

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

TENTATIVE TIME SCHEDULE ORDER R5-2025-XXXX

REQUIRING  
BALLANTYNE HOLDINGS LLC  
FORMER MARLEY COOLING TOWER COMPANY  
SAN JOAQUIN COUNTY

TO COMPLY WITH WASTE DISCHARGE REQUIREMENTS PRESCRIBED IN  
ORDER R5-2022-0006-03  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)  
PERMIT CAG995002  
OR SUBSEQUENT WASTE DISCHARGE REQUIREMENT ORDERS

**FINDINGS**

The California Regional Water Quality Control Board, Central Valley Region, (hereafter Central Valley Water Board) finds that:

1. Ballantyne Holdings, LLC (Discharger), owns and operates the SPX Marley Cooling Tower Technologies (Facility). The Facility discharges up to 0.94 million gallons per day (mgd) of treated groundwater and storm water into the Stockton Diverting Canal, a water of the United States and a tributary of the Calaveras River.
2. On 16 January 2025, the Central Valley Water Board Executive Officer issued a Notice of Applicability (NOA) R5-2022-0006-035 with an effective date of 1 April 2025 authorizing the Discharger coverage under the General Order for Limited Threat Discharges to Surface Waters (Limited Threat General Order) R5-2022-0006-03 for discharges from the Facility, including final effluent limitations, in part for iron.
3. NOA R5-2022-0006-035 includes Table 1. Effluent Limitations for Constituents and Parameters of Concern includes, in part, the following effluent limitations applicable to discharges from the Facility at Discharge Point 001 with compliance measured at Monitoring Location EFF-001:

**Table 1. Effluent Limitations for Constituents and Parameters of Concern**

<b>Parameter</b>	<b>Units</b>	<b>Average Monthly Effluent Limitations</b>	<b>Maximum Daily Effluent Limitations</b>	<b>Section Reference</b>
Iron, Total	micrograms per liter (µg/L)	470	930	V.A.1.e

**NEED FOR TIME SCHEDULE AND LEGAL BASIS**

4. On 19 December 2024, the Discharger submitted the *Infeasibility Analysis and Time Schedule Order Request for Iron*, requesting additional time to comply with the existing final effluent limitations for iron in NOA R5-2022-0006-035. The request provided detailed information supporting the infeasibility to immediately comply with

the final effluent limitations for iron. The Discharger has investigated and identified that naturally occurring concentrations in the influent and the addition of iron as a byproduct from the current groundwater treatment system process, are the two sources contributing to the increase in the Facility's effluent iron concentrations. For compliance with the final effluent limitations for iron the Discharger has requested time to develop and implement pollution prevention practices, confirm the sources of iron, and evaluate alternative treatment options.

5. This Time Schedule Order (TSO or Order) contains a time schedule for compliance with final effluent limitations for iron contained in NOA R5-2022-0006-035, sets interim limitations for iron, and is intended to provide protection from mandatory minimum penalties (MMPs) for potential exceedances of the final effluent limitation for iron.

### **MANDATORY MINIMUM PENALTIES**

6. California Water Code (CWC) section 13385, subdivisions (h) and (i), requires the Central Valley Water Board to impose MMPs upon dischargers that violate certain effluent limitations. CWC section 13385(j)(3) exempts discharges from these MMPs:  
... where the waste discharge is in compliance with either a cease and desist order issued pursuant to Section 13301 or a time schedule order issued pursuant to Section 13300 or 13308, if all the [specified] requirements are met...for the purposes of this subdivision, the time schedule may not exceed five years in length...
7. Per the requirements of CWC section 13385(j)(3), the Central Valley Water Board finds that:
  - a. This Order specifies the actions that the Discharger is required to take in order to correct the violations that would otherwise be subject to CWC section 13385(h) and (i).
  - b. To comply with final effluent limitations, the Discharger proposed that 5 years is necessary to allow for development and implementation of the actions presented in Finding 4.
  - c. The final effluent limitations for iron are new, more stringent, or modified regulatory requirements that became applicable to the waste discharge after the effective date of NOA R5-2022-0006-035 and after 1 July 2000. New or modified control measures are necessary in order to comply with the final effluent limitations for iron. The new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.
  - d. This Order establishes a time schedule to bring the waste discharge into compliance with the final effluent limitations that is as short as possible, taking into account the technological, operational, and economic factors that affect the

design, development, and implementation of the control measures that are necessary to comply with the effluent limitations.

8. By statute, a Cease and Desist Order or Time Schedule Order may provide protection from MMPs for no more than five years. However, Water Code section 13385(j)(3)(C)(ii)(II), authorizes the Central Valley Water Board to grant an additional five years if the Central Valley Water Board finds, following a public hearing, that a Discharger is making diligent progress towards bringing the waste discharge into compliance and that the additional time is necessary to comply with the effluent limitations.
9. Compliance with this Order exempts the Discharger from MMPs for violations of final effluent limitations for iron found in NOA R5-2022-0006-035 from **1 April 2025** (the date of this Order) until **31 March 2030**. The Discharger has not previously been protected from mandatory minimum penalties for violations of the iron effluent limitations.
10. In accordance with CWC section 13385(j)(3)(C), the total length of protection from mandatory minimum penalties for the final effluent limitations for iron does not exceed five years.
11. This Order provides a time schedule for completing the actions necessary to ensure compliance with the final effluent limitations for iron contained in NOA R5-2022-0006-35. Since the time schedule for completion of actions necessary to bring the waste discharge into compliance exceeds one year, this Order includes interim effluent limitations and interim requirements and dates for their achievement.
12. This Order includes new performance-based interim effluent limitations for iron, which consist of an average monthly effluent limitation (AMEL) of 27,000 µg/L and a maximum daily effluent limitation (MDEL) of 83,000 µg/L.
13. The Central Valley Water Board finds that the Discharger can maintain compliance with the interim effluent limitations included in this Order. Interim effluent limitations are established when compliance with the final effluent limitations cannot be achieved by the existing Facility. Discharge of constituents in concentrations in excess of the final effluent limitations, but in compliance with the interim effluent limitations, can significantly degrade water quality and adversely affect the beneficial uses of the receiving stream on a long-term basis. However, the interim effluent limitations establish an enforceable ceiling concentration until compliance with the final effluent limitation can be achieved.
14. If an interim effluent limit contained in this Order is exceeded, then the Discharger is subject to MMPs for that particular exceedance as it will no longer meet the exemption in CWC 13385(j)(3). It is the intent of the Board that a violation of an interim monthly effluent limitation subjects the Discharger to only one MMP for that monthly averaging period. In addition, a violation of an interim daily maximum

effluent limit subjects the Discharger to one MMP for the day in which the sample was collected.

### **OTHER REGULATORY REQUIREMENTS**

15. CWC section 13300 states, in part:

“Whenever a regional board finds that a discharge of waste is taking place or threatening to take place that violates or will violate requirements prescribed by the regional board, or the state board, or that the waste collection, treatment, or disposal facilities of a discharger are approaching capacity, the board may require the discharger to submit for approval of the board, with such modifications as it may deem necessary, a detailed time schedule of specific actions the discharger shall take in order to correct or prevent a violation of requirements.”

16. CWC section 13383 states, in part:

“[A] regional board may establish monitoring, inspection, entry, reporting, and recordkeeping requirements . . . for any person who discharges, or proposes to discharge, to navigable waters, any person who introduces pollutants into a publicly owned treatment works, any person who owns or operates, or proposes to own or operate, a publicly owned treatment works or other treatment works treating domestic sewage, or any person who uses or disposes, or proposes to use or dispose, of sewage sludge.”

17. The Discharger owns and operates the Facility. The technical and monitoring reports required by this Order are necessary to determine compliance with this Order and NOA R5-2022-0006-035.

18. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) (“CEQA”) pursuant to CWC section 13389, since the adoption or modification of a NPDES permit for an existing source is statutorily exempt and this Order only serves to implement a NPDES permit. (Pacific Water Conditioning Ass’n, Inc. v. City Council of City of Riverside (1977) 73 Cal.App.3d 546, 555-556.)

19. This Order is issued under authority delegated to the Executive Officer in accordance with Central Valley Water Board Resolution No. R5-2018-0057, and Water Code section 13223.

20. On 16 January 2025, Central Valley Water Board staff issued a notice of public hearing and provided a 30-day comment period for consideration of adopting a TSO under section 13300 of the Water Code to establish a time schedule for achieving compliance with waste discharge requirements. The notice stated that any member of the public may request an oral hearing before the Executive Officer, and if no

hearing is requested, the Executive Officer’s review of the administrative record, including any written comments received shall constitute the public hearing

**IT IS HEREBY ORDERED THAT:**

1. Pursuant to California Water Code Sections 13300 and 13383, the Discharger shall comply with the following time schedule to submit reports and ensure completion of the compliance project described in Finding 7.b, above:

**Table 2. Final Effluent Limitations for Iron Compliance Schedule**

<b>Task</b>	<b>Compliance Date</b>
Submit Progress Reports. The progress reports shall detail the steps taken to comply with this Order, including documentation, showing completion of tasks, construction progress, evaluation of the effectiveness of the implemented measures, and assessment of whether additional measures are necessary to meet the compliance dates.	31 January, annually
Submit documentation the product testing and pilot treatment system modification have been finalized.	31 March 2026
Submit documentation that the design of the final treatment system modification is complete.	31 March 2027
Submit documentation that construction of the final treatment system has begun.	31 January 2028
Submit documentation the final treatment system has been installed.	31 January 2030
Comply with final effluent limitations for iron.	1 April 2030

2. The following interim effluent limitations for iron shall be effective 1 April 2025. The Discharger shall comply with the following interim effluent limitations through 31 March 2030, or when the Discharger is able to come into compliance with the final effluent limitations, whichever is sooner.

**Table 3. Interim Effluent Limitations**

<b>Parameter</b>	<b>Units</b>	<b>Interim AMEL</b>	<b>Interim MDEL</b>
Iron, Total	µg/L	27,000	83,000

- 3 Any person signing a document submitted under this TSO shall make the following certification:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true,

accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”

4. In accordance with California Business and Professions Code sections 6735, 7835, and 7835.1, engineering and geologic evaluations and judgments shall be performed by or under the direction of registered professionals competent and proficient in the fields pertinent to the required activities. All technical reports specified herein that contain work plans for, that describe the conduct of investigations and studies, or that contain technical conclusions and recommendations concerning engineering and geology shall be prepared by or under the direction of appropriately qualified professional(s), even if not explicitly stated. Each technical report submitted by the Discharger shall contain the professional's signature and/or stamp of the seal.

If, in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer may refer this matter to the Attorney General for judicial enforcement, may issue a complaint for administrative civil liability, or may take other enforcement actions. Failure to comply with this Order or with NOA R5-2022-0006-035 may result in the assessment of Administrative Civil Liability of up to \$10,000 per violation, per day, depending on the violation, pursuant to the Water Code, including sections 13350 and 13385. The Central Valley Water Board reserves its right to take any enforcement actions authorized by law.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Links to the laws and regulations applicable to filing petitions may be found on the [Water Quality Petitions Page](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) ([http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality)) or will be provided upon request.

This Order is effective upon the date of signature.

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PATRICK PULUPA, Executive Officer