



Memo to: Board of Directors  
From: Les Sterman  
Subject: Program Status Report  
Date: August 16, 2010

#### Design

Negotiations on a scope of work and cost estimate with AMEC Earth & Environmental on a contract for preliminary design and program administration are nearly complete and I will be prepared to request Board approval to enter into contract at the August 16 Board meeting. AMEC has reworked their team to include additional local participation as directed by the Board's action at the June meeting.

The Corps of Engineers has completed the Limited Reevaluation Report for design deficiency corrections in the Metro-East Sanitary District. Bob Shipley and I provided the Corps with a letter of intent for the Council and MESD to act as local sponsors of the project. The Corps has provided a draft of the Project Partnership Agreement for the project that we are now reviewing. It is my expectation that we will complete the PPA in the next month and ask for Board approval at the September meeting. The PPA is a major milestone, since it will make the project eligible to receive federal funding.

I have asked FEMA for an extension on the submission of information for the East and West Fork of the Wood River Levee (in the Olin area) to satisfy the requirements of the provisionally accredited levee status granted two years ago. Informal discussions with FEMA suggest that this will not be a problem. I have asked AMEC to submit a proposal to certify this section of the levee so that we can meet FEMA requirements.

#### Inspection

The levee certification inspection being conducted by a team led by AMEC Earth & Environmental continues to experience delays because of continuing high water levels in the Mississippi River.

#### Financing

There have been a series of meeting and conference calls with the team of legal counsels, advisors and underwriters preparing to issue our first bonds for the project. There are many details to be addressed, given the unusual multijurisdictional nature of the revenue source used to pay off the bonds. Initial drafts of intergovernmental agreements, indentures, etc. have been

developed by our bond counsel. There are a number of decisions to be made on the structuring of the transaction. A complete proposal will be made at the Board meeting.

Proposals have been received and recommendations for a selection of Bond Trustee will be also be made at the Board meeting.

### 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.

As the Board requested at the last meeting, I sent a letter to Congressman Costello thanking him for his good work helping to author and pass the House approved flood insurance reform legislation, HR 5114, that provides for a five year moratorium on mandatory flood insurance. Also at the Board's direction, I sent a letter to Senator Durbin asking for his support for Senate passage of HR 5114.

I have provided, with the assistance of the Corps of Engineers, some draft legislative language to Sen. Durbin's and Congressman Costello's offices that would allow us to maximize the benefit of local expenditures on levee improvements. These legislative proposals include direct federal reimbursement for expenditures and defining local expenditures as in-kind cost-share for future federal projects to provide the 500-year or "authorized" level of protection. Additionally, I included a proposal 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 has now been signed by the Governor. A number of commentators have mischaracterized the purpose of this legislation to suggest that our goal was to make the levee problem go away simply by redefining the meaning of floodplain. Rather, all the bill does is align state and federal law so that state law does not impose additional restrictions on development beyond those imposed by FEMA. 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, has also been signed by the Governor.

A new organization called the Levee Issues Alliance, led by the Leadership Council Southwestern Illinois, has now been formed to help advocate for legislative relief from the impacts of levee deaccreditation. Their initial focus will be on the passage of HR 5114 in the Senate. This group mirrors a loosely knit national coalition of the same name that is also advocating on behalf of its members for legislative changes that would facilitate levee improvements and lessen the burden on local areas during that process. The Tri-City Port District has joined the national LIA on behalf of the region. I will be attending, along with

several other representatives from the area, a strategy session conducted by the LIA in Dallas on August 31. We will be joined by representatives from Dallas/Fort Worth, Sacramento, Louisiana and other areas who share similar interests.

#### Legal

FEMA has not yet ruled on the DFIRM appeals, and a new timetable and process leading to the adoption of final maps has recently been proposed by the agency. Because of complaints from many members of Congress, FEMA has proposed the creation of a scientific review panel to consider FEMA's rulings on DFIRM appeals. This will be voluntary and this additional review will delay adoption of final maps for six months or so. At this point, FEMA indicates that final maps will likely be adopted on or about December 2011. The tentative schedule is as follows:

September 2010 – FEMA provides three pieces of information: 1) the technical findings of their appeal on the maps, 2) a request for coordination for us to help provide outreach and education to the community, and 3) the opportunity for us to use the scientific review panel to appeal certain aspects of the maps.

September to December 2010 – appellants will have to decide whether or not to appeal to the scientific panel for review of the maps.

December 2010 - June 2011 – the scientific review panel will consider the information provided by FEMA and the appellant and release their findings.

June 2011 – FEMA takes the findings of the scientific panel and makes a final determination on the maps. If we decide NOT to use the scientific panel, FEMA will still hold off on the final determination until June. Once this determination is made, a six-month clock starts.

June 2011 – December 2011 – six month period after the final determination before the maps take effect.

December 2011 – final maps take effect.

This information was provided by Congressman Costello's office and I confirmed it with FEMA. There are a number of questions that remain about the timing of various events, including the window of time to file suit and exactly what information will be considered by the scientific review panel in making their decision.

We continue to work with legal counsel to determine the best course of action given these new developments.

#### Construction

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

### Project Administration

I am continuing to review possible strategies to manage the project once design and construction begin. Discussions with the Corps continue on a possible staff-sharing arrangement, but I am not prepared to make a recommendation at this time.