



- Item:** Consider Calumet Montana Refining, Inc.'s (CMR's) withdrawal of its appeal of conditions attached to MPDES discharge permit and dismiss the appeal.
- From:** Paul Skubinna, Environmental Division Supervisor and Sara Sexe, City Attorney
- Initiated By:** Paul Skubinna, Environmental Division Supervisor and Sara Sexe, City Attorney
- Presented By:** Jim Rearden, Public Works Director and Sara Sexe, City Attorney
- Action Requested:** Commission's acceptance of CMR's withdrawal of its appeal and dismissal of appeal.
-

Suggested Action:

1. Commissioner moves:

"I move the City Commission (accept/not accept) CMR's withdrawal of its appeal of the conditions of the MPDES permit and dismiss the appeal."

Mayor calls for a second, discussion, public comment, and calls for the vote.

Background:

The City of Great Falls (City) was cited by the Environmental Protection Agency (EPA) on June 23, 2010, wherein the EPA alleged that the City failed to properly enforce certain provisions of the Clean Water Act. A detailed summary of the EPA allegations, negotiations among the parties, (including Malteurop America, Inc.) and the proposed consent decree was discussed by the City's legal counsel at the City Commission's work session on Wednesday, January 29, 2014. The Consent Decree was ordered to be entered by the United States District Court for the District of Montana, Great Falls Division, on April 14, 2014 in *United States of America and State of Montana v. The City of Great Falls, MT and Malteurop North America, Inc.*, United States District Court, Montana, Cause No. CV-14-16-GF-BMM, United States Department of Justice Reference Number 90-5-1-108955.

Under paragraph nine of the Consent Decree, the City is under obligation to review all Significant Industrial Users (SIU) to the City's publicly owned treatment works (POTW) and identify those that generate hydrogen sulfide (H₂S). The City was then to issue modified permits to those SIUs identified with conditions (subject to, and contingent upon, EPA approval) to control H₂S.

Accordingly, after receiving input and direction from EPA representatives, the Public Works Department - Environmental Division, submitted the proposed CMR permit with modified limits and conditions to the EPA, which, in turn, approved the limits. On March 15, 2015, the City provided public notice in the Great Falls Tribune of its Intent to Modify and Reissue the Permit to Discharge Industrial Wastewater to the City's POTW. The only comments received to such Permit were timely filed by CMR. The City took final action on the permit on May 19, 2015, whereby it provided a response to all substantive comments received during the public comment period. CMR requested that the City Commission hear its appeal of the modified limits and conditions, and has requested an enforcement stay pending that appeal.

On July 23, 2015, the City Commission accepted CMR's appeal and stayed the enforcement pending hearing. Reference is made to the July 23, 2015 Commission Agenda Report for copies of supporting documents.

On January 8, 2016, CMR agreed to accept the terms of the modified permit and provided a letter indicating their withdrawal of the appeal. In staff's discussions with CMR, it indicated that it wanted to instead focus on its application for an expanded permit.

Since the City Commission accepted the appeal, and CMR does not intend to proceed with the appeal, the Commission must take action on the pending appeal. It is staff's recommendation that the Commission accept the withdrawal and dismiss the appeal. If dismissed, the permit stands as issued and approved by the EPA in the spring of 2015.

Attachments: January 8, 2016 letter

cc: Paul Skubinna, City of Great Falls Environmental Division Supervisor
Cathy Laughner, Attorney for Calumet Montana Refining, Inc.



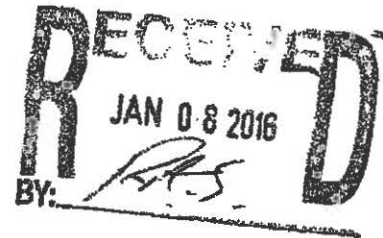
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January 8, 2016

HAND DELIVERED and EMAIL

Paul Skubinna
Environmental Division Supervisor
Industrial Pretreatment Program
City of Great Falls Public Works Department
P.O. Box 5021
Great Falls, Mt. 59403-5021



Re: Calumet Wastewater Permit pH Limit and Permit for Expansion

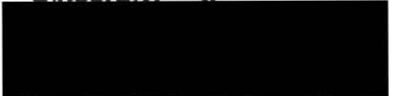
Calumet Montana Refining, LLC. (CMR) is willing to accept the terms of the May 15, 2015 indirect discharge permit from the City with the maximum pH limit of 7.6, the continuous blower operation and Slug Control plan conditions based on having experience since May. We previously requested a maximum flow rate increase to 500 gallons per minute or 720,000 gallons per day for our expected discharge requirements following our construction that is in progress.

Thank you for your considerations for this limit and for good turnaround time on this request. As has been recently discussed, it may be necessary for CMR to seek other changes to the permit in the future.

Please call me if you have any questions.

Thank you for your consideration.

Sincerely,



Hadley Bedbury
Health, Safety, Security and Environmental Manager

Cc: Jim Rearden, Great Falls Public Works,
Dana Leach, Gary Lindquist, Wayne Leiker