

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date	March 22, 2010
	Agenda Item No. 39 Roll Call No. <u>10-</u> Communication No. <u>10-165</u> Submitted by: William G. Stowe, Assistant City Manager-Public Works Director, and Jeb E. Brewer, P.E. City Engineer	

AGENDA HEADING:

Approval of Consent Order, Judgment and Decree between the State of Iowa and the City of Des Moines and the Des Moines Metropolitan Wastewater Reclamation Authority.

SYNOPSIS:

Recommend approval of the Consent Order, Judgment and Decree between the State of Iowa and the City of Des Moines and the Des Moines Metropolitan Wastewater Reclamation Authority regarding the implementation of a Long Term Control Plan addressing combined sewer overflows.

FISCAL IMPACT:

Amount: \$62,471,000 (2010-2023)

Funding Source: Recommended CIP, Page Sanitary-5, SAE054, City-wide Sanitary Sewers, Sanitary Sewer Revenue Funds.

ADDITIONAL INFORMATION:

On August 15, 2006, the Iowa Environmental Protection Commission and Iowa Department of Natural Resources (IDNR) referred the Des Moines Metropolitan Wastewater Reclamation Authority (WRA) and the City of Des Moines (CITY), to the Office of the Iowa Attorney General for an enforcement action pertaining to alleged violations relating to the violation of nine minimum controls required to reduce combined sewer overflows which result in discharges allegedly in violation of the Iowa Code. The WRA and CITY retained Hall & Associates to assist and represent the two entities with regard to the alleged violations and in negotiations with the IDNR and the Iowa Attorney General’s Office. Following three years of discussions and negotiations with the Iowa Attorney General’s Office and IDNR, negotiations have concluded as to a proposed Consent Order, Judgment and Decree.

The proposed consent decree establishes an enforceable schedule for implementing the Long Term Control Plan and the Nine Minimum Controls. It establishes stipulated penalties for noncompliance in the event WRA and CITY miss the agreed upon dates set forth in the consent decree ranging from a \$750 to \$1,250 per day violation depending upon the number of days of violation. The City is provided until October 23, 2023 to have in operation the Ingersoll Run Storm Sewer & Overflow Modification, Phase 2, Storm Sewer Extension, 33rd Street Storm and Sanitary Separation; Storm Sewer Extension (Dahl’s Site Extension), Eastern Ingersoll Run Sewer Separation, Woodland Cemetery Neighborhood Storm and Sanitary Separation, Western Ingersoll Run Sewer Separation (North of I-235), and Western Ingersoll Run Sewer Separation (South of I-235). The City is required to eliminate combined sewer overflows at

Des Moines and Raccoon Rivers, Court Avenue and East Grand Avenue by June 30, 2013 and the CSO outfall at Birdland Pump Station by December 31, 2018. From March through November, the City is required to undertake a minimum of 24 street sweepings on streets tributary to the Birdland Pump CSO outfall. Streets tributary to other CSO outfalls are required to be swept once every two months for the months of April through November (i.e, four times a year). It sets forth monitoring requirements for CSO outfalls and the Des Moines and Raccoon Rivers.

This action seeks approval and execution of this Consent Order, Judgment and Decree between the State of Iowa, ex rel., IDNR and the CITY and WRA, by the City of Des Moines. This approval and execution also authorizes that changes may be made to the settlement that are satisfactory to the City of Des Moines Public Works Director and legal counsel.

PREVIOUS COUNCIL ACTION(S):

Date: December 22, 2003

Roll Call Number: 03-2903

Action: Report by Veenstra & Kimm, Inc. regarding combined sewer overflow long-term control strategy, in compliance with terms of National Pollutant Discharge Elimination System (NPDES) permit. (Council Communication No. 03-623) Moved by Brooks to receive and file the report. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

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