



Memo to: Board of Directors
From: Les Sterman
Subject: Program Status Report for May, 2011
Date: May 16, 2011

Design/Construction

AMEC submitted the 30% design level construction drawings and cost estimate on May 13. The outreach and review activities over the last two months were used by AMEC, together with additional analysis, to refine the progress submittal made on March 1. The extent of some levee improvements has been reduced and the cost estimate revised downward. In addition, contingency amounts have been increased to a more credible level to allow for some uncertainty in construction costs and the final design. AMEC representatives will review these changes at the May Board meeting.

Continuing effort will be made to make the design more cost-effective in the next stage of the design process. The use of more sophisticated underseepage modeling will likely allow some further reductions in scope and cost.

We have been working with the Corps of Engineers to clarify the requirements of the permitting process. In particular, the "Section 408" permit is a major source of concern. This is a permit from the Corps that may be required to make alterations to a federal levee. This requirement arises from a simple provision of the law (33 USC Section 408) that reads, in part:

"...the Secretary may, on the recommendation of the Chief of Engineers, grant permission for the alteration or permanent occupation or use of any of the aforementioned public works when in the judgment of the Secretary such occupation or use will not be injurious to the public interest and will not impair the usefulness of such work."

The Corps has developed internal procedural guidance to determine how to implement this requirement. In the case of major improvements, such as those contemplated in our project, the Corps has indicated to us that for granting of the 408 permit we must effectively follow the identical project planning and development process that they would follow on a similar project. As you know, this lengthy process is exactly what we are choosing to avoid by funding the project with local monies. The process includes lengthy and costly internal and external reviews

and the preparation of significant additional documentation. The net effect of complying with the Corps' requests would be to delay our project for at least a year. I have responded to Corps representatives that the process specified by their guidance is inappropriate, wasteful, and redundant as it applies to our project and is entirely unacceptable to us. At a time when the Corps is emphasizing the importance of better flood protection, it is unconscionable to delay significant levee improvements while the Corps dithers with additional reviews and documentation that add no value to the project. In addition, the delay will add millions of dollars to the cost of the project and extract an additional economic toll on our region of tens, if not hundreds, of millions of dollars.

The purpose of the law is to assure that any work done on the flood protection infrastructure is not "...*injurious to the public interest and will not impair the usefulness of such work.*" All concerned agree that we are significantly improving the levee system with our investment, and doing so in a manner that is cooperative with the Corps staff and consistent with Corps practice. In this case, the Corps' slavish adherence to their own internal procedure will actually injure the project and our region.

We are in continuing discussions with the agency regarding approaches to mitigate or avoid the negative outcome of this onerous permitting process. This issue may be the biggest single threat to our project schedule and budget.

It is apparent now that the state of the federal budget, combined with a cumbersome and time-consuming project development and funding process, will limit the Corps' financial participation in the project. However, their regulatory role will indeed be critical to our success, and we hope that they can be persuaded to adopt a more reasonable and practical approach to granting the 408 permit.

In addition, we hope that the Corps may still undertake a limited portion of project for which they can access funding over the next few years as well as to certify two reaches of levee, the Chain of Rocks levee and the Mel Price Lock and Dam area.

I recently wrote to Col. O'Hara, the St. Louis District Commander, to clarify our expectations of their participation in the project.

Financing

We are working with our financial advisors at ButcherMark to refine the financing model and develop a financing plan based on current market conditions, the availability of other revenue sources, and our project funding draw schedule to determine our financial capacity to build a project in accordance with the preliminary design.

On May 17, the entire project team (AMEC, ButcherMark, Campion, USACE) will come meet to start the process of bringing together design, financing, scheduling and administrative requirements for the purpose of developing a project implementation plan. The plan will be a public document that will formally establish the design, schedule and budget for the project. This will be a critical milestone that will allow us to determine with some confidence how the project will be carried out.

Roy Torkelson will present the latest results of financial modeling at the May Board meeting.

Legislation

The House subcommittee on Insurance, Housing, and Community Opportunity has passed a bill (HR 1309) to reauthorize and reform the nation's flood insurance program. The legislation provides for a five-year extension of the National Flood Insurance Program (NFIP) and phases out the program's rate subsidies, gradually raises all premiums to reflect actual costs, improves the accuracy of flood maps and allows more public input into the mapping process, and encourages private insurer and reinsurer participation in the market.

The bill would establish an advisory council to give local communities more say in the flood mapping process and it directs the Federal Emergency Management Agency (FEMA) that manages the program to take steps to improve the accuracy of maps.

Rates for property owners in communities newly designated as in flood hazard zones would be move to cost-based pricing over a five-year span. Their rates would start at 20 percent of the actuarial indications the first year, with 20 percent hikes each year thereafter until they are brought in line with what actuaries say they should be.

If indeed there is an actuarial basis for rates, that would be beneficial to areas like ours where flood risk is very small, but it is not clear that rate standard would apply individually to each insured property or the program overall. Moreover, the gradual withdrawal of public subsidy will cause flood insurance rates to go up in the future, perhaps dramatically.

There is no provision in the bill to postpone the implementation of new flood insurance rate maps or the mandatory requirement for insurance (although rates would be phased in for newly mapped floodplains).

Legal

We continue to await the federal court's ruling on FEMA's motion to dismiss our lawsuit.