



City of Broken Arrow

Request for Action

File #: 18-1375, Version: 1

**Broken Arrow Municipal Authority
Meeting of: 12-04-2018**

Title:

Consideration, discussion, possible approval of and authorization to execute an amendment to the 2017 Consent Order with Blue Bell Creameries, LLC requiring construction of a pretreatment facility for compliance with Broken Arrow Wastewater Discharge Permit No. BA 007 and authorizing the City Manager to waive accumulated surcharges throughout the duration of the Order, upon satisfactory completion of tasks

Background:

City of Broken Arrow entered into a consent order in February 2017, pursuant to Section 24-514 (b) of Broken Arrow Municipal Code, which requires Blue Bell Creameries to construct a pretreatment facility for the purpose of attaining compliance with Section 24-501 of Broken Arrow Municipal Code and Broken Arrow Wastewater Discharge Permit No. BA 007. The consent order 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.

To date, Blue Bell Creameries has completed tasks 1-3 by hiring Gresham Smith and Partners to perform a wastewater discharge characterization study, submitting a preliminary engineering report identifying the proposed wastewater treatment process, performing a pilot study of the proposed process, submitting an engineering report with pilot study results, awarding the construction contract to Brassfield and Gorrie, and beginning construction of the facility.

In addition to the tasks listed above, and as a part of the 2017 Consent Order Agreement, the Broken Arrow Municipal Authority authorized the City Manager to 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. The 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.

The current construction amount for the Blue Bell Wastewater Pretreatment Facility is \$6,919,603 and surcharges totaling \$883,243.19 have been waived by City of Broken Arrow.

In a letter dated September 24, 2018, Marty Kilgore, General Manager for Blue Bell Creameries Broken Arrow, formally requested an extension to the January 7, 2019 construction completion deadline of the consent order. Mr. Kilgore requested a new deadline of May 7, 2019, listing several unexpected delays as the reason, including conducting a two-month pilot study of the pretreatment process instead of the originally planned one-month study.

Utilities staff drafted an Amendment of Consent Order that has been reviewed by City of Broken Arrow legal staff striking 2017 Consent Order items 17 E and 17 F of page 7, and replacing the items with the following:

17. E. Complete construction and begin operation of Blue Bell Facility Upgrades by May 7, 2019 and document completion of the task by submitting a written notification to City of Broken Arrow.

17. F. Submit to City of Broken Arrow, a compliance report from the first six months of operation following start-up of facility upgrades by January 2, 2020. The report should include: documented spills at the Blue Bell Facility, permit exceedances, and pH monitoring data.

The Amendment of Consent Order is attached for your consideration and approval. Staff recommends that the Authority authorize the Chairman to execute the Amendment of Consent Order on behalf of Blue Bell Creameries, L.L.C. and authorize the City Manager to continue to waive accumulated surcharges throughout the duration of the Order, contingent upon satisfactory completion of all tasks therein.

Cost: \$0

Funding Source: Source

Requested By: Charles Vokes, Utilities Director

Approved By: Michael L. Spurgeon, City Manager

Attachments: Blue Bell 2017 Consent Order (signed)

2017 Consent Order Extension Request

Blue Bell Broken Arrow Job Status Report

Blue Bell 2018 Amendment of Consent Order

Recommendation:

Approve and authorize execution of an Amendment to the 2017 Consent Order with Blue Bell Creameries, LLC and authorize the City Manager to waive accumulated surcharges throughout the duration of the Order, upon satisfactory completion of all tasks therein.