



Memo to: Board of Directors  
From: Les Sterman  
Subject: Program Status Report  
Date: January 14, 2010

#### Design/Construction

Borings to produce the necessary subsurface data to support the design are nearly complete. Difficulty in negotiating site access agreements with Conoco Phillips in the Cahokia area is delaying some key borings. Approvals are now being sought through the hierarchy of the company, a process that may take some time to conclude.

During the last month, I executed an agreement with the Corps of Engineers to provide dedicated part-time staffing to serve as a liaison with the Corps. The primary purpose of this arrangement is to expedite permits and provision of design data, and also to coordinate project schedules and activities to assure a seamless relationship between design and construction activities of the two organizations. Teresa King from the Corps is working with us to anticipate and address potential schedule challenges.

We received three proposals on December 3 in response to our RFP to provide project management oversight. A selection committee met on January 12 and has made a recommendation to the Board for approval at the January meeting. As soon as the Board approves the selection I will negotiate a scope and cost and execute a contract.

In the next two weeks, we expect to receive the results of the Corps of Engineers inspection of the MESD levees and we are told to expect that there will some items that are determined to be unacceptable. If these items are not addressed in 60 days, the Corps can declare the District as inactive in the PL 84-99 emergency levee repair program. Much like the issue we addressed in Prairie DuPont/Fish Lake, any such findings must be dealt with immediately. We will assist the MESD staff in any way that we can to resolve any negative inspection findings.

#### Financing

We successfully invested the proceeds on our bonds with BB&T Bank and Deutsch Bank. We are now paying our bills with the proceeds of the bond issue.

## Legislation

I have been working with the Corps and with members of our Congressional delegation on some legislative proposals that will help us advance our project as well as provide resources for future federal projects. We will also want to renew our call for legislation to postpone the imposition of new flood insurance rate maps and mandatory flood insurance. In the absence of such legislation or successful legal action, the new maps will become official at the end of this year.

As a demonstration of the significant economic damage that is being done to our area, I have recently been in discussions with developers concerning a major new warehouse user in the Gateway Commerce Park that has been denied flood insurance by FM Global, the largest commercial provider of such insurance. Because of this situation, the firm will now locate in Missouri. In my opinion FM Global has an exaggerated understanding of the risk because of pronouncements by the Corps and by FEMA, and doesn't fully understand the extent of our efforts to improve flood protection. I am working to schedule a meeting with FM Global to explain the situation.

## Legal

Our attorneys have been working with the court and with opposing legal counsel from the Justice Department to expedite the proceedings in our suit against FEMA. We expect FEMA to make a motion to dismiss our case in the near future and our attorneys are preparing the material to oppose such a motion. We have renewed our request for the administrative record that supports the deaccreditation decision and we are told that it will be forthcoming "soon." There are still several outstanding FOIA requests of both FEMA and the Corps.

## Project Administration

Draft audits for 2009 and 2010 have been completed by Scheffel and Co. and will be presented to the Board at the January meeting.

The Park and Recreation District has proposed a renewal of our no-cost lease for our office space. It appears that this space will meeting our needs for the foreseeable future, so I will ask the Board to approve the lease renewal at the January meeting. We have also worked out a cost-sharing arrangement for a large format printer in the office so I will be able to print engineering drawings to maintain in the office.

I have concluded that it is time for the Council to have its own website to be able to communicate with the public about the project and to have a place to advertise requests for bids and proposals. A proposal to develop the site will be considered at the January Board meeting.

## Other

In December I met with the developers and owners of property in Gateway Commerce Center about the effects of levee deaccreditation on the insurability of buildings and contents in this large transportation/distribution center. FM Global, the largest commercial provider of flood insurance to tenants on the site has recently raised doubts about flood protection, a concern that may already have driven away one large prospective tenant. In my opinion may have an inappropriate understanding of the risk because of pronouncements by the Corps and by FEMA,

and doesn't fully understand the extent of our efforts to improve flood protection. Along with representatives of our design team, I recently met with the engineers from FM Global to review the status of the project and to discuss the condition of the flood protection system. It was a productive meeting and we agreed to share information with them as the project moves ahead. It is my hope that having up-to-date and accurate information will help support reasonable judgments about risk of flooding and will allow critical development to move forward during the time that levee improvements are being made.