

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

**CEASE AND DESIST ORDER NO. R2-2008-0059
CIWQS REGULATORY MEASURE 340916
REQUIRING THE SANITARY DISTRICT No. 5 of MARIN COUNTY
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 Sanitary District No. 5 of Marin County (hereinafter “Discharger”) owns and operates a wastewater treatment plant, located at 2001 Paradise Drive, Tiburon, Marin County. The plant treats domestic wastewater from the Town of Tiburon, City of Belvedere, and surrounding unincorporated areas. It has a dry weather design capacity of 0.98 million gallons per day.
2. The wastewater discharge has been regulated by waste discharge requirements in Order No. R2-2002-0097 (NPDES Permit No. CA0037753).
3. Concurrent with the adoption of this Cease and Desist Order, the Regional Water Board adopted Order No. R2-2008-0057 (hereinafter “Permit”), CIWQS Regulatory Measure 340891, 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 Limitations for Selenium.

Parameter	Final Effluent Limits in Permit		Monitoring Station
	Average Monthly Effluent Limit (µg/L)	Maximum Daily Effluent Limit (µg/L)	
Selenium	3.7	9.0	EFF-001-S

4. The Discharger submitted an Infeasibility Analysis demonstrating that it cannot comply with the 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 data exceed the average monthly and daily maximum limits, respectively.
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 a time schedule for the Discharger to complete necessary investigative, preventive, and

remedial actions to address its imminent and threatened violations.

7. The time schedule in this Order is intended to be as short as possible. It accounts 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 analytical changes before requiring further actions, such as source control measures and treatment plant upgrades, which are likely to be much more costly. The time schedule is based on reasonably expected times needed to review and assess analytical data; 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 revisit these assumptions as more information becomes available.
8. As part of the time schedule to achieve compliance, this Order requires the Discharger to comply with an interim effluent limit, which is based on past treatment performance or limits established in previous permits, whichever are more stringent. The interim effluent limit is intended to ensure that the Discharger maintains at least its existing level of treatment performance while completing all tasks required during the time schedules.

Here, the interim limit for selenium is based on past performance, representing the 99.87th percentile of the projected effluent data set (three standard deviations from the mean). The interim limit for selenium (17 µg/L) is the 99.87th percentile of the projected lognormal distribution of the effluent data set, and is established as the interim effluent limitation by this Order. This performance based interim limit is more stringent than the interim limit of the previous permit (50 µg/L).

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. Exceedance of the NPDES limits for selenium is not subject to California Water Code §13385(h) and (i) as long as the Discharger complies with all of the requirements of the Cease and Desist Order, does not exceed the interim limits, and meets the requirements of §13385(j)(3).
11. 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 Table 2 requirements. The Discharger shall further implement all actions set forth in each deliverable, unless the Executive Officer finds the deliverable to be unacceptable.
2. 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 time schedules for resolving the delay.
3. 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.
4. Effective Date. This Order shall be effective on the effective date of the Permit.

Table 2: Time Schedule and Prescribed Actions

Action	Deadline
	Selenium
a. Comply with the following interim effluent limit at Monitoring Station EFF-001: <i>Selenium</i> : Maximum daily effluent limit = 17 µg/L	Upon the effective date of this Order
b. Investigate sample collection, analytical method, sample handling, and analytical laboratory quality assurance and quality control practices to ensure that analytical results for selenium are accurately determined and reported. Submit a report by the deadline describing the results of the investigation and any changes in analytical method, quality assurance, and quality control practices implemented.	November 30, 2008
c. If the report on analytical indicates compliance with final limits (using helium collision cell technology to reduce interferences), Tasks c. through i. will not be required. If the analytical data indicate non-compliance with final limits submit a plan for identifying all sources of selenium in the influent to the treatment plant. Examples of potential environmental sources of selenium are agriculture irrigation, oil refining, municipal landfills, and electronics. The plan shall, at a minimum, include sampling influent waste streams to identify and quantify pollutant sources.	March 1, 2009
d. Implement the plan developed in action “c” within 30 days following the deadline for action “c,” and submit by the deadline for this action a report that contains an inventory of the pollutant sources.	May 31, 2009
e. Submit a report documenting development and initial implementation of a program to reduce and prevent the pollutants of concern in the discharge. The program shall consist, at a minimum, of the following elements: i. Maintain a list of sources of pollutants of concern. ii. Investigate each source to assess the need to include it in the program. iii. Identify and implement targeted actions to reduce or eliminate discharges from each source in the program. iv. Develop and distribute, as appropriate, educational materials regarding the need to prevent contributions of selenium to the sewer system.	November 30, 2009
f. Continue to implement the program described in action “e” 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	Annually each February 28 in Best Management Practices and Pollutant Minimization Report required by Permit

Action	Deadline
	Selenium
Permit. If not, identify and implement additional measures to further reduce discharges.	Provision VI.C.3
<p>g. If by February 28, 2011, the above actions have not successfully brought the discharge into compliance with all Permit effluent limits, submit a report, by the deadline for this action, identifying more aggressive actions to ensure 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:</p> <ul style="list-style-type: none"> 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 	November 30, 2011
<p>h. Implement the plan required in action “g” within 45 days following the deadline for action “g,” and submit annual status reports.</p>	Annually each February 1 in the Annual Self-Monitoring Report required by Permit Attachment E, Monitoring and Reporting Program
<p>i. Submit documentation confirming complete plan implementation and comply with effluent limits in the Permit.</p>	January 1, 2013

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 July 9, 2008.

BRUCE H. WOLFE
Executive Officer