



Memo to: Board of Directors  
From: Les Sterman  
Subject: Program Status Report  
Date: September 10, 2010

#### Design

Negotiations with AMEC Earth & Environmental on a contract for preliminary design and program administration are complete and a contract is in the process of being executed. Requests have been made to the county boards for approval of the contracts for drilling and testing that are defined as "construction."

The Corps of Engineers has completed the Limited Reevaluation Report for design deficiency corrections in the Metro-East Sanitary District. The previous sponsor letter that Bob Shipley and I provided the Corps last month required some modification and was resubmitted. The LRR is now going through the approval process at the Division and Headquarters of the Corps. The approval of the LRR will be an important milestone in establishing the future eligibility of the project to receive federal funding.

FEMA has now responded to our request 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. The agency indicated that it could not grant an extension as we requested, but that it would take about 18 months to go through the remapping process following the expiration of the PAL agreement. If we are able to submit the required certification information during that time period, FEMA will then consider accreditation at that time. We should be able to meet that deadline, barring any unforeseen problems in the condition of the levee.

#### Inspection

The levee certification inspection being conducted by a team led by AMEC Earth & Environmental is proceeding now that water levels in the Mississippi are consistently below 25 feet on the St. Louis gage.

#### Financing

Our financial team has been moving quickly to develop all of the documents necessary to issue bonds. This is a complex issue involving eight parties (three counties, three county FPDs, the Council, and SWIDA). There are many details to be addressed, given the unusual

multijurisdictional nature of the revenue source used to pay off the bonds. Final drafts of intergovernmental agreements, the indenture, and preliminary official statement have been developed by our legal counsels.

Meetings were held in Chicago with two rating agencies, S&P and Moody's. We made a lengthy presentation on the project itself, the economy of the region and our proposed credit structure. We requested a AA rating, based on ratings of comparable issues as determined by our financial advisor and underwriter. Should we not receive the requested rating, we must then determine if we have any interest in making changes to the flow of funds or other terms that might affect the rating.

#### Legislation

HR 5114, the federal legislation that would delay the imposition of mandatory flood insurance, is still awaiting action in the Senate. With very little time left on the legislative calendar it seems unlikely that this bill will pass. Last Friday, Senator Durbin made public a letter that he sent to the Senate Banking Committee that urged them to include very similar language to delay mandatory flood insurance under certain conditions in their version of the national flood insurance reauthorization bill. While the Senator's action is certainly helpful, the timing of any Senate action on his request is unclear.

A new organization called the Levee Issues Alliance, led by the Leadership Council Southwestern Illinois, was launched last week 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. On August 31, I attended, along with Patrick McKeehan and Dennis Wilmsmeyer, a strategy session conducted by the LIA in Dallas. We were joined by representatives from Dallas/Fort Worth, Sacramento, Louisiana, Port Arthur, Mississippi and other areas that share similar interests. Most of the session was focused on information exchange. Several areas have similar concerns as we do, but the tactics from place to place differ quite a bit. We will continue the dialogue to determine if there is sufficient common ground to develop a national advocacy organization.

#### Legal

FEMA has not yet ruled on the DFIRM appeals, but we are expecting them to do so very soon. FEMA has now initiated a process involving a "scientific review panel" to help resolve disputes involving DFIRM appeals. This will be voluntary and this additional review will delay adoption of final maps for six months or so, even if we do not choose to pursue review by the panel. 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.

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

Following up on the response of the Corps and FEMA to our FOIA requests, we have requested additional information from both agencies. Documents included in the FOIA response were in some cases incomplete or referred to additional material that should have been provided. We continue to believe that the record supporting FEMA's August 2007 decision to deaccredit the levee system was both incomplete and inadequate.

#### Project Administration

I am continuing to review possible strategies to manage the project once design and construction begin. I am also beginning the process of reviewing insurance and risk management issues for the project and for the Council.

As our fiscal year draws to a close, we need to perform an audit of the Council's finances as required by our legislation. In the next couple of weeks I will be sending out an RFP to solicit auditing services.