

In the Matter Of:
East Chicago Waterway Management

DISTRICT BOARD OF DIRECTORS' MEETING

February 17, 2021



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 **FEBRUARY 17, 2021**

11 **5:00 p.m.**
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15 **Transcript of the East Chicago Waterway Management**
16 **District Board of Directors' Meeting had in the**
17 **above-entitled matter on the 17th day of February,**
18 **2021, at 5:00 p.m., via Zoom Video/Telephone**
19 **conference, before Dawn M. Iseminger, RPR, and**
20 **Notary Public, within and for the County of**
21 **Porter, State of Indiana.**

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

2 JOHN FEKETE, President

3 KEVIN DOYLE, Vice President

4 RAYMOND LOPEZ, SR., Treasurer and Fiscal Officer

5 HENRY RODRIGUEZ, Secretary

6 PATRICK RODRIGUEZ, Board Member

7 FERNANDO TREVINO, FMT Consulting

8 ELLEN GREGORY, Ellen Gregory Law

9 Also Present: Tim Anderson, CliftonLarsonAllen

10 David Alonzo, BMO Harris Bank

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1 MR. TREVINO: I'd like to call to order the
2 East Chicago Waterway Management District Board
3 Meeting. Today's date is February 17, 2021, and
4 the time is 5:00. The first order is roll call.

5 John Bakota?

6 (No response).

7 MR. FEKETE: Henry Rodriguez?

8 MR. HENRY RODRIGUEZ: Here.

9 MR. FEKETE: Patrick Rodriguez?

10 MR. PATRICK RODRIGUEZ: Here.

11 MR. FEKETE: Ted Zagar?

12 (No response).

13 MR. FEKETE: Kevin Doyle?

14 MR. DOYLE: Here.

15 MR. FEKETE: Ray Lopez?

16 MR. LOPEZ: Here.

17 MR. FEKETE: John Fekete, here.

18 Okay, we have a quorum.

19 The next order of business is the
20 executive director report, Mr. Trevino.

21 MR. TREVINO: Fernando Trevino, with FMT
22 Consulting. I'd like to start off by going over
23 the contents of your board packet. You have the
24 board agenda for today's board meeting. You have
25 a copy of the public notice that was e-mailed out.

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1 You have the board minutes for the January 20,
2 2021, board meeting. You have a copy of the First
3 Merchants Bank statement ending in 608 and 616.
4 You also have a copy of the First Merchant CD
5 report with a run date of February 15th. You have
6 a letter of direction from the District to BMO
7 Harris related to the 2021 budget. And you also
8 have a letter of authorization to First Merchants
9 Bank from the district related to the 2021 budget.

10 You have a copy of my contract time sheet
11 with today's date, February 17th. You have
12 BMO's ECI trust report dated January 31, 2021.

13 You have Attorney Ellen Gregory's report
14 with a revision date of February 15th. And
15 last but not least, you have the Army Corps of
16 Engineers report to the board with the report
17 date of February 17th. And that concludes the
18 items in your board packet.

19 I'd like to go over a few items. An
20 update for the board; ongoing meetings with the
21 city, the mayor, and BP related to the south
22 tank farm redevelopment and sheet pile wall
23 project are ongoing.

24 The time sheet attachment for the FMT
25 Consulting contract is on the agenda for

1 approval consideration. This amendment is for
2 the tracking of time related to a BP task for
3 the possible sale of the district properties.

4 Regarding the budget, you might recall
5 that we've already received the EPA and IDEM
6 trust approval letters for the 2021 budget.
7 And as is customary, at the end of the year we
8 went through a 2020 yearend cash balance
9 calculation of your budget. I prepared it and
10 reviewed it with our accountant, Tim Anderson.
11 And he's reviewed it and agrees with the
12 calculations. Those amounts were credited to
13 the 2021 budget. The next step is to transfer
14 the balance needed to finance the 2021 budget
15 after applying those credits, and those two
16 transfer letters are in your packet related to
17 today's agenda for approval consideration. And
18 one letter is related to the trust dollars, and
19 the other is non-trust dollars. I plan to
20 start working on the 2021 user fee packets. We
21 usually send those sometime in April or May.
22 So we're on track to send those out on time.

23 Regarding real estate, we're working on
24 finalizing two appraisal reports related to the
25 south tank farm for the west shore and NIPSCO

1 lease easements, and I'm hoping to have the
2 appraisal reports by the next board meeting,
3 and the easement and lease agreements to
4 follow. And if we can, we'll try to have those
5 done by the March meeting as well.

6 And then we also start planning to work on
7 the agreement for the sale of the property to
8 BP.

9 Regarding the PCA resolution, the Army
10 Corps of Engineers headquarters continues to
11 review the amended PCA. The current draft as
12 it is, we both agreed in concept, the Corps and
13 the district. It just needs to go to their
14 approval process. And the current sentiment
15 from the Corps is that the change in
16 presidential administration won't impact the
17 approval process, and that's our hope.

18 Regarding the Great Lakes Legacy Act
19 project, I'll start with the Lake George canal
20 middle and east remediation.

21 The south tank farm sheet pile wall design
22 is ongoing. We continue to assess potential
23 redevelopment of the south tank farm. The city
24 informed us that they can handle the projected
25 90 gallons per minute from the south tank farm

1 affiliated with the groundwater management. So
2 the next step is for BP to submit groundwater
3 chemistry to the city to evaluate any
4 pretreatment requirements and any fees.

5 Phase one dredging of the Lake George
6 canal east was completed on December 13th. The
7 Lake George canal metal cap design is ongoing.
8 The west tank farm and south tank farm removal
9 project is expected to recommence in June of
10 this year. I started working on the 2020
11 yearend work-in kind report, and the project
12 team continues to work on the fourth
13 modification to the project agreement. And we
14 also plan to have a meeting to discuss
15 community outreach efforts related to the
16 project.

17 Regarding the remediation of the Indiana
18 Harbor ship canal and Grand Cal' River area, we
19 continue to have conversations with EPA on
20 preparing a new PA for the remediation of that
21 section of waterway.

22 The Canal Street bridge project, the
23 remedy of the dolphins; the design is ongoing.
24 We met with one of the stakeholders in the last
25 week or two, which was BP. They wanted to

1 review our remedy option, and so we reviewed
2 that option with them. And the major concern
3 they had was that we weren't narrowing the
4 passageway of that area of the canal; and we're
5 not. Our remedy is to install two dolphins
6 past that passageway.

7 That concludes my report.

8 Attorney Ellen Gregory will be giving an
9 update on various legal matters.

10 MR. FEKETE: Okay. Thank you. Any questions
11 for Mr. Trevino?

12 (No response.)

13 MR. FEKETE: Hearing none, the next order of
14 business is the approval consideration of the
15 board meeting notes for January 20th, 2021. I'll
16 entertain a motion to approve.

17 MR. LOPEZ: Motion to approve.

18 MR. FEKETE: Do we have a second?

19 MR. HENRY RODRIGUEZ: Second.

20 MR. FEKETE: Roll call.

21 John Bakota?

22 (No response).

23 MR. FEKETE: Patrick Rodriguez?

24 MR. PATRICK RODRIGUEZ: Yes.

25 MR. FEKETE: Ted Zagar?

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1 (No response).

2 MR. FEKETE: Kevin Doyle?

3 MR. DOYLE: Yes.

4 MR. FEKETE: Ray Lopez?

5 MR. LOPEZ: Yes.

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

8 On to the accounting consultant report,
9 Mr. Anderson.

10 MR. ANDERSON: Yes. Can you guys hear me
11 okay?

12 MR. FEKETE: Yes.

13 MR. ANDERSON: Fernando, you don't have a
14 copy on your screen? Or we're not going to do
15 that, right?

16 MR. TREVINO: We could, but we usually don't
17 because of the financial information.

18 MR. ANDERSON: That's fine. Okay.

19 But you guys all have a copy of the
20 report?

21 MR. FEKETE: Yeah.

22 MR. ANDERSON: Okay. Page 2 is the cash
23 receipts and cash disbursements for the month of
24 January. The receipts are limited to the interest
25 income earned on the operating account and the

1 user fee account for January as \$201. And then we
2 wrote checks for \$32,000, which was basically the
3 accounts payable from 2020. So this is pretty
4 much the only month of the year where we have a
5 decrease in cash because we're paying payables
6 from 2020 and we have not yet done the transfer
7 from the trust account.

8 So we started the year with \$3,911,000 in
9 those two accounts. And at the end of January
10 we have 3 million 878 dollars in those
11 accounts. On the bottom of Page 2, it's broken
12 down. There's \$689,000 in the operating
13 account, which is where we write the checks for
14 budget. And then there's \$1.6 million in the
15 user fee account. And then we've got a CD at
16 one and a half, which is part of the user fee
17 money. So there's \$3.8 million between our
18 general operating account, which is used for
19 budget, and our user fee accounts. That does
20 not include any money from the trust. That's
21 reported on separately. This is just those two
22 accounts.

23 Page 3 just shows the ins and outs of both
24 of those checking accounts, not really much
25 activity. Again, paid down the payables from

1 2020; and then now we're going into 2021
2 budget.

3 Page 4 shows the available budget at the
4 end of January. And usually this number in the
5 lower right, the right-most-column at the
6 bottom, usually that number approximates what's
7 in the operating account. But as Fernando
8 alluded to, we have not done those transfers
9 yet. So this January is the only month where
10 that unused budget won't tie to what's in the
11 checking, obviously, because we haven't done
12 the transfers yet.

13 But this being January, we've paid the
14 payables down with the \$32,000, \$30,000. And
15 then you've got a claims docket before you
16 today for \$61,000. So that, you know, doesn't
17 even put a dent in the budget on February 17th.
18 But, again, we watch that really closely to
19 make sure we don't exceed budget. And as
20 Fernando alluded to, he did do the cash balance
21 exercise where you figure out how much of your
22 cash left at December 31st, and I would just
23 like to give Fernando some props on, you know,
24 we've made a fine accountant out of this guy.
25 I know he's an engineer, but he does a couple

1 of calculations each year on this and then with
2 the cost share report. And he did a really
3 nice job and sort of simplified how we go about
4 doing this each year and I just wanted to say
5 that.

6 So we've got plenty of budget left on
7 these expense items that you have for your
8 claims docket today.

9 And does anybody have any questions about
10 the report or how the cash transfers work?

11 MR. FEKETE: No.

12 MR. TREVINO: I had a question, Tim.

13 MR. ANDERSON: Yes.

14 MR. TREVINO: I hope I don't mess anything up
15 after you complimented me nicely.

16 MR. ANDERSON: Yeah.

17 MR. TREVINO: I'm just wondering if this
18 needs -- so if you look at the cash distributions.

19 MR. ANDERSON: Disbursements?

20 MR. TREVINO: Disbursements, January.

21 MR. ANDERSON: Uh-huh.

22 MR. TREVINO: I thought those were against
23 the 2020 budget.

24 THE COURT: Everything except the 2100. So
25 the difference between the \$32,663.98 and

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1 \$35,063.98 is that \$2,100; and that was 2021 rent.

2 MR. TREVINO: Yeah. The \$2,100 is for the
3 2021 budget and the other is not.

4 MR. ANDERSON: That's why those two numbers
5 aren't going to be the same on that page. But I
6 appreciate the question.

7 MR. TREVINO: All right. Thanks for
8 clarifying that. I appreciate it.

9 MR. ANDERSON: That's all I got, Mr. Fekete.

10 MR. FEKETE: Thank you very much. Any other
11 questions from anybody?

12 (No response.)

13 MR. FEKETE: Again, thank you, Mr. Anderson.

14 MR. ANDERSON: Thank you.

15 MR. LOPEZ: Thanks, Tim.

16 MR. FEKETE: The next order of business is
17 the approval consideration for the accounts
18 payable voucher, which we have, and it's dated
19 February 17, 2021. I'll entertain a motion.

20 MR. HENRY RODRIGUEZ: I'll make a motion to
21 approve.

22 MR. FEKETE: Do we have a second?

23 MR. DOYLE: Second.

24 MR. FEKETE: Okay. Roll call.

25 John Bakota?

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1 (No response.)

2 MR. FEKETE: Henry Rodriguez?

3 MR. HENRY RODRIGUEZ: Yes.

4 MR. FEKETE: Patrick Rodriguez?

5 MR. PATRICK RODRIGUEZ: Yes.

6 MR. FEKETE: Ted Zagar?

7 (No response.)

8 MR. FEKETE: Kevin Doyle?

9 MR. DOYLE: Yes.

10 MR. FEKETE: Ray Lopez?

11 MR. LOPEZ: Yes.

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

13 That motion is approved.

14 The next order of business is the approval
15 consideration for the FMT Consulting contract
16 exhibit, the minor change or clarification on
17 the time sheet. I'll entertain a motion to
18 approve.

19 MR. LOPEZ: Motion to approve.

20 MR. FEKETE: What was that? State your name.

21 Who approved it?

22 MR. PATRICK RODRIGUEZ: That was Ray.

23 MR. FEKETE: Okay. Ray Lopez approved. Do I
24 have a second?

25 MR. HENRY RODRIGUEZ: Second, Henry

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1 Rodriguez.

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

3 Any discussion?

4 (No response.)

5 MR. FEKETE: Okay. We'll have a roll call
6 vote on that.

7 John Bakota?

8 (No response.)

9 MR. FEKETE: Henry Rodriguez?

10 MR. HENRY RODRIGUEZ: Yes.

11 MR. FEKETE: Patrick Rodriguez?

12 MR. PATRICK RODRIGUEZ: Yes.

13 MR. FEKETE: Ted Zagar?

14 (No response.)

15 MR. FEKETE: Kevin Doyle?

16 MR. DOYLE: Yes.

17 MR. FEKETE: Ray Lopez?

18 MR. LOPEZ: Yes.

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

21 The next order of business is the approval
22 consideration for the budget trust and
23 non-trust transfer request. I'll entertain a
24 motion.

25 MR. HENRY RODRIGUEZ: I make a motion.

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1 MR. FEKETE: Okay. Henry. And do I have a
2 second?

3 MR. LOPEZ: Lopez seconds.

4 MR. FEKETE: Is that Ray?

5 MR. LOPEZ: Yeah, that's me. Lopez seconds.

6 MR. TREVINO: John, do you want me to read
7 the amounts for the record?

8 MR. FEKETE: I think we would. Yeah, go
9 ahead.

10 MR. TREVINO: Okay. So the letter
11 authorization to BMO Harris Bank is in the
12 amount -- or from -- the letter is to them for
13 them to release \$250,013.11, and that is to go to
14 our operating account at First Merchants. And
15 then the second letter amount to First Merchants
16 for them to transfer into our First Merchants
17 operating account is in the amount of \$743,081.39.

18 MR. FEKETE: Okay. I know that everybody has
19 that in front of them, but it was good to have
20 that in the record.

21 So having had a motion and a second, we'll
22 have a roll call vote. John Bakota?

23 (No response.)

24 MR. FEKETE: Henry Rodriguez?

25 MR. HENRY RODRIGUEZ: Yes.

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1 MR. FEKETE: Patrick Rodriguez?

2 MR. PATRICK RODRIGUEZ: Yes.

3 MR. FEKETE: Ted Zagar?

4 (No response.)

5 MR. FEKETE: Kevin Doyle?

6 MR. DOYLE: Yes.

7 MR. FEKETE: Ray Lopez?

8 MR. LOPEZ: Yes.

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

10 And that motion is approved.

11 Next order of business is the BMO Harris
12 Bank trust report, Mr. Alonzo.

13 MR. ALONZO: David Alonzo here with BMO
14 Harris. I'm going to run through the report.
15 There's not a whole lot of changes here within the
16 last month.

17 So Page 1 goes through the historical
18 chart. Page 2 shows the value of the trust at
19 \$4,574,454. That was a gain of about \$71 from
20 the last meeting. The distributions total for
21 last year were \$276,789.

22 Page 3 is going to go through the accounts
23 that we have. We only have three, which is the
24 cash account; and then the two certificates. I
25 was having issues. I switched laptops. My

1 excel on the old laptop was an old version. My
2 new one is a new version; so I was trying to
3 get everything right. So I know the chart
4 needs to be updated.

5 We do have \$874,454 in the cash account.
6 So based on the number that Fernando had
7 mentioned that will come out of that account,
8 that will leave us with about \$624,000. So
9 we've got more than enough that we typically
10 keep in there. So that's good if things come
11 up. The \$71 difference is from the interest
12 from the money market account. And just as a
13 refresher, the 11-month and 13-month CDs that
14 we have, interest is not paid on those until
15 maturity. So until those come due, we're not
16 going to see any major increases in interest
17 until those come due that I'll be referencing
18 as far as gains. So until those come due,
19 we'll just be seeing interest from the money
20 market accumulating on a monthly basis.

21 Beyond that, we don't have anything coming
22 due until July 25th of this year.
23 Unfortunately, rates have gotten worse since
24 we've renewed the last CD. We're sitting at --
25 right now a 13-month CD is at, I believe,

1 .2 percent. So it's not getting much better.

2 But who knows, maybe in a few months it will.

3 But other than that, did anybody have any
4 questions?

5 (No response.)

6 MR. FEKETE: No.

7 MR. ALONZO: Fernando, 1099s, I'm trying to
8 get those out to you here. Hang tight as I track
9 those down. It's not as easy as you think. I
10 don't have access to those on my end. So I had to
11 submit a request for those. Once I get those,
12 I'll get those out to you.

13 MR. TREVINO: I've been waiting for them,
14 checking the mailbox, and just haven't received
15 them.

16 MR. ALONZO: Okay. That's strange that
17 they're not -- you guys aren't getting them over
18 there. I'll have to make sure that we have the
19 mailing address. I know before, that was an
20 issue, but that should be -- once I get them, I'll
21 get them out to you and I'll forward them up to
22 you.

23 MR. TREVINO: Double check the address, or
24 make sure that things aren't being returned,
25 because I know we did have that issue a while back

1 when we didn't have a mailbox. But we've had a
2 mailbox for a couple years now, I think.

3 MR. ALONZO: I'll confirm that tomorrow in
4 the office.

5 But other than that, nothing too exciting
6 coming up until mid year. And then we'll have
7 to see where rates are. And whenever you're
8 ready for that distribution notice, you can
9 forward that up to me, Fernando. Then I'll be
10 more than happy to run the check over to First
11 Merchants if we need to.

12 MR. TREVINO: All right. Thank you.

13 MR. FEKETE: Thank you, Mr. Alonzo.

14 MR. ALONZO: No problem.

15 MR. FEKETE: Next order of business is the
16 Attorney Ellen Gregory report.

17 MS. GREGORY: Ellen Gregory, with Ellen
18 Gregory Law. The PCA, as Fernando had mentioned,
19 is still at Army Corps headquarters. I don't
20 anticipate there will be issues with the Corps
21 approving the language as it stood when it went to
22 headquarters. But we are just waiting on a
23 response from them.

24 The property transfer matter; we are
25 having periodic phone calls with BP. Jim

1 Wieser is taking the lead from our end on the
2 real estate work. We're still trying to
3 identify which parcels will be part of that
4 transaction, and we're going to be beginning
5 work on drafting up the sales agreement for the
6 transfer of those parcels to BP.

7 We have periodic calls with EPA and IDEM
8 regarding RICRA site closeout for all of the
9 ECI parcels. BP and Corps are also on those
10 periodic calls.

11 The GLLA project; a fourth modification to
12 the PA, the project agreement, has been
13 distributed to the group and we're going to be
14 having a conference call on Monday to discuss
15 the latest version that was distributed by
16 Natalie Mills of the Army Corps of Engineers.
17 We're also having periodic calls regarding site
18 access for the Great Lakes Legacy east and
19 middle work. Most of those parcels are owned
20 by BP and ECWMD, but we're checking to be sure
21 that there aren't easements or other access
22 issues there. And we'll be putting together
23 access agreements related to the properties
24 where access is required.

25 And then finally, the Grand Cal project;

1 we continue to have discussions with EPA
2 regarding that project and will likely be
3 moving to drafting up a new project agreement
4 for that work in the near term.

5 And that's all I have.

6 MR. FEKETE: Any questions for Miss Gregory?

7 (No response.)

8 MR. FEKETE: Okay. Hearing none, the next
9 order -- we do not have Mike Nguyen on the phone,
10 right? So there's no Army Corps?

11 MR. TREVINO: Right. There is a report in
12 your packet, but I think he announced at the last
13 meeting that he wouldn't be attending until they
14 had fieldwork or dredging going on.

15 MR. FEKETE: Did you want to hit the
16 highlights on the packet for us, for the record?

17 MR. TREVINO: Sure. Regarding the CDF
18 construction, the contractor has shut down
19 dredging operations, which is Kokosing & O'Brien &
20 Gere. And they have suspended water treatment for
21 the season. Water treatment will resume in the
22 spring.

23 Phase two dike raising; the contractor is
24 currently preparing their schedule and other
25 submittals for Corps review. Construction is

1 scheduled to start in the late spring, early
2 summer time frame.

3 Regarding the CDF documentation; oil boom
4 coordination, nothing significant to report.
5 PCA and non-federal funding PCA revisions; the
6 Corp and the district reached an agreement on
7 the PCA amendment, and the Corp submitted the
8 PCA amendment package to division on
9 August 27th. The PCA amendment package is
10 currently being forwarded to the Army Corps
11 headquarters for review.

12 The dredging of the Lake George area was
13 completed on December 13. The total cubic yard
14 removal was 23,804 cubic yards.

15 Regarding Feddeler parcel resolution,
16 Corps real estate staff requested additional
17 information regarding the Lerr credits. That's
18 L-e-r-r, credits. And received it on
19 July 20th -- or July of 2020. And they are
20 currently reviewing the information.

21 The Parkway improvement project; that was
22 completed in April of 2020, and they're working
23 to close out the contract.

24 And that's the summary from the Corps
25 report.

1 MR. FEKETE: Any questions?

2 (No response.)

3 MR. FEKETE: Thank you very much.

4 Any new business to come before the board?

5 (No response.)

6 MR. FEKETE: Any other business?

7 (No response.)

8 MR. FEKETE: Any public comments?

9 (No response.)

10 MR. FEKETE: Hearing none, our next board
11 meeting will be March 17, 2021, 5:00 p.m., and in
12 all likelihood will be another Zoom meeting.

13 I want to thank everybody for
14 participating, and everyone have a good day.
15 I'll entertain a motion for adjournment.

16 MR. HENRY RODRIGUEZ: Motion to adjourn.

17 MR. FEKETE: Do I have a second?

18 MR. DOYLE: Second.

19 MR. FEKETE: Okay. All in favor, signify by
20 saying aye.

21 (All signify aye.)

22 (Meeting adjourned.)

23

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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 16th day of March, 2021.



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



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