harris</b> 32:12
<b>dredging</b> 29:12	<b>expiring</b> 33:1	<b>financial</b> 7:10	<b>headquarters</b> 30:1
<b>due</b> 32:23,24	<b>explained</b> 21:14	<b>financials</b> 13:9	<b>hear</b> 21:2
<hr/> <b>E</b> <hr/>	<b>extending</b> 21:21	<b>financing</b> 15:8	<b>Heart</b> 8:11 11:18,19,21, 22
<b>early</b> 10:14 31:20	<hr/> <b>F</b> <hr/>	<b>flood</b> 10:23	<b>Henry</b> 3:13,14 12:17,18 17:12,13 18:22,23 19:18,24,25 25:15,22, 23 26:14,20,21 27:16, 24,25 28:23,24
<b>earned</b> 13:17	<b>fair</b> 22:6	<b>form</b> 14:13 15:5	
<b>easement</b> 7:20 20:12, 20,22,23 21:8 23:12,16, 23,24,25 24:7,9,18	<b>farm</b> 8:19 9:18 31:8	<b>fortunate</b> 20:16	
		<b>forward</b> 10:25 23:15	

<b>high</b> 14:22	<b>issues</b> 10:9	20:11,19,22 21:14,15,	<b>members</b> 31:25 32:2
<b>highlighted</b> 18:11	<b>item</b> 7:19 9:15 11:5	16,17,18,20,24 22:1,2,5	<b>mention</b> 12:14
<b>highlights</b> 4:14 32:14	15:23 16:8,9 20:21	23:5 24:6 25:11,13	<b>mentioned</b> 6:7,23 7:8
<b>historical</b> 32:15	<b>items</b> 6:4 30:16,22	<b>left</b> 11:5 14:15	30:17 31:4
<b>historically</b> 16:1		<b>legacy</b> 7:15 8:18 9:25	<b>mentioning</b> 12:1
<b>Hold</b> 11:15	<b>J</b>	17:22 19:10,14 31:1	<b>Merchants</b> 4:7,13
<b>hoping</b> 10:24	<b>Janna</b> 6:19 12:2 20:25	<b>legal</b> 7:20 11:10 30:16	<b>met</b> 10:21
	22:11	<b>Lerr's</b> 30:5	<b>middle</b> 9:5 17:23 31:1
<b>I</b>	<b>Jim</b> 12:1 15:18 30:20	<b>letter</b> 4:23 6:2 7:8,10	<b>Mike</b> 29:10 31:3
	33:13	18:3 19:8,12,14 30:4	<b>military</b> 32:5
<b>images</b> 4:9	<b>John</b> 3:11,23 6:3 11:15	<b>lien</b> 33:22,25	<b>million</b> 13:25 14:2
<b>important</b> 14:5 31:24	12:15,16 13:2 16:22	<b>lifted</b> 31:21	32:18
<b>improvement</b> 30:7	17:10,11,20 18:2,20,21	<b>list</b> 10:18	<b>minor</b> 9:11 18:6
<b>inaudible</b> 29:12	19:7,11,22,23 20:9	<b>Lopez</b> 3:21,22 8:14	<b>minute</b> 23:19
<b>incidental</b> 24:4	23:3,25 25:3,20,21	12:9,25 13:1 15:11 16:5	<b>minutes</b> 4:5
<b>include</b> 18:12 19:14	26:7,18,19 27:5,22,23	17:18,19 18:16 19:5,6	<b>mobilized</b> 9:17 29:19
24:18 32:5	28:9,21 29:8 33:7,14,19	20:7,8 25:18 26:5,6	<b>modeling</b> 9:2
<b>included</b> 4:4,9 5:19	<b>joining</b> 30:12	27:3,4 28:7,8,14 29:6,7	<b>Modern</b> 8:11 11:18,19
21:20	<b>July</b> 10:15 31:20 32:24	<b>lot</b> 15:25 16:4	<b>modification</b> 9:23,25
<b>includes</b> 4:3	<b>junction</b> 10:13		11:2 30:25
<b>including</b> 31:8	<b>June</b> 3:3 4:12,24 5:23,	<b>M</b>	<b>modified</b> 31:13
<b>inclusive</b> 24:21	24 6:1,3 17:5 29:17,20,	<b>M&amp;m</b> 8:7 11:17 33:9	<b>money</b> 13:17 32:20,21
<b>income</b> 13:17	21 32:23	<b>made</b> 22:10,23 25:3	<b>month</b> 4:8,10
<b>incorporates</b> 7:4	<b>K</b>	<b>make</b> 9:12 12:2 14:18	<b>month's</b> 9:6
<b>increase</b> 32:18		20:15	<b>months</b> 6:9 13:7
<b>Indiana</b> 8:12 11:20	<b>Kevin</b> 3:19 12:23 17:16	<b>making</b> 3:9 12:12,13	<b>motion</b> 3:9 12:7,8,13
<b>Indiana's</b> 7:4	19:3 20:5 26:3 27:1	<b>manage</b> 13:13	17:5 18:10,16,17 19:12
<b>informed</b> 10:5	28:5 29:4	<b>Management</b> 3:2 5:3	23:2 24:4,5 25:2,8,9,10,
<b>informing</b> 9:21	<b>key</b> 30:22	8:8	13 26:8,11,12 27:18
<b>insert</b> 18:13	<b>kind</b> 32:11	<b>March</b> 15:5	28:12,14 33:18
<b>installation</b> 9:1		<b>market</b> 32:20,22	<b>motions</b> 24:3,14
<b>insurance</b> 5:10,16	<b>L</b>	<b>matters</b> 3:5 11:10	<b>move</b> 10:25 15:20
6:23,25 28:12	<b>Lake</b> 9:5	<b>mature</b> 32:22	<b>moved</b> 15:21 17:7
<b>interest</b> 13:17 32:20	<b>Lakes</b> 7:15 8:18 9:25	<b>medical</b> 32:6	25:15 27:14
<b>invoice</b> 5:11	17:22 19:10,13 31:1	<b>meeting</b> 3:3 4:4,5 7:13,	<b>Murvan</b> 6:2 7:9
<b>invoiced</b> 8:4	<b>lapsed</b> 21:15 22:3	22 9:6 11:7 12:5 20:18	
<b>invoices</b> 14:25	<b>late</b> 23:7,8 29:17,21	21:1 27:12 32:19,25	<b>N</b>
<b>issue</b> 30:3 31:4	<b>latest</b> 7:4	33:17,23	<b>Nagle</b> 7:23
	<b>law</b> 30:16 31:14,15	<b>meetings</b> 7:2 9:23	<b>Nearing</b> 22:1
	<b>lead</b> 6:15 8:9 30:21	31:12,17,22 32:1,3	
	<b>lease</b> 5:2 6:8,11 7:21	<b>member</b> 3:7	

<b>negotiated</b> 8:10 20:19, 25 33:11	<b>owning</b> 8:16	<b>Plews</b> 11:3	
<b>negotiating</b> 31:9	<b>owns</b> 8:12	<b>point</b> 15:8	
<b>negotiations</b> 6:12 22:19		<b>policy</b> 5:10,12,13,15, 17,18,20 6:23 7:2,5 27:12 31:12,22	<hr/> <b>Q</b> <hr/>
<b>negotiator</b> 21:3	<b>packet</b> 4:2 5:8 6:5,25 7:3,9 11:8	<b>possibility</b> 33:14,15	<b>question</b> 11:16 15:10, 11 23:4
<b>Nguyen</b> 29:10,12 30:10 31:3	<b>paid</b> 15:1 33:10	<b>Powers</b> 10:22	<b>questions</b> 6:18 7:6,7 11:12,23 16:24 18:18 19:20 22:11,15 26:16 27:19 28:18 30:10 32:8 33:3
<b>NIPSCO</b> 5:6,8 6:8,11 20:24 21:8 22:9 23:9, 12,23,24,25 24:9,11,18 25:9 26:10	<b>parcel</b> 21:19,21 30:4	<b>prepared</b> 30:22	<b>quickly</b> 30:18 32:13
<b>non-emergencies</b> 31:23	<b>parcels</b> 8:25 10:19 21:19,21 31:7	<b>present</b> 3:23 6:16,17, 18,20,22 20:15 32:1	<hr/> <b>R</b> <hr/>
<b>notes</b> 5:22 12:6	<b>Parkway</b> 30:6	<b>presented</b> 10:6 17:25	<b>Rainer</b> 22:19
<b>notice</b> 4:5	<b>part</b> 9:19 31:24	<b>president</b> 6:3	<b>raise</b> 29:18
<b>notification</b> 22:8	<b>participate</b> 32:2	<b>pressiometer</b> 8:25	<b>raising</b> 7:11
<b>number</b> 14:12	<b>participation</b> 27:7	<b>pretty</b> 16:2	<b>Ray</b> 3:21 12:11,25 17:18 19:5 20:7 25:18 26:5 27:3 28:7 29:6
	<b>parties</b> 4:20 21:10 22:6	<b>previously</b> 21:14	<b>reach</b> 29:25
<hr/> <b>O</b> <hr/>	<b>Pat</b> 19:11 24:16	<b>primary</b> 24:3	<b>reaches</b> 10:13
<b>occurred</b> 23:7	<b>patience</b> 13:6	<b>prior</b> 8:7 14:12 22:1 33:23	<b>read</b> 24:19
<b>occurs</b> 33:17	<b>Patrick</b> 3:15,16 11:15, 16,21 12:19,20 17:6,14, 15 18:1,9,24,25 19:11 20:1,2 23:3,4,11 24:2, 13,17 25:24,25 26:22, 23 27:13 28:1,2,16,25 29:1 33:7	<b>proceeding</b> 31:19	<b>reason</b> 32:4
<b>officers</b> 18:12	<b>pay</b> 5:7 16:1 23:12 24:9, 20,24	<b>process</b> 8:9,15 10:4,20	<b>reasonable</b> 21:12
<b>officers'</b> 5:10 6:24	<b>payable</b> 17:4	<b>project</b> 7:11,15 8:19 9:5,8,17,19,20,22 10:14,17 11:1 17:23 19:14 30:25	<b>recall</b> 8:5
<b>oil</b> 29:23	<b>paying</b> 23:6	<b>properties</b> 30:20	<b>receipts</b> 13:12,16
<b>Olthoff</b> 6:19 12:2 20:25 22:13,14 23:21 27:7,9	<b>payment</b> 21:18 22:2	<b>property</b> 8:12 10:15 30:19,23	<b>receive</b> 30:4
<b>one-time</b> 23:15	<b>payments</b> 8:2 22:2,9	<b>proposal</b> 5:10	<b>received</b> 8:1
<b>ongoing</b> 8:20 10:4,12, 21 11:2 29:24 30:17	<b>PCA</b> 11:2,4 29:24 30:1 31:3	<b>proposed</b> 30:1	<b>recent</b> 14:8 22:18
<b>operating</b> 13:13,25 14:17,21	<b>percent</b> 8:4	<b>provide</b> 21:6	<b>recommend</b> 21:13 22:7
<b>operation</b> 29:13,14	<b>period</b> 21:25 22:3,4	<b>provided</b> 21:17 22:2	<b>recommendation</b> 6:17 20:15
<b>options</b> 33:1	<b>physically</b> 32:1	<b>provisions</b> 10:23	<b>recommending</b> 7:21 8:16 9:13 18:8
<b>order</b> 3:1,24 12:4 13:3 17:2,21 19:8 20:10 27:10 28:10 29:9 30:13, 23	<b>pile</b> 8:19 9:1	<b>public</b> 4:4	<b>recommends</b> 33:18
<b>original</b> 21:20	<b>pipeline</b> 5:4 6:8,10 9:17,18	<b>purchasing</b> 11:17	<b>record</b> 12:3 25:6
<b>outstanding</b> 22:10 30:3 31:4	<b>pipng</b> 29:14	<b>pursuant</b> 22:21	<b>recorded</b> 14:7 23:18
	<b>planner</b> 10:22	<b>pursue</b> 15:17 16:14	<b>reference</b> 18:2 19:13
		<b>put</b> 10:24	<b>reflected</b> 22:19

<b>reformatted</b> 21:16	19,20 17:6,12,13,14,15	<b>sign</b> 25:4	<b>term</b> 10:17 21:24
<b>register</b> 17:4	18:1,9,10,22,23,24,25	<b>signatures</b> 10:3 31:2	<b>terms</b> 31:16
<b>regular</b> 20:18	19:11,12,18,19,24,25	<b>signed</b> 4:20 9:8 10:1	<b>Tetra</b> 7:14 10:11
<b>release</b> 33:22,24,25	20:1,2 23:3,11 24:2,13,	18:5 25:6	<b>thing</b> 24:16 32:11
<b>remains</b> 21:23	17 25:15,16,22,23,24,	<b>signify</b> 13:10	<b>thought</b> 24:1
<b>remedial</b> 10:10,12	25 26:14,15,20,21,22,	<b>site</b> 10:14	<b>time</b> 3:4 11:6 22:3,4
<b>remember</b> 12:12 15:13	23 27:13,14,16,17,24,	<b>sites</b> 29:15	<b>timeline</b> 30:22
<b>remotely</b> 32:3	25 28:1,2,16,17,23,24,	<b>skipped</b> 32:11	<b>title</b> 16:7 33:24
<b>removal</b> 9:17,19	25 29:1 33:7,8	<b>sound</b> 9:13 18:7	<b>titled</b> 15:16
<b>renewable</b> 21:25	<b>roll</b> 3:10 12:15 17:10	<b>south</b> 8:19,24,25 31:7,8	<b>today</b> 6:17 33:12
<b>renewal</b> 5:15 6:24	18:20 19:22 25:19	<b>speaking</b> 33:13	<b>today's</b> 3:3 4:3 6:14
28:12	27:21 28:20	<b>spearheaded</b> 10:11	7:3,16 9:16 14:13 17:4
<b>report</b> 3:25 4:12 5:21,	<b>round</b> 8:21	<b>spend</b> 14:9	<b>total</b> 8:4 13:15 14:9,10
24,25 6:6 10:25 11:8,11	<b>run</b> 4:12	<b>spent</b> 13:19 14:11,20	15:7
13:4 15:3,9 29:10,23	<b>S</b>	<b>spreadsheet</b> 4:23	<b>transfer</b> 4:24 7:17
30:14 32:12 33:2	<b>sale</b> 33:15	<b>stakeholders</b> 9:21	10:19 13:18 19:9,15
<b>requested</b> 8:24	<b>sampling</b> 8:21,22	<b>start</b> 3:9 4:1 9:18,21	30:20
<b>requesting</b> 30:5	<b>schedule</b> 10:18	29:21	<b>transfers</b> 30:19,23
<b>resolution</b> 7:1 16:17,	<b>scheduled</b> 10:14 29:21	<b>starting</b> 29:19	<b>transmitted</b> 9:20
18,20 27:11	33:24	<b>state</b> 15:4	<b>treatment</b> 29:16
<b>resolve</b> 11:5 15:23	<b>scroll</b> 4:6	<b>statement</b> 4:8 13:12	<b>Trevino</b> 3:25 4:1 6:22
30:3	<b>seconded</b> 12:10	<b>stating</b> 3:7	8:15 11:12,19,22 12:11
<b>respect</b> 23:5,11 24:17	<b>seconds</b> 18:16	<b>statute</b> 22:22	15:15,22 16:7,12,14,19
33:8	<b>section</b> 18:12 31:2,22	<b>Street</b> 11:1	18:4 20:13,14,21 22:17
<b>respond</b> 22:11	<b>separate</b> 24:2,14	<b>submit</b> 33:25	23:23 24:5 25:1,10
<b>response</b> 3:18,20	<b>separates</b> 31:15	<b>summarize</b> 32:13	30:17 31:8 32:14 33:3
11:13,24 12:22,24 17:1,	<b>September</b> 15:6	<b>summary</b> 5:12,13	<b>trust</b> 5:21 13:18 15:6
17 18:19 19:2,4,21	<b>service</b> 32:5	<b>support</b> 7:10	32:15,17
20:4,6 26:2,4,17,25	<b>session</b> 20:17	<b>T</b>	<b>type</b> 32:5
27:2,20 28:4,6,19 29:3,	<b>settlement</b> 8:10,17	<b>taking</b> 8:8	<b>typos</b> 9:11 18:6,11
5 30:11 32:10 33:4	33:18	<b>talking</b> 7:23 22:24	
<b>responsible</b> 21:12	<b>share</b> 8:21	<b>tank</b> 8:19 9:18 31:8	<b>U</b>
<b>results</b> 8:22	<b>sheet</b> 8:19 9:1,20 10:17	<b>team</b> 10:14	<b>understand</b> 9:2 33:9
<b>resuming</b> 29:16	14:19	<b>Tech</b> 7:14 10:11	<b>understanding</b> 31:20
<b>review</b> 10:22	<b>Shore</b> 5:4,5 6:8,10,19	<b>Ted</b> 3:17 12:21 19:1	<b>unpaid</b> 8:7 15:17,24
<b>revision</b> 6:1	20:11,24 21:7,14 22:6,	20:3 26:1,24 28:3 29:2	22:2
<b>revisions</b> 31:3	9,12 23:5,10 24:6,10		<b>unused</b> 14:14,16
<b>Rick</b> 7:23	25:8,11,13		<b>update</b> 8:18 11:9
<b>River</b> 10:10,13	<b>shows</b> 13:23 14:6,15		<b>updates</b> 10:25
<b>Rodriguez</b> 3:13,14,15,	32:21		<b>user</b> 8:1,5,7 13:14 14:1
16 11:15,21 12:17,18,	<b>shut</b> 29:13		

15:17,24 16:14,17,18 33:8	30:7
<b>users</b> 16:1	<hr/> <b>Y</b> <hr/>
<b>utilize</b> 21:7,8	<b>year</b> 13:21 32:16
<hr/> <b>V</b> <hr/>	<b>year's</b> 5:20 23:8
<b>values</b> 32:21	<b>years</b> 8:7 22:1 23:7
<b>visit</b> 10:14	<hr/> <b>Z</b> <hr/>
<b>voice</b> 3:6	<b>Zagar</b> 3:17 12:21 19:1 20:3 26:1,24 28:3 29:2
<b>vote</b> 3:6 13:2 17:10,20 18:20 19:7 20:9 25:19 26:7 27:5,21 28:9 29:8	<b>zones</b> 10:23
<b>voucher</b> 17:4	
<hr/> <b>W</b> <hr/>	
<b>Wait</b> 23:19	
<b>wall</b> 8:19	
<b>wanted</b> 5:18 12:2	
<b>watch</b> 14:17	
<b>water</b> 29:16	
<b>Waterway</b> 3:2 5:3	
<b>Wayne</b> 6:20,21,22	
<b>week</b> 9:18 29:19,22	
<b>Weiser</b> 6:21 20:16,23 22:21 23:10,14,24 24:1, 15,22 25:2 27:6 33:13	
<b>west</b> 5:4,5 6:8,10,19 9:18 20:11,24 21:7,13, 22 22:6,9,12 23:5,10 24:6,10 25:8,11,13	
<b>Wieser</b> 6:15 8:8 10:21 12:1 16:3 20:15 23:4,22 30:21 33:13	
<b>Wieser's</b> 15:18	
<b>word</b> 18:11,13	
<b>wording</b> 18:1	
<b>words</b> 18:13	
<b>work</b> 10:11 11:3 15:16 16:3 21:3	
<b>working</b> 6:10 8:6 9:3	