

Southwestern Illinois Flood Prevention District Council

Annual Report

For the Fiscal Year Ending September 30, 2010

Introduction

This report is furnished to the public and to county boards of St. Clair, Madison and Monroe counties in compliance with the provisions of 70 ILCS 750 Sec. 40. The statute requires that a report be submitted annually that details the activities of the district.

The Board of Directors of the Southwestern Illinois Flood Prevention District Council met for the first time on June 11, 2009. Under the terms of an intergovernmental agreement, the Board consisted of three members each from St. Clair, Madison and Monroe counties. These members were also members of the flood prevention district boards in each of their respective counties. During that initial meeting, the Board elected officers, extended an employment offer to fill the position of Chief Supervisor of Construction and the Works, and approved a fiscal agency and administrative services agreement with the East-West Gateway Council of Governments.

The Board met twice a month for three months and every month thereafter during the course of the year. Meetings are held on the third Wednesday of every month at 7:30 am. The Council has established an office at the building owned by the Metro-East Park and Recreation District in Collinsville. The organization has one employee, whose salary and benefits are provided through the Council's fiscal agent, the East-West Council of Governments.

Background

The Federal Emergency Management Agency (FEMA) is adopting new flood insurance rate maps across the country. As part of that process, FEMA, with the help of the U.S. Army Corps of Engineers (USACE), is assessing the condition and adequacy of existing levees to protect against a flood that has a 1% chance of being equaled or exceeded in any single year (commonly referred to as a 100-year flood or a base flood). Although the Illinois levees in question were federally authorized and built to protect against a 500-year flood, the USACE announced in August of 2007 that there were design deficiencies and reconstruction needs that prevented them from "certifying" that these levees could protect against a base flood. This conclusion by the USACE led to FEMA's decision announced August 2007 to deaccredit the levee systems in our area and show the entire American Bottom, an area of 174 square miles, 156,000 people and 60,000 jobs, as subject to flooding as if the levee system did not exist at all. For this area, which is the industrial core of the St. Louis region, the economic effects will be devastating.

While the levee systems were built by the USACE generally in the 1940s using design standards in place at the time, the current “design deficiencies” are measured relative to current engineering standards, so the issue is not a failure of adequate maintenance by local levee districts, but primarily a change in engineering standards and in the procedures for measuring risk. Unfortunately, even though the levees were built by the federal government using standards in place at the time, rebuilding the levees is largely a local responsibility.

There are a variety of standards for which levee systems are typically designed. The U.S. Army Corps of Engineers originally designed and built the area’s levee systems to a standard authorized by Congress in the 1040’s and 1950’s to achieve a level of protection from a Mississippi River water elevation of 52’ plus 2’ of freeboard – commonly known as the 500-year flood. This is the only benchmark that the Corps is authorized by Congress to use in design and construction of our levee systems. The Corps has a second set of standards, which are used to determine eligibility for emergency assistance by the Corps in the event of a flood under the provisions of Public Law 84-99. These standards primarily relate to maintenance of existing federal levee systems, which are inspected annually to determine compliance. However, the Federal Emergency Management Agency sets its own standards as part of the national flood insurance program for areas to qualify to identify areas as at lower risk of flooding and for providing low cost flood insurance. Failure to meet the FEMA standard subjects homeowners and businesses to mandatory and high-cost flood insurance and severe restrictions on building and development. The FEMA standard is defined in regulation, 44CFR 65.10, and is generally equivalent to the 100-year flood elevation.

While maintaining compliance with all of the above described standard is the ongoing goal of the Corps, of the levee districts, and the Council, the immediate goals are to demonstrate compliance with the FEMA standard and for the PL 84-99 program, so that the immediate economic threat to the region can be avoided.

Activities of the FPD Council 2009-2010

The immediate mission of the Southwestern Illinois Flood Prevention District Council is twofold: To maintain FEMA accreditation to the levee systems in the area, and to reduce the economic hardship of area residents and businesses during any temporary period of deaccreditation. Over the last year there has been great progress in achieving two important near-term goals: developing a project plan, implementation strategy, and cost estimate, and; securing regulatory relief to reduce economic impacts during the period when the project is under construction and accreditation is sought.

After some extensive fact gathering, the Council concluded that following the traditional path for levee system improvements done through the U.S. Army Corps would be neither timely nor cost-effective. In a May 2009 presentation by the Corps to area leaders, Col. Thomas O’Hara presented a project schedule showing project completion occurring in about 35 years, assuming typical levels of federal funding and following traditional federal processes of design and construction. The cost

estimate for the Corps proposal was as much \$500 million, with the cost of inflation over the lengthy time period potentially increasing the project cost well beyond that estimate. The Council concluded that such an outcome would be disastrous for the area and not in keeping with the Council's mission.

In September 2009, the Chief Supervisor presented a proposal for achieving FEMA accreditation in a much shorter time and at a lower cost. This proposal called for the Council to undertake most levee improvements independently without relying on either federal funding or on the Corps for design and construction. The Board endorsed this approach and began the process of advancing the project that has unfolded this fiscal year. While elements of the plan have been adjusted during the year, the basic process has not changed. The following specific tasks were accomplished during the year to meet the first part of the mission of the Council, to maintain FEMA accreditation for the levee systems in the area:

1. Under contract to the Council, a consulting firm is conducting a comprehensive certification inspection of the levee system to provide information to document compliance with FEMA standards for flood protection systems. This is the first such inspection ever done by any agency for the metro-east levees and it will serve as a basis to define any problems that exist with the levee systems and to design improvements to those systems. Completion of the inspection has been delayed because of continued high water on the Mississippi River over the summer, but it should be complete in late October.
2. The Council conducted a competitive solicitation for private firms to design and manage construction of levee improvements and to provide certification documentation to FEMA. This was done through a two-stage solicitation. A request-for-qualifications was issued in November 2009 to identify firms that had the necessary technical qualifications for design and construction of levee systems and would agree to certify them once improvements are made. Three teams of firms were selected from the respondents to that RFQ to submit detailed proposals, including conceptual designs and cost estimates. These teams were paid a stipend to prepare their proposals and were charged with developing cost-effective design concepts, with the principal goal of achieving levee certification at the lowest cost and in the shortest time. The proposals were received in May 2009, after which the Council conducted a thorough review and interview process and, at the June meeting, selected a consulting team for the work. The proposals clearly demonstrated that significant improvements to the levee systems could be made to clearly demonstrate compliance with FEMA standards for an amount far less than suggested by the Corps of Engineers and in a time frame well within the Council's goal of five years. The Council will enter into contract in late

August with the selected team to design levee improvements and manage construction of those improvements.

3. A financial advisor was selected through a competitive process to advise the Council on the best strategy to leverage the FPD sales tax revenues to produce the greatest level of funding for construction of levee improvements. The advisor worked with the counties, the levee districts and the Council to develop a proposal to issue sales tax revenue bonds to support the Council's work. The initial bond issue will be for \$50-\$80 million and likely take place in October 2010, and will take advantage of some significant opportunities available under the federal American Recovery and Reinvestment Act. Current estimates are that the Council can raise about \$160 million for construction over a five-year period. The Council will continue to seek state and federal grants to supplement local sales tax funds. However, the events of the last year suggest that the immediate goal of levee accreditation by FEMA can be attained solely through funding derived from FPD sales tax revenues. Any additional funds will be used to further improve the levee systems to reach the 500-year standard and to provide for ongoing maintenance of the levee improvements made by the Council.
4. The Council has continued to work with the Corps of Engineers to develop the project development documents necessary to qualify all of the levee improvement projects in the area (described as "design deficiency corrections" by the Corps) for federal funding. While the immediate improvements to achieve FEMA standards will likely be done by the Council without the benefit of federal funding, longer term improvements to maintain the 500-year standard will more likely be federally funded. It is the Council's objective to use the local investment in the levee systems as matching funds for future federal appropriations, so it is essential that the federal projects be authorized. The federal project will serve as a framework for long-term improvements to the levee systems that will maintain compliance with all applicable safety standards.

The Council's financial advisors have been making preparations for a bond issue scheduled for sometime later this year. About \$10 million is collected annually from the flood prevention sales taxes. That sum, together with any revenues from the levee districts should leverage about \$160 million that can be used for construction. The Council does not anticipate seeking any additional local funds for levee improvements, although there may be opportunities to seek state and federal grants to supplement sales tax receipts and borrowing.

There has been some success in securing legislative and regulatory relief from the negative economic and financial impacts of levee deaccreditation. The Illinois General Assembly has passed legislation that would reduce some of the

development restrictions that are imposed by the Executive Order on Floodplain Management issued in 2006. The Governor signed that legislation in July. FEMA has recently announced that homeowners and businesses in newly remapped special flood hazard areas would be eligible to receive preferred risk flood insurance policies at reduced rates for up to two years, and Congressman Costello continues to pursue legislation that would impose a moratorium on mandatory flood insurance in remapped areas for up to five years. Estimates prepared for the FPD Council indicate that flood insurance premiums could amount to \$50 million annually for the area if the American Bottom is classified as a special flood hazard area and we do not get any relief from mandatory flood insurance.

The Council continues to believe that the decision made by FEMA in 2007 to deaccredit the area's levee systems was not based on scientific or technical information as required by law, and neither the Corps of Engineers nor FEMA is able to produce any such information that was used in making this critical decision. The Council is exploring all legal options to overturn this decision and provide sufficient time to get the levee systems certified and accredited.

In summary, tremendous progress has been made in the last year to address the critical problem of flood protection in our area. Many challenges remain, but in the next few months the Council should have a realistic plan and schedule, with financing in place, to restore confidence in our flood protection systems and remove the uncertainty that is so damaging to the people who live, work, and do business in Southwestern Illinois.