



Memo to: Board of Directors

From: Les Sterman

Subject: Program Status Report for May, 2012

Date: May 11, 2012

Bids are due on May 14 on the first construction package, mainly consisting of maintenance projects on the MESD portions of the levee system. AMEC will do an analysis of the bids and a recommendation will be made at the Board meeting. The Corps approved the Sec. 408 permission for this project on May 1 and no other permits will be needed. Approval by the county boards will be needed, so we expect to start construction on June 6, about two weeks later than originally scheduled, a small delay that will not have any effect on the overall project schedule.

The AMEC team will be responsible for managing all construction for the Council, and construction management is part of our contractual agreement with them. Accordingly, we will enter into a new work order for construction management services, which will be amended periodically as each construction package is advanced. The initial construction management work order and budget for construction package #1 will be presented for approval at the May Board meeting.

Discussions with the Corps continue on the “graded filter” design, which is a critical part of the 60% design submission. Our design team has responded in a timely fashion to every Corps review comment by submitting additional analysis and modeling results, but to-date the Corps continues to object to the 60% design. I have emphasized the importance of bringing this seemingly never-ending technical debate to a conclusion. In response, the Corps has scheduled a two-day session on May 14 and 15 to be conducted by representatives of their Risk Management Center, for the purpose of moving this debate toward a conclusion. Our design team strongly believes in the safety and technical adequacy of their design and we will continue to press the case by whatever means necessary. This issue is of paramount importance because if the Corps insists on imposing their recommended underseepage measures on our design, we cannot do so within our available funds or schedule.

The budget for AMEC Work Order 6 for Sec. 408 review tasks is being consumed rapidly due to the protracted and unpredictable course of the review process. It is apparent that the budget for this work order will need to be revised upward and I expect to present a budget amendment to the Board at the June meeting.

We have responded to all Illinois Environmental Protection Agency comments on the application for a Section 401 water quality permit. Once IEPA is satisfied that they have all of the necessary information they will start a 30-day comment period. Our hope is that a permit can be issued soon thereafter. The issue of NPDES permits for relief wells still remains; we have provided information to IEPA that we hope will help resolve this matter, but we have not received any further feedback from the agency.

My meeting last month with the congressional delegation and Jo Ellen Darcy, the Assistant Secretary of the Army for Civil Works and various Corps leadership staff has generated some limited result. Congressman Costello's office has reported that the Corps has agreed to pay for all external reviews and they will also pay to prepare all of the certification information requested by AMEC for the Chain of Rocks levee and Mel Price segment of the Wood River levee. While this is certainly helpful in providing some budget relief, it will still have an impact on our schedule. Our position is that the external review is not required and is simply a waste of public money, regardless of the source of that money. And the certification data by itself is not the same as FEMA certification, so our consultants will still need to do a careful review and prepare all of the necessary documentation to submit to FEMA. At my request, Husch Blackwell prepared a thorough and authoritative legal memorandum dealing with the external review and certification issues, which has been provided to the Corps.

On May 1, the Levee Issues Alliance conducted a press conference for the principal purpose of announcing a "countdown clock" posted on their website to highlight the deadline for completion construction and to create a measure of accountability by all parties for completion of the project. Also, Corps approval to proceed with the first construction package was announced. Unfortunately, the press conference, and subsequent releases by the Corps, seems to have led some to conclude that we now have approval for the project. News articles and editorials over the last couple of weeks clearly have created an inaccurate impression of the status of the project, which is troubling. In fact, we have approval in-hand for only a tiny portion of the project, and we only have that because this work is essentially maintenance work that doesn't require any permits.

While the Corps has insisted that there have been no project deadlines missed and that the agency is fully committed to meeting our project schedule, those statements simply aren't credible. The next two bid packages are for pump stations, which are the linchpins of the project. Two 100% design packages for pump stations are scheduled to be submitted in early June. Until we reach agreement with the Corps on underseepage controls we cannot know the volume of water that will need to be discharged and consequently our design team will not be able to design and size pump stations. And until pump stations are built, we cannot build underseepage controls without risking interior flooding should a high water event occur. In summary, unless we get agreement on essential design features immediately, there will be a cascading series of missed deadlines. If that happens, we will revise our schedule and I will ask the LIA to note the delay on their countdown clock.