

OFFICE OF THE CITY MANAGER
DES MOINES, IOWA

ITEM 61

CITY COUNCIL COMMUNICATION 97-127
MARCH 17, 1997 AGENDA

SUBJECT:	TYPE:	SUBMITTED BY:
CONSENT DECREE TERMINATION	◆ RESOLUTION ORDINANCE RECEIVE/FILE	HAROLD E. SMITH CITY ENGINEER

SYNOPSIS —

In May of 1989, the United States EPA initiated a lawsuit against the City of Des Moines and several other metropolitan communities alleging violations of the Clean Water Act in the operation of a sewage treatment plant serving those communities. The City of Des Moines and other parties to that lawsuit voluntarily executed a Consent Decree which was filed with the U. S. District Court on August 14, 1989. The Consent Decree required new construction work to mitigate future violations. Construction work is now completed on all the facilities required in the Consent Decree. As a consequence, the United States is now willing to terminate the Consent Decree.

FISCAL IMPACT —

This action has no impact on funds.

RECOMMENDATION —

Approval for the Mayor to execute the appropriate Consent Decree Termination documents.

BACKGROUND —

Prior to and during the 1970s, the City of Des Moines owned and operated the wastewater treatment plant located at 3000 Vandalia Road in Des Moines and provided sewage treatment for certain Des Moines area communities on a contract basis. It became obvious in the early 1970s that the wastewater treatment plant was quite old and had deteriorated to the point where it was necessary to replace it. The plant was consistently in violation of effluent standards required by its N.P.D.E.S. permit. The N.P.D.E.S Permit is a Federal wastewater treatment plant operating permit created under the Federal Clean Water Act that became law in 1972. The permit is administered by the State of Iowa.

Fines were proposed to be levied by the Federal Government for the violations. The violations and the amount of the associated fines became a matter of dispute between the Federal Government and members of the Des Moines ICA because of circumstances and timing issues related to the requirements of the Clean Water Act.

The Clean Water Act created stringent standards for wastewater treatment. However, it also provided an opportunity for communities such as Des Moines to obtain Federal EPA funds to assist in financing construction of replacement wastewater treatment plants where necessary. The law also required that communities work together to produce an area-wide sewage treatment plan. Under this requirement the Des Moines area communities undertook area-wide planning, design, financing and construction of new wastewater facilities. This was accomplished by a cooperative effort that was made possible by the ICA Agreement.

In 1989, negotiations between lawyers representing the ICA communities, the State of Iowa, and the Federal Government resulted in an agreement for the ICA communities collectively to pay a modest fine for the violations that occurred during the time period when the old plant was in operation. It was also agreed to complete construction of certain facilities recommended in the ICA Facilities Plan prior to December 31, 1992, as well as to comply with the N.P.D.E.S. permit requirements for a period of one year following completion of construction of the wastewater treatment plant facilities. This agreement was filed in U.S. District Court on August 14, 1989 as a Consent Decree.

Lawyers for the State of Iowa and the Federal Government acknowledge that the terms of the Consent Decree have been satisfied and now wish to terminate the Consent Decree. A copy of the Consent Decree is on file in the office of the City Clerk should the City Council or the public desire to review it prior to its termination.