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DEPARTMENT OF
PUBLIC WORKS

CITY OF SACRAMENTO
CALIFORNIA

1391-35TH AVENUE
SACRAMENTO, CA
95822-2911

WATER DIVISION

916-449-5271

January 3, 1989

Joint Budget and Finance/Transportation
and Community Development Committees
Sacramento, California

Honorable Members in Session:

SUBJECT: AEROJET CONSENT DECREE UPDATE

SUMMARY

This report presents an update to the Joint Committees with regard to the recent Aerojet Consent Decree filed in the U.S. District Court on September 8, 1988.

BACKGROUND

1986 Consent Decree. In January 1986, the U.S. Department of Justice, the EPA, the California Department of Health Services, the California Regional Water Quality Control Board, and the California Attorney General (referred to jointly as "the governments") signed an agreement with Aerojet. This agreement or consent decree was an attempt to resolve the governments' lawsuits against Aerojet stemming from contamination of soil and groundwater by industrial chemicals at Aerojet's Sacramento plant.

The governments accepted public comments on this consent decree for 120 days, until the middle of May, 1986. The issues of greatest interest to the public that were identified during the comment period were:

- The need for greater community involvement and access to information,
- The need to comply with state as well as federal cleanup standards,
- The need to include the Arcade Water District and the City of Sacramento on the list of water sources to be monitored under the decree, and
- The need to sample the Lower American River during periods of low river flow.

While the governments were preparing responses to comments and negotiating with Aerojet for changes in the original Consent Decree, the U.S. Congress amended the Superfund law. In response to the changes in federal law the governments proposed new changes which Aerojet rejected. As a result, new negotiations were begun and a new consent decree agreed upon.

1988 Amended Consent Decree. On September 8, 1988, the U.S. Department of Justice on behalf of the governments formally presented to the U.S. District Court a second Consent Decree. This revised Consent Decree requires Aerojet to conduct a comprehensive study of the best ways to carry out final cleanup of the water and soil. Under both federal and state law, this study must be conducted before a "remedy" or cleanup can be carried out at the Aerojet site. This comprehensive study is required to ensure that the full extent of the contamination problem has been studied and that all reasonable alternative remedies have been studied before one is selected and implemented.

A cleanup remedy will be implemented at the Aerojet site following completion of the comprehensive study but the governments will accomplish this either through a new and separate legal document with Aerojet or with direct government funding or enforcement action. While the new agreement no longer has Aerojet's commitment to perform the cleanup, the changes in the law will ensure that the cleanup methods eventually selected will meet state as well as federal environmental standards.

In signing the revised Consent Decree, Aerojet has agreed to reimburse the governments for past costs and ongoing costs associated with oversight activities. In addition, the agreement contains monetary guarantees to ensure that site work will continue in the unlikely event that Aerojet becomes unable to carry out its obligations under the agreement.

Current Status. A 60-day public comment on the revised Consent Decree began in early September and ended on November 14th. However, the Sierra Club requested and was granted an extension of the comment period to December 15th. After this date, the comments will be evaluated by the governments and those deemed appropriate will be negotiated with Aerojet for incorporation in the Consent Decree. It is anticipated that a final agreement will be submitted to the U.S. District Court shortly after the first of the year.

Impact to the City. One of the major concerns on the City's part of the original 1986 decree was the lack of adequate water quality monitoring protection of the Lower American River. Since the early 1980s, trace levels of trichloroethylene (TCE) have been detected in the Lower American River. The source of TCE and other trace organic chemicals is seepage just below Nimbus Dam. Until a few years ago, the levels of TCE detected at the City's Fairbairn Water Treatment Plant were predicable and

related to river flows. The lower the flow the higher the level of TCE. In recent years, however, the concentrations of TCE have greatly decreased. It is hoped that these greatly lowered chemical levels are reflective of the cleanup efforts on the Aerojet site during this time.

With regard to protection of groundwater and the City's American River drinking water supply, the Consent Decree requires Aerojet to investigate the contamination and ultimately to identify alternatives for a final remedy. It provides interim protection for drinking water supply wells most threatened by contaminated groundwater and requires Aerojet to monitor the American River. Specifically, the Decree requires Aerojet to monitor water supply wells and the American River for certain chemicals found on and off-site of Aerojet's property. If a well source becomes contaminated at concentrations greater than the specified levels, Aerojet must take specified measures to respond to the problem. If chemicals are measured in the American River above a specified level, Aerojet must conduct additional monitoring and studies to determine the source of the chemicals. The governments may then take any action or seek to compel Aerojet to take any action to respond to chemicals detected in the river.

Moreover, the agreement outlines Aerojet's responsibility to monitor the American River near the Aerojet site and water withdrawn from the river by the Carmichael Water District, the Arcade Water District, and the City of Sacramento (water purveyors) and to conduct a study of the source of chemicals in the river should a trigger level be exceeded. Specifically, Aerojet must sample the American River and water purveyor intakes on a quarterly, monthly, weekly or daily basis depending on the rate of flow in the river and report the results of the sampling to the water purveyors and the governments. If the concentration of trichloroethylene (TCE) exceeds the specified trigger level near the site and at a water purveyor intake Aerojet must prepare a Preliminary Report on Evaluation of Source which: 1) evaluates the validity of the exceedance; 2) evaluates whether the source of TCE is from the Aerojet site; and 3) proposes additional field activities and analytical work, if any, to complete the evaluation. Aerojet shall then conduct any field activities or analytical work and submit a Final Report on Evaluation of Source. Any action taken as a result of an exceedance will be taken outside of the confines of this Decree. If at any time the governments determine that the concentration of a detected chemical would pose a threat to users of water from the water purveyor intakes such that the procedures provided for in the Decree do not provide adequate or timely response, the governments will take whatever action they deem necessary to protect the water supply users.

In summary, it is our feeling that given the fact that the TCE levels are in fact decreasing and the monitoring language that we asked for has been incorporated in the new agreement, the City's American River supply is presently protected. This does not mean, however, that we will cease to conduct our own monitoring. The Water Division's water quality laboratory will continue to monitor organic levels in the river.

FINANCIAL

There is no financial impact.

RECOMMENDATION

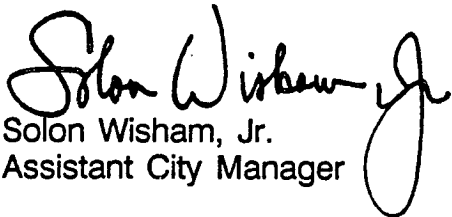
This report is for information only.

Respectfully submitted,



Jim Sequeira
Water Division Manager

APPROVED FOR COMMITTEE INFORMATION:



Solon Wisham, Jr.
Assistant City Manager

APPROVED:



Melvin H. Johnson
Director of Public Works

January 3, 1989