



Memo to: Board of Directors

From: Les Sterman

Subject: Program Status Report for January/February, 2012

Date: February 9, 2012

Design/Construction

Following the submission of the 60% design documents by AMEC on December 16, Corps staff has been reviewing the plans, calculations and analyses. Their comments were released to us on February 8. Our design team is reviewing those comments and will have a full report at the Board meeting. However, the Corps did notify me of concerns that had not been previously raised regarding one significant design element – “graded filters.” Even after days of meetings to go over design details, the Corps did not previously reveal these concerns to us. This once again points to a constantly shifting review process by the Corps, one that clearly threatens the project cost and schedule. The consistent withholding of essential information by the Corps – usually attributed to internal policy of not releasing “pre-decisional” reports and information, inhibits the cooperative design process and the free flow of ideas and opinions, that is essential to a timely and cost-effective completion of the project.

Another two months have gone by and we still do not have the “review plan” that will be used to grant permission to alter the levee system under Sec. 408, a document that was originally promised to be in our hands by August 17. This has simply reached the point of absurdity. The contents of the plan are less of a concern right now than the process by which the plan is being approved. By all accounts, this document has made the rounds of Corps offices for nearly four months following two months of development in the St. Louis District. This once again emphasizes the diffused decision-making process at the Corps, the agency’s lack of concern for our project schedule and budget, and suggests that any assertion that our project schedule will not be delayed by the review process is simply not credible. The Corps review process is the biggest and most likely threat to the project schedule and budget and with each passing day it becomes a bigger concern.

The regulatory review process (as opposed to the technical review referenced above) seems to be proceeding on schedule. The Corps has issued a public notice concerning our application for the Section 404 permit as well as the availability of the Environmental Assessment and the Draft Finding of No Significant Impact. The comment period is 30 days, concluding on February 20, unless that period is extended in as a result of comments received in response to this notice.

On February 6, AMEC submitted the 100% design documents for the first of nine tentative construction packages. This package consists of items that generally fall into the category of operations and maintenance, such as the lining of deteriorating corrugated metal pipes that serve as gravity drains. Along with the design documents, I submitted the request for Section 408 review to the Corps. 100% design documents for the remaining construction packages will be submitted sequentially throughout the year.

In early December, the Federal Emergency Management Agency issued a Notice of proposed revised mapping procedures in response to a request by Congress to stop the practice of treating areas behind un-accredited levees as if there was no flood protection at all, commonly known as the “without levees” approach. That practice had the impact of exaggerating flood risk, especially in areas like ours, where the levee system has historically provided a high level of protection. FEMA agreed to reconsider their approach and issued a Notice of a proposed set of procedures to recognize existing de-accredited levees. On January 30 I submitted comments on the Notice on behalf of the Council to FEMA.

At this point, these proposed procedures would not apply to us, since our levees are not (yet) de-accredited, despite FEMA’s threats dating back to 2007 to do so. Should our levees be de-accredited, the proposed procedures would provide very little relief from the impact of that action. While it is possible that we might be able to exclude some small areas in our region from the mandatory flood insurance requirement, FEMA would still label such areas as having undetermined risk, a label that would result in the same chilling impact on our economy.

Our primary problem all along has been the flawed process (both analytical and administrative) by which FEMA makes decisions to de-accredit levees in the first place. The proposed new procedures do nothing to affect the de-accreditation process. The full text of our comments is available on the Council’s website at: <http://bit.ly/w75uIL>.

Over the past several months we have been soliciting proposals for mitigation to replace wetlands that will be affected by the project. We will need to have an agreement in place to do so prior to the issuance of a Section 404 permit from the Corps. The process has advanced to the point that I will have a recommendation to make at the February meeting to issue a letter of intent to enter into contract with Republic Services/Roxana Landfill, Inc. Details will be provided in a separate memo.

Administrative

Our continuing agreement with AMEC is structured with a Master Service Agreement that defines contractual terms and conditions, and a series of work orders that defines the scope of work for each assignment. This was done because it was not possible to determine at the outset all of the dimensions of the work prior to initial exploratory testing and analyses of the conditions of the levee system.

The Corps has thus far declined to certify either the Chain of Rocks levee, which is owned by the Corps, and the portion of the Wood River levee that is the responsibility of the Corps to repair from the damage caused by the construction of the Mel Price Lock and Dam. In the absence of

the Corps properly accepting responsibility for certifying these levee reaches, we must do so and I have asked AMEC to submit a work order to do the initial inspection. Depending on the outcome of the inspection and analysis, additional borings may be required and AMEC will be required to produce the certification documentation. These additional activities represent added costs to the Council that have not been previously budgeted.

Scheffel & Co. is winding up the audit of the Council's 2011 financial statements. The audit should be available at the March Board meeting.