CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

REVISED TENTATIVE CEASE AND DESIST ORDER NO. R2-2008-XXXX

REQUIRING THE CITY OF BENICIA
TO CEASE AND DESIST DISCHARGING PARTIALLY-TREATED WASTEWATER
TO WATERS OF THE STATE

WHEREAS the California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter "Regional Water Board"), finds that:

1. The City of Benicia (hereinafter "Discharger") owns and operates a wastewater treatment plant (WWTP), located at 614 East 5th Street, Benicia, CA, Solano County. The WWTP treats domestic, commercial, and industrial wastewater from the City of Benicia. It has a dry weather design capacity of 4.5 million gallons per day (MGD).

2. The wastewater discharge has been regulated by waste discharge requirements in Order No. 01-096 (NPDES Permit No. CA0038091).

3. Concurrent with the adoption of this Cease and Desist Order, the Regional Water Board adopted Order No. R2-2008-XXXX (hereinafter "Permit"), reissuing waste discharge requirements for the Discharger. The Permit contains prohibitions, limitations, and provisions regulating the discharge. The limitations include those listed in Table 1 below, among others.

Table 1: Permit Effluent Limits

Parameter	Final Effluent Limits in Permit		Monitoring Station
	Average Monthly Effluent Limit	Maximum Daily Effluent Limit	
Cyanide	6.4 µg/L	17 µg/L	EFF-001

4. The Discharger submitted an infeasibility study demonstrating that it cannot comply with the cyanide effluent limits listed in Table 1. As stated in the Permit findings, the Regional Water Board concurs with the Discharger because the 95th and 99th percentiles of the effluent data for cyanide exceed both the average monthly and daily maximum limits for cyanide.

5. Water Code § 13301 authorizes the Regional Water Board to issue a Cease and Desist Order when it finds that a waste discharge is taking place, or threatening to take place, in violation of Regional Water Board requirements.

6. Because the Discharger will violate or threatens to violate required effluent limits, this Order is necessary to ensure that the Discharger achieves compliance. This Order establishes time

schedules for the Discharger to complete necessary investigative, preventive, and remedial actions to address its imminent and threatened violations.

7. The time schedules in this Order are intended to be as short as possible. They account for the considerable uncertainty in determining effective measures (e.g., pollution prevention and treatment plant upgrades) necessary to achieve compliance. This Order allows some time to first explore source control measures before requiring further actions, such as treatment plant upgrades, which are likely to be much more costly. The time schedules are based on reasonably expected times needed to implement source identification and upstream source control, evaluate success, identify on-site treatment alternatives if necessary, test and select from among alternatives, and construct plant upgrades. The Regional Water Board may wish to revisit these assumptions as more information becomes available.

8. As part of the time schedules to achieve compliance, this Order requires the Discharger to comply with interim effluent limits. The interim limits are intended to ensure that the Discharger maintains at least its existing performance while completing all tasks required during the time schedules. The cyanide interim limit is the same as interim limit in the previous NPDES permit, Order No. 01-096.

9. This Order is an enforcement action and, as such, is exempt from the provisions of the California Environmental Quality Act (Public Resources Code § 21000 et seq.) in accordance with 14 CCR § 15321.

10. The Regional Water Board notified the Discharger and interested persons of its intent to consider adoption of this Cease and Desist Order, and provided an opportunity to submit written comments and appear at a public hearing. The Regional Water Board, in a public hearing, heard and considered all comments.

IT IS HEREBY ORDERED, in accordance with Water Code § 13301, that the Discharger shall cease and desist from discharging and threatening to discharge wastes in violation of its Permit by complying with the following provisions:

1. Prescribed Actions. The Discharger shall comply with the required actions in Table 2 in accordance with the time schedules provided therein to comply with all effluent limits contained in the Permit. All deliverables listed in Table 2 shall be acceptable to the Executive Officer, who will review them for adequacy and compliance with the requirements of Table 2. The Discharger shall further implement all actions set forth in each deliverable, unless the Executive Officer finds the deliverable to be unacceptable.

2. Exceptions. The cyanide-related time schedule and prescribed actions in Table 2 shall cease to be in effect upon the effective date of site-specific objectives* for cyanide in San Francisco Bay resulting in an adjusted saltwater chronic objective of 2.9 µg/L and acute objective of 9.4 µg/L, and thus putting into effect the alternate effluent limits the Permit specifies. If different site-specific objectives are adopted, the Regional Water Board will

* Site specific objectives for cyanide in San Francisco Bay were adopted by the Regional Water Board in December 2006, and by the State Water Board in December 2007.

establish revised effluent limits based on them after the effective date of those different site-specific objectives, and the time schedule and prescribed actions in this Order shall remain in effect until the revised cyanide limits are adopted. At that time, the Regional Water Board will determine if the time schedule and prescribed actions in Table 2 are still necessary or if they should be rescinded. Until such time, the Discharger shall comply with them.

The time schedule and prescribed actions in Table 2 shall cease to be in effect if (1) the results of the comprehensive dilution study called for in the Permit document a greater initial dilution than currently estimated, (2) effluent limits recalculated based on that new estimated initial dilution would eliminate the threat of non-compliance, and (3) the Permit is amended to reflect these new effluent limits. Recalculated cyanide effluent limits shall not in any case exceed the alternate cyanide effluent limits discussed above.

3. Reporting Delays. If the Discharger is delayed, interrupted, or prevented from meeting one or more of the time schedules in Table 2 due to circumstances beyond its reasonable control, the Discharger shall promptly notify the Executive Officer, provide the reasons and justification for the delay, and propose a time schedule for resolving the delay.

4. Consequences of Non-Compliance. If the Discharger fails to comply with the provisions of this Order, the Executive Officer is authorized to take further enforcement action or to request the Attorney General to take appropriate actions against the Discharger in accordance with Water Code §§ 13331, 13350, 13385, and 13386. Such actions may include injunctive and civil remedies, if appropriate, or the issuance of an Administrative Civil Liability Complaint for Regional Water Board consideration.

5. Effective Date. This Order shall be effective on the effective date of the Permit.

Table 2: Time Schedules and Prescribed Actions for Cyanide

Action	Deadline
	Cyanide
a. Comply with the following interim effluent limit at Monitoring Station E-001: *Cyanide*: Maximum daily effluent limit = 25 µg/L	Upon the effective date of this Order
b. If, by June 1, 2008, discharge data continue to show that the discharge is out of compliance (as defined in Section 2.4.5 of the State Implementation Plan) with the permit effluent limits for cyanide, submit an inventory of potential cyanide sources to the treatment plant (e.g., metal plating operations, hazardous waste recycling, etc.).	September 30, 2008 (in the August 2008 SMR)
c. Submit a plan for and begin implementation of a program to minimize cyanide discharges to the sanitary sewer system. The program shall consist, at a minimum, of the following elements: i. Maintain a list of potential cyanide sources. ii. Investigate each potential cyanide source to assess the need to include it in the program. iii. Inspect contributing sources included in the control program annually. Inspection elements may be based on USEPA guidance, such as Industrial User Inspection and Sampling Manual for POTWs (EPA 831-B-94-01). iv. Identify and implement targeted actions to reduce or eliminate discharges from each cyanide source in the program. v. Develop and distribute educational materials to contributing sources and potential contributing sources regarding the need to prevent cyanide sources to the sanitary sewer system.	February 28, 2009 (in the 2008 Best Management Practices and Pollutant Minimization Report [annual pollution prevention report] required by Permit Provision VI.C.3.)
d. Continue to implement the program described in action "c" and submit annual status reports that evaluate its effectiveness and summarize planned changes. Report whether the program has successfully brought the discharge into compliance with the effluent limits in the Permit. If not, identify and implement additional measures to further reduce discharges.	Annually each February 28 in the annual pollution prevention report.
e. If by **September 28, 2011**, discharge data continue to show that the discharge is out of compliance (as defined in Section 2.4.5 of the State Implementation Plan) with the Permit effluent limits, submit a report, by the deadline for this action, identifying more aggressive actions to ensure	February 1, 2012

Action	Deadline
	Cyanide
compliance. These actions shall include, but not be limited to, reviewing options for pretreatment and upgrades to the treatment plant. The report shall identify an implementation schedule for investigating these options, selecting a preferred option, and implementing the chosen option. At a minimum, the report shall plan for the following activities: i. Bench scale testing or pilot scale testing or both ii. Development of preliminary design specifications iii. Development of final design specifications iv. Procurement of funding v. Acquisition of necessary permits and approvals vi. Construction	
f. Implement the plan required in action "e" within 45 days of the deadline for action "e" and submit annual status reports.	Annually each February 1 in Annual Self-Monitoring Report required by Permit Attachment E, Monitoring and Reporting Program
g. Submit documentation confirming complete plan implementation and comply with effluent limits in the Permit.	August 1, 2015

I, Bruce H. Wolfe, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on <date>.

BRUCE H. WOLFE
Executive Officer