



Memo to: Board of Directors
From: Les Sterman
Subject: Program Status Report
Date: December 13, 2010

Design/Construction

Subsurface data is still being collected through three principal methods (sonic drilling, standard penetration drilling, and cone penetrometer testing). During the last month, I had the opportunity to visit sites where each type of drilling was taking place. Each crew was working steadily in some cold weather to get the job done. At the sonic and standard penetration boring sites, crews were supplemented by an on-site engineer (URS in Wood River, SCI in MESD and AMEC in PdP/Fish Lake) who keeps the drilling logs and collects samples for lab testing. The work over all three levee districts is being coordinated by an AMEC field manager, James Black.

Borings are being done in areas identified by AMEC to supplement information already collected over the last two years by the Corps. Additional data are being collected in areas that have been identified as potentially problematic and to optimize the design to specific soil conditions. No significant problems have been encountered at this time. In general, the weather has been favorable, although conditions in the last couple of weeks have become more difficult.

During the last month, we have received a draft memorandum of agreement with the Corps of Engineers to provide dedicated part-time staffing to serve as a liaison with the Corps. I have suggested some changes to the MOU and the Corps has responded favorably. The agreement should be executed soon. Office space has now been made available and a new computer purchased to accommodate the Corps staff person, Teresa King. 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.

We received three proposals on December 3 in response to our RFP to provide project management oversight. This will not be a large contract in terms of expenditure, but it will provide a capability for independent reporting on project progress and cost and scheduling issues. I have asked for volunteers to serve on a selection committee. Thus far, Dan Maher, Tom Long, Dave Baxmeyer, Joe Parente and David Cornell have agreed to serve.

I recently met with representatives of the Prairie DuPont Drainage and Sanitary District and learned about several critical items in the Corps of Engineers Periodic Inspection completed in June 2010. Three of those items needed to be addressed immediately to avoid having the district put on inactive status in the Corps' PL 84-99 program, which enables the Corps to perform emergency operations and levee repairs in the event of a flood. This cannot be allowed to happen and I will recommend that the Council provide PdP with sufficient funds to address this problem.

I expect that there will be similar findings in MESD and Wood River, since these Corps inspections are now more rigorous. I will work with our design consultants to prioritize any measures that are needed to correct problems that result in unsatisfactory ratings by the Corps.

Financing

We successfully closed on our bond issue on November 23. Those funds are now invested at a very low rate of interest with our Trustee, UMB Bank. I have been working with our financial advisors and our bidding agent, Winters & Co., to conduct a competitive process to find a suitable investment in accordance with the direction provided by the Board at the November meeting. The process has taken longer than expected and become somewhat more complex, but we have now selected financial institutions for investment of the reserve fund and the project fund. Both institutions required legal opinions and we needed a legal review of the investment repurchase agreements. A resolution approving the repurchase agreements will be on the December Board agenda.

Legislation

In the last month, Senators Durbin and Schumer introduced legislation to delay the imposition of mandatory flood insurance very similar to that sponsored by Congressman Costello and passed in the House several months ago. While such legislation is obviously very helpful, likelihood of passage this year is very slim, given the brief time that the Congress will remain in session and the other pressing issues on the legislative calendar.

Recently, Senator Durbin, along with a number of bipartisan Senate colleagues have attempted to address the problem through language attached to a 2011 appropriations bill. This language addressed the illogical assumption by FEMA that, for the purpose of the new flood insurance rate maps, our levee system would be effectively nonexistent. The specific suggested language is shown below.

For Fiscal Year 2011, the Administrator of the Federal Emergency Management Agency may not use the assumption that a currently existing levee or flood control structure does not exist to designate an area as having new flood hazards pursuant to issuance, revision, updating, or other process to implement changes in flood insurance maps, except in cases where no affected community notifies the Federal Emergency Management Agency of objections to the Administrator's hazard modeling processes within 90 days of enactment of this Act. Nothing in this section shall be construed to establish, provide, or otherwise imply that the presence of an existing levee

or flood control structure pursuant to the prior sentence thereby accredits such levee with providing 1-per cent-annual-chance flood protection.

While this language is indeed helpful, since it will require FEMA to do additional analysis to determine the level of actual protection provided by the levee system as part of the remapping process, it will not preclude them from deaccrediting those levees. So while we may get some relief from mandatory insurance requirements, considerable economic damage will still be done.

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 filed motions for a preliminary injunction to stop the FEMA remapping and a motion to shorten the time and expedite the proceedings of our lawsuit. The federal judge denied the latter request, but in his order he indicated a good understanding of our concerns and clearly indicated that he would act to move the proceedings forward expeditiously.

We still have outstanding FOIA requests to FEMA and the Corps, primarily related to the incomplete responses to earlier requests and to fulfill their legal obligation to provide information that was used to deny the map appeals. Our attorneys have renewed our requests and asked for immediate response from the federal agencies.

In the absence of a successful legal challenge, we expect that final flood insurance rate maps will be issued in December 2011.

Project Administration

I have negotiated a letter of engagement with the auditing firm, Scheffel and Co., that was selected at the November Board meeting to conduct the 2009/2010 audits. They have agreed to do the audits at the low end of their price proposal, \$4,800 total. We are currently gathering all of the information that they need to commence the audit.

The Park and Recreation District has reorganized their space to provide an additional workstation to accommodate the Corps staff person who will be working with us. I have also purchased a computer and software for this workstation.