



City of Broken Arrow

Request for Action

File #: 17-1783, Version: 1

**Broken Arrow City Council
Meeting of: 2-7-17**

**To: Mayor and City Council
From: Utilities Department
Title:**

Consideration, discussion, and possible approval of and authorization to execute a Consent Order with Blue Bell Creameries, LLC requiring them to hire a licensed engineer, construct a pretreatment facility and come into compliance with Broken Arrow Wastewater Discharge Permit No. BA007, and waive the accumulated surcharges upon satisfactory completion of all required actions

Background:

City of Broken Arrow is required by Oklahoma Pollutant Discharge Elimination System (OPDES) Permit No. 0040053 to operate a pretreatment program in accordance with Section 402(b)(8) of the Clean Water Act, the General Pretreatment Regulations (40 CFR 403) and the provisions of the Industrial Pretreatment Program. As a part of the Pretreatment Program, the City issued Blue Bell Creameries a wastewater discharge permit, No. BA007, on November 4, 2012.

As of March of 2013, Blue Bell Creameries has not been in compliance with the limits listed in the wastewater discharge permit on a regular basis. The limits that Blue Bell is not able to comply with are for biochemical oxygen demand (BOD), total suspended solids (TSS), oil & grease, and pH.

In 2016, the Lynn Lane Wastewater Treatment Plant received several incidences of influent with high-strength waste loadings from Blue Bell Creameries that placed a strain on the biological treatment process. Laboratory samples were taken at the influent wet well of the wastewater plant. The laboratory tests revealed BOD, TSS, and oil & grease levels recorded that were above average during these slug loading events.

Staff has been working closely with Blue Bell for the past several years to come to an agreement about the need for a pretreatment system at the Blue Bell facility. Blue Bell was given a corrective action plan by the City of Broken Arrow in 2014. The plan stated that Blue Bell would take corrective steps to stabilize pH fluctuations and develop a standard operating procedure to reduce discharging high-strength waste containing high BOD and TSS.

Blue Bell has since installed a chemical injection system that enabled regulating the pH, implemented standard operating procedures, and employee training. These steps were supposed to be a precursor to the pretreatment facility that Blue Bell had agreed to construct as part of their facility expansion plan of 2015. However, Blue Bell had to shut down the Broken Arrow facility in April 2015 due to a listeria outbreak. This event deferred

the Blue Bell facility expansion indefinitely.

Since re-opening the manufacturing facility in August of 2015, Blue Bell has accumulated surcharges due to high-strength waste discharged that exceeded the limits set in the Wastewater Discharge Permit No. BA007. Surcharges in the amount of \$341,605.59 are due to the City of Broken Arrow as of October, 2016. These charges are for BOD, TSS and Oil & Grease above residential thresholds. A 2015-2016 surcharge report is attached for review.

Staff has drafted a Consent Order that has been reviewed by Blue Bell as well as City of Broken Arrow legal staff. The Consent Order is attached for consideration and approval. The Consent Order has established milestones that require Blue Bell to complete the following tasks:

1. Hire a licensed engineering consultant to perform a wastewater discharge characterization study and submit a preliminary engineering report to City of Broken Arrow by February 6, 2017.
2. Identify a treatment process and submit an engineering report with the wastewater characterization results by March 6, 2017.
3. Begin construction of the pretreatment facility by January 8, 2018.
4. Complete construction and begin operation of the pretreatment facility by January 7, 2019.
5. Submit a 180-day operational report detailing compliance status with Broken Arrow Wastewater Discharge Permit No. BA 007 by September 2, 2019.

Staff proposes that the Broken Arrow Municipal Authority waive the calculated surcharges amounting to \$341,605.59, as well as any additional surcharges accrued throughout the duration of this Consent Order, with two requirements. These requirements are:

1. Blue Bell shall construct a pretreatment facility in an amount that is equal to or greater than the total amount of surcharges accumulated.
2. The operation of the pretreatment facility shall enable Blue Bell to be in compliance with permit No. BA 007.

Staff recommends that the Authority authorize the Chairman to execute the Consent Order with Blue Bell Creameries, L.L.C. and authorize the City Manager to waive the accumulated surcharges upon satisfactory completion of all tasks therein.

Cost: \$0

Prepared By: Lauren Wilson, Pretreatment Coordinator

Reviewed By: Anthony Daniel, Director of Utilities Department
Legal Department
Kenny Schwab, Assistant City Manager- Operations

Approved By: Michael Spurgeon, City Manager

Attachments: **2017 Blue Bell Consent Order**
 FY 2016-2017 Blue Bell Surcharge report

Recommendation:

To approve the Consent Order and authorize its execution and to waive the surcharges upon successful completion of all required tasks.