

In the Matter Of:  
East Chicago Waterway Management

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**DISTRICT BOARD OF DIRECTORS' MEETING**

*August 18, 2022*

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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**

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**August 18, 2022**

**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 18th day of August, 2022, commencing at 5:00 p.m., taken at City of East Chicago, Engineering/Annex Building, 4444 Railroad Avenue, East Chicago, Indiana, and via Zoom Video/Telephone conference, before Dawn M. Iseminger, RPR, and Notary Public, within and for the County of Porter, State of Indiana.**

A P P E A R A N C E S

JOHN FEKETE, President

RAYMOND LOPEZ, SR., Treasurer and Fiscal Officer

HENRY RODRIGUEZ, Secretary

JOHN BAKOTA, Board Member

JAYLAN ROBINSON, Board Member

FERNANDO TREVINO, FMT Consulting

ELLEN GREGORY, Ellen Gregory Law

Also Present:

Vanessa Vargas, CliftonLarsonAllen - appearing via Zoom

Jim Wescott, Tetra Tech - appearing via Zoom

David Alonzo, BMO Bank - appearing via Zoom

Mike Nguyen, U.S. Army Corps of Engineers - appearing via  
Zoom

District Board of Directors' Meeting  
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1 MR. FEKETE: I'd like to call to order the  
2 East Chicago Waterway Management District special  
3 board of director's --

4 MS. GREGORY: Not a "special."

5 MR. FEKETE: Today's date is August 18, 2022.  
6 We will take a roll call vote.

7 Jaylan Robinson?

8 MR. ROBINSON: Here.

9 MR. FEKETE: John Bakota?

10 MR. BAKOTA: Here.

11 MR. FEKETE: Henry Rodriguez?

12 MR. HENRY RODRIGUEZ: Here.

13 MR. FEKETE: Kevin Doyle?

14 (No response.)

15 MR. FEKETE: Ray Lopez?

16 MR. LOPEZ: Here.

17 MR. FEKETE: John Fekete, here.

18 We do have a quorum. The next order of  
19 business is FMT Consulting report.

20 MR. TREVINO: Yes. Fernando Trevino,  
21 executive director with FMT Consulting. I'd like  
22 to start off by going over the contents of your  
23 board packet. You have a copy of today's agenda,  
24 a copy of the public meeting posting for today's  
25 meeting, the board minutes for the July 21st board

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1 meeting. You have the CliftonLarsonAllen  
2 financial report dated July 31st for the month of  
3 July that was emailed earlier today with hard  
4 copies distributed to the board at this meeting.

5 You have a copy of today's claim docket dated  
6 August 18 along with purchase orders and the check  
7 register. You have a copy of the First Merchant  
8 bank statements for the month of July, for  
9 accounts ending in 608 and 616, along with a copy  
10 of the checks that cleared in the month of July  
11 and copy of user fee deposits made in the month of  
12 July.

13 You have a copy of the additional hours  
14 approval memo for FMT Consulting for calendar year  
15 2022. You have the district consent memo for  
16 Plews to represent FMT Consulting, Inc., during  
17 contract negotiations. You have a copy of the BMO  
18 trust report through the month of July 2022. You  
19 have a copy of Tetra Tech's monthly Great Lakes  
20 Legacy Act Grand Cal' River remedial design  
21 project report, which is dated August 12th. You  
22 have a copy of the Army Corps' report to the board  
23 dated August 18, a copy of Attorney Ellen  
24 Gregory's report to the board with a revision date  
25 of August 16th. You have a copy of ACOM's monthly

1 invoice, their budget report, and the schedule  
2 regarding the Canal Street bridge project. You  
3 have a copy of the EPA letter dated July 26, 2022,  
4 from John Hoffman of EPA related to the Cleveland  
5 Cliffs cost share. You have a copy of Congressman  
6 Mrvan's press release dated August 17, 2022,  
7 related to the CDF expansion project.

8 That concludes the items in the board packet  
9 and items since, and I'd like to go over my report  
10 now.

11 Regarding the action items on today's agenda,  
12 we have the two traditional action items of the  
13 board minutes and the monthly claim docket, and we  
14 have three additional action items for board  
15 consideration. We have the FMT Consulting  
16 additional hours approval memo for calendar year  
17 2022. We have the 2022 user fee deadline  
18 extension, and a copy of the board consent to have  
19 Plews represent FMT Consulting during the contract  
20 negotiations.

21 Regarding user fees, a reminder that the 2022  
22 user fee package went out on June 3rd. As  
23 reported last month, we are exploring an appeal  
24 request from one of the companies on whether a  
25 conservation easement can qualify as a user fee

1 waiver. We anticipate having a recommendation to  
2 the board at the September board meeting. The  
3 recommendation may include approving an amended  
4 appeal procedure and forum.

5 To date, we've collected and deposited  
6 approximately \$344,000, which is around 75 percent  
7 of the total 2022 user fees.

8 The due date for this year was August 3rd,  
9 which was a couple of weeks ago. In prior years  
10 the board has agreed to extend the deadline for a  
11 couple months to give the district an opportunity  
12 to contact the companies and the possibility of  
13 them paying user fees before the district pursues  
14 legal matters on the unpaid accounts. So if the  
15 board approves extending the due date, the new  
16 date I'm recommending is October 3 of 2022.

17 Regarding the Lake George canal east and  
18 middle project, the sheet pile wall 90 percent  
19 basis of design report was completed and has been  
20 transmitted to the project team. AR/BP continues  
21 to work towards finalizing the specs and drawings.  
22 AR/BP continues to have periodic meetings with the  
23 City of East Chicago to make sure they are  
24 consistent with the permits and protocols, and  
25 they have secured a contractor for the procurement

1 of the steel and they are now working on the  
2 request for proposal for the installation of the  
3 wall.

4 The sheet pile wall is forecasted to be  
5 completed by early 2024.

6 Regarding the Lake George canal east section,  
7 phase two dredging is scheduled to recommence  
8 after the sheet pile wall project is completed,  
9 which as mentioned is supposed to be done in early  
10 2024. The Corps will be managing the dredging  
11 project on EPA's behalf, and they're also  
12 coordinating additional canal sediment sampling  
13 that's scheduled to be done some time in late  
14 summer or early fall.

15 Regarding the Lake George canal middle cap  
16 project, the Army Corps of Engineers managing  
17 district remediation project and construction  
18 activities are ongoing.

19 Regarding the Grand Cal' River junction  
20 reaches remedial design, Tetra Tech remedial  
21 design work is ongoing. The project team  
22 continues to have periodic meetings to discuss  
23 design completion, property access, coordination,  
24 permit applications, the junction marsh  
25 coordination, cost share documentation, community



1 engagement. And regarding the project agreement  
2 with EPA for what we're calling the Grand Cal'  
3 River phase one remediation, EPA and the district  
4 have been working on that project agreement for  
5 some time now. We are getting close. The project  
6 agreement is for approximately \$27 million in  
7 federal funds. And that scope of work includes  
8 the complete remediation of the Grand Cal' River  
9 west branch, dredging of the Indiana Harbor Canal  
10 branch, and restoration of the junction marsh.  
11 We've traded a couple project agreement drafts  
12 with EPA and we were hoping to have it done by  
13 today's meeting but it's looking more like  
14 September or maybe beyond as we're exploring the  
15 possibility of doing a cooperative agreement with  
16 EPA where the district manages the project. So  
17 whether it's a project agreement or cooperative  
18 agreement, we're probably now a couple months  
19 away.

20 The project team continues to work on cost  
21 share calculations affiliated with the PCA and  
22 tipping fee agreement amendments, which will be  
23 used to leverage funding for this phase one  
24 remediation. You might recall that the PCA  
25 amendment has been completed and we're now very

1 close to completing the tipping fee agreement  
2 amendment, and we're forecasting to have that at  
3 the September board meeting.

4 We do have good news regarding the Cleveland  
5 Cliffs sep project counting as Great Lakes Legacy  
6 Act cost share. EPA has told us verbally in the  
7 past that their management had reviewed the sep  
8 prior year's scope of work and cost, and they  
9 believe that it did count and qualify towards  
10 financing the \$27 million for the Grand Cal' River  
11 phase one remediation. Usually EPA provides cost  
12 share approval as the project progresses but  
13 because our cost share is kind of unique in that  
14 it has already transpired and it's already been  
15 expended, we asked EPA to consider sending us a  
16 memo that documents that they have reviewed and  
17 approved that the sep cost share would count; and  
18 they've agreed to provide such a memo; and a copy  
19 of that is it your board packet. So I think that  
20 gives the district some added comfort that the  
21 phase one remediation cost share component is  
22 already covered before we even start the project.  
23 We're also looking to include a similar statement  
24 in the project agreement or cooperation agreement,  
25 whichever route we consider going forward with.

1           Regarding the Great Lakes Legacy Act work in  
2 kind reporting, I'll be working on the work in  
3 kind report for the first six months of this year.  
4 EPA has agreed to extend the deadline to the end  
5 of September. Through 2019, EPA has approved  
6 approximately \$1.1 million in work in kind, and  
7 that doesn't include the Cleveland Cliffs sep  
8 project.

9           Regarding the Lake George canal west  
10 remediation, that work is ongoing. And a  
11 reminder, that project is between BP and EPA.

12           Regarding the Canal Street bridge project,  
13 ACOM continues their effort on the dolphin design  
14 and permit application. A project schedule is  
15 included in your packet. The design will be  
16 modified to account for the overhead power lines  
17 that they kind of discovered after the fact. So  
18 they're going to adjust the design to make sure  
19 that it accounts for the overhead power lines  
20 during construction. They're forecasting  
21 completing the bid specs and drawings either in  
22 August or by September, contractor material  
23 procurement during the winter months, and  
24 construction to start in the May/June time frame.

25           Regarding the BP term sheet agreement for the

1 parcels BP is interested in acquiring from the  
2 district, that contract negotiations with BP is  
3 ongoing. Regarding the Army Corps of Engineers  
4 and the CDF, Congressman Mrvan's office invited  
5 the district to a CDF tour and presentation that  
6 he had scheduled for Tuesday of this week; and so  
7 I want to thank Congressman Mrvan and his staff  
8 for the invitation. And I thought the Corps  
9 project manager, Mike Nguyen, did a great job on  
10 his presentation. I asked Mike if he would be  
11 interested in having a similar presentation at our  
12 board meeting; so hopefully we can schedule one  
13 soon. The Corps' project manager, Mike Nguyen,  
14 will be giving a project update later on, on the  
15 agenda.

16 And that concludes my report to the board.

17 MR. FEKETE: Okay. Any questions for  
18 Mr. Trevino?

19 (No response.)

20 MR. FEKETE: Thank you very much. Next order  
21 of business is the approval of the board meeting  
22 notes for July 21, 2022.

23 MR. BAKOTA: Motion to approve.

24 MR. LOPEZ: Second.

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

1 We'll take a voice vote since all of the members  
2 are present.

3 All in favor, signify by saying "aye."

4 (All signify "aye.")

5 MR. FEKETE: Any opposition or abstentions?

6 (No response.)

7 MR. FEKETE: Hearing none, the motion is  
8 approved.

9 Okay, the accounting consultant report.

10 MS. VARGAS: Good evening. In front of you,  
11 you have the July 31, 2022, financial statement on  
12 a cash basis. If you turn to Page 2, we'll begin  
13 with the statement of cash receipts and cash  
14 disbursements. There are seven months, ended  
15 July 31, 2022. You earned some interest in terms  
16 of \$4,137.69, user fees of \$253,399.83, and a  
17 trust transfer of \$398,338.19. Bringing your  
18 total receipts through July 31st to \$655,875.71.

19 You've had total disbursements through July  
20 31st of \$389,305.34, which you can see on the  
21 various lines items above. This brings your total  
22 cash increase through July 31st to \$266,570.37.  
23 You began the year with a cash balance of  
24 \$3.9 million. Your cash balance as of July 31st  
25 is now \$4,258,978.31.

1 Turn to Page 3, you'll see the schedule of  
2 cash account activity for the seven months ended  
3 July 31, 2022. We'll start with the operating  
4 account. The operating account began with a cash  
5 balance of \$1,409,578.39. You've earned interest  
6 of \$241.21. Add cash disbursements through July  
7 of \$390,355.34, which includes a voided check of  
8 \$1,050. You had a trust transfer of \$398,338.19  
9 and a budget transfer of \$212,225.79, bringing  
10 your operating cash balance as of July 31st to  
11 \$1,631,078.24. The user fee account began with a  
12 cash balance on January 1st of \$1,076,244.74.  
13 You've earned interest income of \$1,199.45. User  
14 fee income of \$253,399.83. You had a budget  
15 transfer of \$212,225.79, as well as a redeemed CD  
16 for \$1,509,281.84. Bringing your user fee account  
17 as of July 31st to \$2,627,900.07. You began the  
18 year with a CD, with a balance of \$1,506,584.81.  
19 Earned interest of \$2,697.03, and redeemed that  
20 deposit.

21 If you turn to Page 4, you will see a  
22 schedule of the 2022 available budget as of  
23 August 18, 2022. So the 2022 budget appropriation  
24 totaled \$1,919,735. We add in the accounts  
25 payable as of 12/31/21 of \$50,407.37. You had a

1 budget amendment at the last board meeting of  
2 \$50,000, which went to the Great Lakes Legacy Act  
3 project non-trust line, which brings your total  
4 appropriation budget for 2022 to \$2,020,142.37.  
5 Through July 31st, 2022, you had cash  
6 disbursements of \$389,305.34. In front of you,  
7 you have a claim docket dated August 18, 2022, for  
8 a total of \$38,165.76, which brings total unused  
9 budget to \$1,592,671.27.

10 Are there any questions?

11 (No response.)

12 MR. LOPEZ: Thank you.

13 MR. FEKETE: Hearing none, Thank you very  
14 much, Vanessa. Great job.

15 That brings us to the next order of business,  
16 the accounts payable voucher register dated  
17 August 18, 2022. Do I have a motion to approve?

18 MR. HENRY RODRIGUEZ: Motion to approve.

19 MR. FEKETE: Do I have a second?

20 MR. ROBINSON: Second.

21 MR. LOPEZ: Second.

22 MR. FEKETE: We have a second. And we'll  
23 have a roll call vote.

24 Jaylan Robinson?

25 MR. ROBINSON: Yes.

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1 MR. FEKETE: John Bakota?

2 MR. BAKOTA: Yes.

3 MR. FEKETE: Henry Rodriguez?

4 MR. HENRY RODRIGUEZ: Yes.

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. That  
10 motion is approved.

11 The next order of business is the FMT  
12 Consulting additional hours. Fernando?

13 MR. TREVINO: So per my contract, there's a  
14 provision that if we get to a point where  
15 additional hours are needed, which in this case  
16 it's a hundred, it would require board approval.  
17 So we are at that point. I had a lot of work  
18 going on this year, so I'm proposing that the  
19 board approve the additional hundred hours.

20 MR. LOPEZ: Motion to approve.

21 MR. BAKOTA: Second.

22 MR. FEKETE: I have a second. I'll have a  
23 roll call vote.

24 Jaylan Robinson?

25 MR. ROBINSON: Yes.



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1 MR. FEKETE: John Bakota?

2 MR. BAKOTA: Yes.

3 MR. FEKETE: Henry Rodriguez?

4 MR. HENRY RODRIGUEZ: Yes.

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 The next order of business is the user fee  
11 deadline extension. Mr. Trevino?

12 MR. TREVINO: So as mentioned in my report,  
13 there's approximately 25 percent of the 2022 user  
14 fees that are still outstanding. And as we've  
15 done in prior years, we've extended the deadline a  
16 couple months to give the district an opportunity  
17 to reach out to the companies and remind them of  
18 their user fee obligations before we've pursued  
19 legal matters. And the extension has worked very  
20 well in the past. You know, up to the last year  
21 we've had a hundred percent collection. So my  
22 recommendation is that we again approve the two  
23 month extension; and I'll follow up with letters  
24 to those outstanding entities. So the new  
25 deadline would be October 3rd.

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1 MR. FEKETE: Okay. Any questions?

2 (No response.)

3 MR. FEKETE: Motion to approve?

4 MR. HENRY RODRIGUEZ: Motion to approve.

5 MR. ROBINSON: Second.

6 MR. FEKETE: We'll have a roll call vote.

7 Jaylan Robinson?

8 MR. ROBINSON: Yes.

9 MR. FEKETE: John Bakota?

10 MR. BAKOTA: Yes.

11 MR. FEKETE: Henry Rodriguez?

12 MR. HENRY RODRIGUEZ: Yes.

13 MR. FEKETE: Kevin Doyle?

14 (No response.)

15 MR. FEKETE: Ray Lopez?

16 MR. LOPEZ: Yes.

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

18 MR. BAKOTA: Did we do accounts payable?

19 MR. FEKETE: Yes.

20 MR. TREVINO: Yes.

21 MR. BAKOTA: Okay.

22 MR. TREVINO: Yeah, that's usually my cue.

23 MR. FEKETE: Okay. The next item is consent  
24 for PSRB, that's the Plew's legal firm we deal  
25 with in Indianapolis, to represent FMT Consulting.

17

1 Fernando and I had a conversation on this and  
2 I recommended that he get outside help in  
3 reviewing his contractual terms. And we talked  
4 about it and thought that we could contact Plews,  
5 which is a legal firm that's already helping us on  
6 a number of matters and has done a great job for  
7 us. They have sent us a letter acknowledging the  
8 request, and we need to sign it and pass it on to  
9 them. They have assured us that they can maintain  
10 a distinction between the work that they do for us  
11 on board matters and whatever work they do on  
12 behalf of Fernando to keep separate. And so  
13 having gotten that, I would recommend that we  
14 approve this consideration.

15 MR. FEKETE: And Ellen did review the --

16 MS. GREGORY: I'll make a really quick  
17 statement. Basically, if a lawyer is representing  
18 one entity and then considers representing another  
19 entity that has some relationship, there's a  
20 potential conflict of interest. That doesn't mean  
21 that there's an actual conflict of interest in  
22 this case. But when there's a potential conflict  
23 of interest, both parties have to sign a waiver of  
24 the potential conflict of interest, which is what  
25 this letter is. It's a requirement under the

1 professional ethical rules that Plews has to have  
2 it signed, and Fernando has to sign one, that says  
3 we understand that there's a potential conflict of  
4 interest but we think Plews can handle it and not  
5 be biased.

6 MR. BAKOTA: Motion to approve.

7 MR. LOPEZ: Second.

8 MR. FEKETE: I have a second.

9 Jaylan Robinson?

10 MR. ROBINSON: Yes.

11 MR. FEKETE: John Bakota?

12 MR. BAKOTA: Yes.

13 MR. FEKETE: Henry Rodriguez?

14 MR. HENRY RODRIGUEZ: Yes.

15 MR. FEKETE: Kevin Doyle?

16 (No response.)

17 MR. FEKETE: Ray Lopez?

18 MR. LOPEZ: Yes.

19 MR. FEKETE: John Fekete, I vote yes. That  
20 motion is approved.

21 BMO trust report. Mr. Alonzo?

22 MR. ALONZO: Good afternoon. It's been a  
23 while. I want to go through that trust report.  
24 So I'll go through the trust report as far as the  
25 valuations and the distributions that had happened

1 this year. So the total value of trust as of  
2 July 31st is \$4,137,013.95. That was interest  
3 earned of \$175.68 from the past meeting. As far  
4 as the total trust, everything is sitting in that  
5 money market, and that's sort of how we wanted to  
6 do it until so we saw the rates start to move.

7 As far as withdrawals year to date, we have  
8 one distribution of \$398,338.19 from the trust.  
9 So on the positive side, we've seen some rate  
10 movement in the last couple weeks, which we  
11 haven't seen in quite some time and they were  
12 pretty big jumps from nothing to something. So  
13 currently, right now we've got a 13-month CD for  
14 two percent, which is substantially higher than  
15 what the money market is at. So what I would  
16 suggest is between the next board meeting, that we  
17 get together, maybe have a conversation about  
18 shifting some of these funds around, to take a  
19 look at what CDs are available at that time, and  
20 maybe make some movements. Now would be an  
21 opportune time to start doing that. So right now  
22 the long-term rates aren't any better than the  
23 short-term rates. So really it's advisable to  
24 stay short-term at this point until we see the  
25 rate movement happening. I would say short-term

1 or until I see BMO's two or three-year CD start to  
2 go higher. That 13-month is looking pretty good.  
3 So any questions on anything?

4 MR. FEKETE: What was the 13-month rate?

5 MR. ALONZO: 2 percent.

6 MR. FEKETE: Wow. You're right, we haven't  
7 seen numbers like that that in a long time.  
8 That's why I asked you to repeat it.

9 MR. ALONZO: Yeah. It went up like a half  
10 percent to two over night, and that was maybe a  
11 week ago or so or a week and a half ago, if that.  
12 So it's been quite big in a short period of time.  
13 So as far as timing wise, it's probably difficult  
14 to do anything prior to this meeting, but we'll  
15 definitely have some time to discuss this prior to  
16 our next meeting and maybe come back with those  
17 recommendations.

18 MR. FEKETE: Okay. Thank you very much,  
19 David. Are there any questions for Mr. Alonzo?

20 (No response.)

21 MR. LOPEZ: Thanks.

22 MR. FEKETE: Thank you very much.

23 MR. ALONZO: Thank you. Have a good evening.

24 MR. FEKETE: Well get back to you probably  
25 between now and the next meeting.

1 MR. ALONZO: Sounds good.

2 MR. FEKETE: All right. Good.

3 Next order of business is the GLLA, Great  
4 Lakes Legacy Act, and the Grand Cal' junction  
5 reach remedial design project update. I believe  
6 that's Mr. Wescott.

7 MR. WESCOTT: Good evening, everybody. We  
8 continue to work forward. The design drawings,  
9 the final should be all final by the end of this  
10 week, early next week. I got comments back from  
11 Fernando as well as the other project partners.  
12 So they should be done. We have applied for two  
13 of the permits for the project. The 404 permit  
14 and the 401. The 404 is administered by the Corps  
15 of Engineers and the 401 is an IDEM permit. Then  
16 we should apply for a MPDS discharge permit, a  
17 temporary to discharge treated water back into the  
18 Grand Cal' River in the next week or next couple  
19 weeks. EPA is reviewing that. And the  
20 construction and floodway permit, they also should  
21 finish reviewing shortly. And then that will  
22 leave a couple things left, the TSCA work plan  
23 because of the PCBs and a storm water permit, a  
24 rule 5 permit.

25 The specifications are almost done but

1 because of the -- a lot of the language in the  
2 specifications are referring to US EPA and the  
3 contractor, so I think right now I'll put those to  
4 the side because it depends on how the cooperative  
5 agreement, project agreement, turns out. The  
6 contractor might be reporting to someone other  
7 than EPA. So hopefully that's resolved here in  
8 the next 30 days. But the specifications are  
9 almost done. We need to tweak them depending on  
10 how some of the management issues go.

11 Otherwise, things look good. There's a  
12 couple of issues with the City of East Chicago,  
13 but I think they're going to work their issues out  
14 with the site that's adjacent to the river. The  
15 schedule is still fine. I think the expectation  
16 was that EPA would be bidding the project out next  
17 month. That's obviously not going to happen. And  
18 the construction would start April 1st and be done  
19 in October, at least the river work. So the way  
20 things are kind of evolving with the project  
21 agreement or the cooperative agreement -- and it's  
22 still possible the contractor is out there March,  
23 April; but even if there's a delay because of  
24 other things, there's enough room on the back end  
25 that they could do their work all the way up until



1 basically the early -- right before Christmas. So  
2 we should be able to fit everything in next year.  
3 The worse case is they do part of it next year and  
4 then they come back in the spring. But I think  
5 there's still enough wiggle room with all of the  
6 moving parts that's going on to kind of make the  
7 project a 2023 project.

8 MR. TREVINO: Jim, as you know, we're  
9 exploring the concept of the possibility of a  
10 cooperation agreement where the district manages  
11 the work and the money directly and versus the  
12 traditional project agreement path. And part of  
13 exploring that concept is I've had a conversation  
14 with you on whether Tetra Tech would be able to  
15 manage that engineering and construction. I know  
16 you have the capability, but from a manpower  
17 availability standpoint what's your -- I know that  
18 was a week or two ago, but I don't know if you had  
19 a chance to explore that further, and what's your  
20 thoughts on that?

21 MR. WESCOTT: We do. I mean, obviously,  
22 Tetra Tech, locally we have plenty of personnel  
23 and we do this kind of oversight construction  
24 management for both private sector and other  
25 government agencies, whether it be federal like

1 the Corps of Engineers we manage projects for, as  
2 well as EPA, and State of Illinois. So we have a  
3 number of personnel that could assist the district  
4 in managing a project of this size. I mean,  
5 that's what we did on all the other projects that  
6 we managed. Typically, we'll have one or two  
7 people full time at the site, and then we'll have  
8 a couple other people, like myself, who are kind  
9 of supportive from Chicago and probably come to  
10 the site once a week. And so someone like  
11 Fernando is sort of managing -- or someone with  
12 the district managing it here, we can support that  
13 person. So even though it's \$30 million-plus, you  
14 know, the contractor has a lot of assets, so the  
15 oversight needs to be two to four people. You  
16 don't want to have too many because then they're  
17 standing around with their hands in their pockets.  
18 We do have the resources to do it. We have the  
19 experience to do it.

20 MR. FEKETE: As presented to us, this is a  
21 little outside of the ordinary with regard to EPA,  
22 so we're exploring some new territory, so to  
23 speak, and so we want to move carefully. And I  
24 posed the word "cautiously" but we need to move  
25 carefully to make sure everybody is comfortable in

1 accepting this, if we so choose, and so it's  
2 important that we maintain close contact. And if  
3 you have any other suggestions or ideas along the  
4 way, certainly make them known so that we can  
5 advance them again in a careful matter.

6 MR. WESCOTT: Right. I think as the  
7 discussion is going on and I'm still trying to  
8 gather myself what EPA is trying to do -- I have a  
9 big picture what they're trying to do but even me,  
10 in the nuts and bolts level --

11 MR. FEKETE: Definitely is in the details,  
12 yeah.

13 MR. WESCOTT: But when we used to do this for  
14 EPA under a different contract mechanism, what  
15 they're proposing, we kind of did exactly the same  
16 thing. It was pretty seamless. I think one of  
17 the advantages that we do have is one of the  
18 construction contractors that the district would  
19 potentially bid to, which is the ones that EPA  
20 currently has, kind of, prequalified, we know all  
21 of them already. So it would be very easy for us  
22 to kind of -- whoever wins, we already have  
23 relationships with them. Good working relations.  
24 So it would be easy to kind of get going as  
25 opposed to selecting a firm that we don't know or

1 they don't know us. So I'm pretty comfortable  
2 that it's going to work out fine. It's just some  
3 of the details about how money moves around and  
4 the requirements. And like right now, all the  
5 permit applications, EPA is the permit applicant.

6 MR. FEKETE: Right.

7 MR. WESCOTT: That should be okay because  
8 they're going to still be a project partner in  
9 some capacity. You know, it's their money. I'm  
10 assuming that in the details they would probably  
11 stay the permit applicant. But if we need to  
12 amend the permits and make the district the  
13 applicant, that should be okay. But those are the  
14 little things I'm not quite sure how they want to  
15 proceed. But I think in the bigger just comfort  
16 level, you know, we've done this from 2009 to  
17 2018, and all of those projects went very well. I  
18 don't really expect there to be any difference on  
19 this one. I mean, the means and methods are  
20 basically the same. We know the contractors. We  
21 know you guys. We know the people in the City of  
22 East Chicago. We know all the regulators.

23 MR. FEKETE: You've done all the basic  
24 preliminary investigations and --

25 MR. WESCOTT: Right. It's just, like I said,

1 it's just getting -- I think the hardest part is  
2 getting from A to B, right? B to Z is easy. It's  
3 just kind of getting the thing turned around so  
4 that you guys are in charge of getting that --  
5 once that gets going, I think we'll be okay. It's  
6 turning the ship around is where all the struggle  
7 is going to be in the first month or so. But once  
8 we get going, it's going to be fine.

9 MR. FEKETE: When I use the words "we want to  
10 move carefully," it's that very reason, it's just  
11 kind of unusual. Instead of us just being a  
12 stakeholder or a copartner, we're actually taking  
13 a higher level on this.

14 MR. WESCOTT: Right. But Fernando has an  
15 engineering background. We've done it before.  
16 I'm pretty comfortable that it will be fine.

17 MR. BAKOTA: Does Tetra Tech use a bidding  
18 process when choosing contractors?

19 MR. WESCOTT: We have in the past. I mean, I  
20 would think the district would do the same thing.  
21 And I don't want to get in the weeds, but EPA  
22 already has three teams that they -- if they did  
23 it themselves they would pick from the three  
24 teams, and the three teams are all pre qualified.  
25 I know all the teams. They specialize in sediment

1 work. And I think the expectation is the district  
2 would basically, instead of EPA getting costs and  
3 proposals from those three teams, it would just be  
4 the district going to the same three teams that  
5 EPA has already vetted that would work. And  
6 that's probably the easiest path. So you would  
7 get a cost. And then we'd also get like a work  
8 plan, like how they would do the work, just to  
9 make sure somebody isn't proposing something that  
10 isn't permitted or wouldn't fly. But it will be a  
11 best -- I would suggest it be best value, where  
12 they provide a cost and then an approach, and then  
13 you look at the two and pick the one that works  
14 best for you.

15 MR. BAKOTA: There's an engineering cost  
16 prior to that, right?

17 MR. WESCOTT: The engineering cost is kind of  
18 the design. I mean, there would be a cost to  
19 assist the district with kind of putting the  
20 paperwork together and reviewing the proposals.  
21 And then --

22 MR. TREVINO: And construction oversight?

23 MR. WESCOTT: Yes. And then after you select  
24 somebody, there would be the construction  
25 oversight, which goes back to -- it would probably

1 just be one or two people full time and then one  
2 or two people. It wouldn't be a big -- over an  
3 18-month period, it's not a small amount of money  
4 but it isn't a large team of people.

5 MR. BAKOTA: But you project a cost in the  
6 project for the contractor or what you're  
7 engineering study would be for the project?

8 MR. WESCOTT: Well, typically we already have  
9 a proposed engineer estimate for the project.  
10 It's about \$28 million. And I think EPA, my  
11 understanding is they secured a little over  
12 \$30 million overall. Because originally, if EPA  
13 had done it, they were going to, I believe, have  
14 the Corps of Engineers do the oversight. So EPA  
15 would have paid the Corps of Engineers to go out  
16 and watch it. In this case, it will be more than  
17 likely the district is paying, kind of using EPA's  
18 money. So instead of the Corps, it's us, right?

19 The oversight -- I'd have to work out the  
20 details, but a rule of thumb is about five percent  
21 in construction. So if it's \$28 million, you  
22 figure the oversight is probably \$1.4 million.  
23 And that's for the people and the analytical --  
24 because we are doing air monitoring and doing some  
25 confirmatory sampling, and it's every day.

1 Because the contractor is probably going to work  
2 12 how days Monday through Friday. So they're out  
3 there 60 hours a week, and the oversight has to be  
4 out there 60 hours a week. I don't know if that  
5 answered your question.

6 MR. BAKOTA: Yeah.

7 MR. WESCOTT: So I'm comfortable with it.  
8 Like I said, it's going to be -- the next 60 days  
9 are going to be more difficult than the next 12  
10 months.

11 MR. TREVINO: That's a good point. That's  
12 the upfront planning and coordinating something  
13 that we've never done before and they've never  
14 done before.

15 MR. WESCOTT: Right. We've done a lot of  
16 this, too. So there are ways we can assist. It's  
17 going to be the next two to three months is where  
18 most of the effort -- and then it should get easy.  
19 Once you pick somebody, the contractors know what  
20 they're doing, we know what we are doing, it  
21 should be easy after that.

22 MR. FEKETE: Any more questions for  
23 Mr. Wescott?

24 MR. LOPEZ: He always answers the questions.

25 MR. FEKETE: Thank you very much.



1 U.S. Army Corps of Engineers board report.

2 Mr. Nguyen?

3 MR. NGUYEN: Yes. Mike Nguyen with the Army  
4 Corps of Engineers. This will be a quick report.  
5 For the dredging contract, we're still preparing  
6 the close out. I think we still need to send it  
7 to our chief of contracting to sign off. And at  
8 that point, then the project will be fiscally  
9 closed.

10 For clean harbor we're still waiting for the  
11 contractor to mobilize their water treatment  
12 plants. I think the latest is probably by the end  
13 of this month if not the beginning of September.

14 And for the dike raise construction, the  
15 construction is ongoing. Nothing to report on the  
16 oil coordination. The LERRD credit, we finalized  
17 the LERRD credit in July and we're working to  
18 close out the original cost share agreement with  
19 the LERRD credits based on the amended PCA. And  
20 that's all I have.

21 MR. FEKETE: Okay. Any questions?

22 (No response.)

23 MR. FEKETE: Thank you, Mr. Nguyen. Welcome  
24 back. We missed you last month.

25 MR. NGUYEN: Thanks.

1 MR. FEKETE: The next order of business is  
2 the Attorney Ellen Gregory report.

3 MS. GREGORY: Ellen Gregory, with Ellen  
4 Gregory Law.

5 The items that I've been working on in terms  
6 of the legal matters include the property transfer  
7 with BP. We have an in-person meeting scheduled  
8 for September 1st to go through the draft  
9 settlement agreement. We've gone through a couple  
10 versus already and hope to make a lot of progress  
11 on the agreement after the in-person meeting which  
12 will be here in East Chicago.

13 The Grand Cal' River Great Lakes Legacy Act  
14 project, I've been working with Fernando on the  
15 legal aspects of the EPA versus cooperation  
16 agreement. It's been discussed earlier in the  
17 meeting. I am working with Fernando on the user  
18 fees. There's been one appeal, which there will  
19 be reporting on next month. And then the tipping  
20 fee agreement amendment, which is just about  
21 finished -- probably by the next board meeting  
22 we'll have a final document.

23 And that's it in terms of the legal matters.

24 MR. FEKETE: Any questions?

25 (No response.)

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

3 (No response.)

4 MR. FEKETE: Any public comments?

5 (No response.)

6 MR. FEKETE: Hearing none, the next board  
7 meeting will be September 15, 2022, at 5:00 p.m.  
8 at this facility.

9 This meeting is now adjourned. The time is  
10 5:53 p.m.

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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 Special Meeting, and that the testimony was then reduced to typewriting from my original shorthand notes, and the foregoing transcript is a true and accurate record of the proceedings.

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

Dated this 14th day of September, 2022.

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



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