



Memo to: Board of Directors

From: Les Sterman

Subject: Program Status Report for March, 2013

Date: March 18, 2013

Project design continues to move toward completion, with attention now almost completely focused on securing the necessary approvals, permits and permissions to start construction. The exception is bid package #7 (for cutoff walls), where we have put the review process on hold while we consider whether to request that the Corps take responsibility for designing and building that portion of the project. As we have discussed in previous meetings, we need some basic information from the Corps on scope, budget and schedule for their proposed project before we can agree to send the needed funds for our share of the costs for this project (see below for more discussion of that decision).

There were some very important procedural milestones that were reached in March. On March 4 the Illinois Environmental Protection Agency issued the water quality certification under Sec. 401 of the federal Clean Water Act. It has taken over a year to secure this certification, which means that IEPA has come to the engineering judgment that “the proposed project may be completed without causing water pollution as defined in the Illinois Environmental Protection Act, provided that the project is carefully planned and supervised.” The water quality certification is one of the conditions to receiving of the Sec. 404 (wetlands) permit for the project and Sec. 408 permissions.

On March 1, we received the conditional permit under Sec. 404 for relating to the impacts of the project on wetlands. One major condition of the provisional permit has now been met, the Sec. 401 water quality certification from the IEPA. The remaining major condition is the granting of the Sec. 408 permission by the Corps. In essence, now, the last major regulatory hurdle for the project rests with the Corps of Engineers and the Sec. 408 review process over which they have jurisdiction.

We are working with our selected provider of wetland mitigation, Republic Services, to finalize the Wetland Mitigation Plan and to complete and negotiate our contract with them to fulfill the requirements of that plan. We selected Republic last February and have concluded negotiations on contract terms and conditions, but we are awaiting a revised price based on conditions imposed by the Corps as part of the conditional permit.

While all review issues have now been closed on bid package #2a (pump station in the Fish Lake district) we have not yet received the Sec. 408 permission from the Corps. Bid documents are already prepared for this construction package and will be issued as soon as the permission from the Corps is granted – we hope that will happen very soon.

We require some basic scope, cost and schedule information from the Corps before we can determine whether offloading parts of the project would be a prudent decision. I defined and communicated the information that we need from the Corps, initially on January 18 and again on February 5 and received a response on March 15. There have been changes in cost since the initial proposal and other conditions, but I'm hopeful that the Corps' participation in the project remains cost-effective for us. The issue is explored in detail in a Board memo on the subject to be discussed at the upcoming meeting. Suffice it to say that I will need authorization to provide additional cost-share funds to the Corps, beyond what has already been approved by the Board for this project. Concerns about labor issues remain, however, particularly in meeting our requirement that contractors enter into project labor agreements on the project.

Contracts with consultants to provide real estate acquisition and appraisal services have been executed and work is now underway.

The Council's FY2012 audit has been produced by our auditor, Scheffel & Co and will be presented for your review at the March 20 Board meeting.

In late February, I attended a meeting in Washington at the invitation of the Corps and FEMA to discuss the cooperative effort of these two agencies to share data and to coordinate their approaches to levee safety standards. This work is a requirement of federal legislation, brought about by the frustration of levee owners and others about the differing and irreconcilable safety standards imposed by FEMA and the Corps. Apparently, the process has broken little new ground and the principal outcome thus far is an agreement between the agencies to more broadly share data and information. Over the long-term, however, the standards may start to come together. The implication for levee owners is not apparent at this point.