



Memo to: Board of Directors

From: Les Sterman

Subject: Program Status Report

Date: July 19, 2010

Design

Negotiations with AMEC Earth & Environmental on a contract for design, program administration and construction management are ongoing. AMEC is reworking their team to include additional local participation as directed by the Board's action at the June meeting. A key issue for the Council is maintaining a meaningful oversight role in the ongoing work of the consultants and contractors and establishing adequate accountability for work progress, accurate invoicing, etc. We want to establish an effective mechanism to recognize and solve problems quickly. I have identified an individual who may be able to help in putting the contract documents together that will meet our goals. Barring unforeseen problems, it is likely that a contract can be approved at the August Board meeting.

Inspection

The levee certification inspection being conducted by a team led by AMEC Earth & Environmental has experienced delays because of continuing high water levels in the Mississippi River. In particular, video inspection of gravity drains and closure structures is not possible when they are under water. I will be recommending a no-cost contract extension to allow adequate time to complete the inspection.

Financing

Requests for proposals for underwriter and underwriter's counsel were issued following the June Board meeting. Proposals have been received and recommendations for selections will be made at the July Board meeting.

We have been monitoring the availability of unused Economic Recovery Zone bond authority, usage of which would reduce the Council's cost of financing. Recently signed state legislation could return unused authority from counties around the state to the Illinois Finance Authority. While the Council previously designated the SW Illinois Development Authority as a conduit issuer for sales tax revenue bonds, it may be necessary to pursue a relationship with the IFA to take advantage of the benefits afforded by the more favorable recovery zone bonds.

Legislation

The Council has advocated for legislation and regulatory action to limit the temporary, but severe, economic consequences of levee deaccreditation including mandatory high cost flood insurance and constraints on building and development.

The House approved flood insurance reform legislation, HB 5114, co-sponsored by Congressman Costello, that provides for a five year moratorium on mandatory flood insurance. It does not prevent the issuance of new flood insurance rate maps. The prospects in the Senate are uncertain, but we will continue to work with our senators to support this important legislation.

I am continuing to pursue, with the assistance of the Corps of Engineers and Sen. Durbin's and Congressman Costello's offices, federal legislation that would allow us to maximize the benefit of local expenditures on levee improvements. Possibilities would include direct federal reimbursement for expenditures or defining local expenditures as in-kind cost-share for future federal projects to provide the 500-year or "authorized" level of protection. Additionally, it would be beneficial for the Corps to be able to shift federal funds between projects in a more optimal manner. Under current law, federal funds can only go to the specified "projects" identified in our area, as directed in the latest federal appropriations. In our case, however, there are five ongoing projects that are in various stages of development. In order to achieve both equity and greater effectiveness it would be useful to be able to shift the appropriation among the five authorized projects so they could all advance at a similar pace.

At the state level, SB 2556 that would mitigate the unintended impacts of a Governor's Executive Order issued in 2006 that would limit development even more severely than required by the federal flood insurance program remains on the Governor's desk awaiting signature. Similarly, SB 2520, legislation that would provide the Metro-East Sanitary District with the authority to annex areas now protected by the District's levee system, but who are not now part of the District, is also awaiting signature by Governor Quinn.

Legal

FEMA has not yet ruled on the DFIRM appeals, despite an earlier commitment to do so by June 1. There is a 60-day period following the release of those appeals to file suit to stop the issuance of the new DFIRMS.

We continue to work with legal counsel to develop the elements of a potential claim against FEMA to stop the issuance of new DFIRMS. Madison and St. Clair counties have agreed to provide financial support to pursue a claim, with the state's attorneys from the three counties directing outside counsel, Husch Blackwell Sanders.

Construction

The Corps is continuing construction activities on the Wood River levees, primarily using economic stimulus monies.

Project Administration

I am reviewing possible strategies to manage the project once design and construction begin. One possibility is pursuing the management strategy developed in 2008 that provides for a cooperative relationship with the Corps of Engineers. The advantage of this approach would be to facilitate timely Corps approvals of project documents, recognition of Council-built projects as meeting standards to potentially be used as in-kind contributions for the larger federal project, and providing for a more effective transition to the second stage of the project to achieve the authorized level of protection.