

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 9



In the matter of:	)	DOCKET NO. UIC-09-2025-0055
	)	
McKittrick Limited	)	<b>CONSENT AGREEMENT</b>
McKittrick, California	)	<b>AND FINAL ORDER</b>
	)	
Respondent.	)	<i>Administrative Penalty Proceeding under Section 1423(c)(1) of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300h-2(c)(1), and 40 C.F.R. §§ 22.13(b) and 22.18</i>

**CONSENT AGREEMENT**

**I. AUTHORITY AND PARTIES**

1. This is a civil administrative penalty proceeding under Section 1423(c)(1) of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300h-2(c)(1), and 40 C.F.R. Part 22 (*Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*).
2. Pursuant to Section 1423(c)(1) of the SDWA, 42 U.S.C. § 300h-2(c)(1), the Administrator of the United States Environmental Protection Agency (EPA) is authorized to assess administrative penalties against persons who violate, Section 1423(a)(2) of the SDWA, 42 U.S.C. § 300h-2(a)(2). The Administrator has delegated this authority to the Regional Administrator of the EPA Region 9, who in turn has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, hereinafter, "Complainant."
3. Respondent is McKittrick Limited.
4. This Consent Agreement and Final Order (CA/FO), which contains the elements of a complaint required by 40 C.F.R. § 22.14(a), simultaneously commences and concludes this penalty proceeding, as authorized by 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

5. Complainant and Respondent agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their respective interest and in the public interest.

## **II. STATUTORY AND REGULATORY AUTHORITY**

6. Section 1421 of the SDWA, 42 U.S.C. § 300h, requires the Administrator of EPA to promulgate regulations, which shall include permitting requirements as well as inspection, monitoring, recordkeeping, and reporting requirements, for state underground injection control ("UIC") programs to prevent underground injection from endangering drinking water sources.
7. Section 1421(d)(1) of the SDWA, 42 U.S.C. § 300h(d)(1), defines "underground injection" as the subsurface emplacement of fluids by well injection and excludes the underground injection of natural gas for purposes of storage and the underground injection of fluids or propping agents (other than diesel fuels) pursuant to hydraulic fracturing operations related to oil, gas, or geothermal production activities.
8. Section 1421(d)(2) of SDWA, 42 U.S.C. § 300h(d)(2), provides that underground injection endangers drinking water sources if such injection may result in the presence in underground water which supplies or can reasonably be expected to supply any public water system of any contaminant, and if the presence of such contaminant may result in such system not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons.
9. Section 1422(c) of SDWA, 42 U.S.C. § 300h-1(c), provides that the Administrator for EPA shall prescribe UIC programs applicable to those states that have not obtained primary enforcement responsibility of their UIC programs (a concept called "primacy") or do not have primacy for all types of wells.
10. The State of California does not have primacy for Class I wells. In accordance with Section 1422(c) of the SDWA, 42 U.S.C. § 300h-1(c), and 40 C.F.R. § 147.251, EPA administers the UIC program for Class I wells in the State of California.
11. Pursuant to Sections 1421 and 1422 of the SDWA, 42 U.S.C. §§ 300h and 300h-1, respectively, EPA has promulgated UIC regulations at 40 C.F.R. Parts 124, 144, 146, 147 (Subpart F), and 148.
12. 40 C.F.R. § 144.1(g) provides that the UIC programs regulate underground injection by six classes of wells, and all owners or operators of these injection wells must be authorized either by permit or rule.

13. 40 C.F.R. § 144.11 prohibits any underground injection, except into a well authorized by rule or by permit issued under the UIC program.
14. 40 C.F.R. § 144.51(a) provides that any UIC permittee must comply with all conditions of its permit. Any permit noncompliance constitutes a violation of SDWA and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application; except that the permittee need not comply with the provisions of this permit to the extent and for the duration such noncompliance is authorized in an emergency permit under 40 C.F.R. § 144.34.
15. 40 C.F.R. § 144.3 defines “permit” as an authorization, license, or equivalent control document issued by EPA or an approved State to implement the requirements of 40 C.F.R. Parts 144, 145, 146 and 124.
16. 40 C.F.R. § 144.3 defines “owner or operator” as the owner or operator of any “facility or activity” subject to regulation under the UIC program.
17. 40 C.F.R. § 144.3 defines “facility or activity” as any UIC “injection well” or another facility or activity that is subject to regulation under the UIC program.
18. Section 1401(12) of the SDWA, 42 U.S.C. § 300f(12), defines “person” as an individual, corporation, company, association, partnership, State, municipality, or Federal agency (and includes officers, employees, and agents of any corporation, company, association, State, municipality, or Federal agency). *See also* 40 C.F.R. § 144.3.
19. Section 1423(a)(2) of the SDWA, 42 U.S.C. § 300h-2(a)(2), provides that any person subject to any requirement of any applicable UIC program is violating such requirement of the program in a state that does not have primacy may be subject to an order requiring compliance, or may be assessed a civil penalty, or both, pursuant to Section 1423(c)(1) of the SDWA, 42 U.S.C. § 300h-2(c)(1).
20. Under Section 1423(c)(1) of the SDWA, 42 U.S.C. § 300h-2(c)(1), and 40 C.F.R. § 19.4, EPA may assess a civil penalty of not more than \$28,619 for each day of violation, up to a maximum administrative penalty of \$357,729, for violations occurring after November 2, 2015, where penalties are assessed on or after January 8, 2025.

### **III. GENERAL ALLEGATIONS**

21. Respondent McKittrick Limited is a company and thus qualifies as a “person” within the meaning of Section 1401(12) of the SDWA, 42 U.S.C. § 300f(12), and 40 C.F.R. § 144.3.
22. At all times relevant to this CA/FO, Respondent operated a natural gas-fired peaker power plant located at 4905 Reward Road, McKittrick California (“Facility”).

23. On December 18, 2019, EPA issued a Class I Non-Hazardous Waste Injection Well Permit, Permit No. R9UIC-CA1-FY17-3, (hereafter, "Permit") which authorized Respondent to operate a class I well known as the Well McKittrick WD-1 (API# 029-87611) upon certain specified conditions as specified in the Permit. The Permit became effective on December 18, 2019.

24. Part II.D.6.c of the Permit provides, in part:

If the historic cyclic range of annular pressure fluctuation is not already known, then within the first ninety (90) days of normal injection operations after the effective date of this Permit, the Permittee shall monitor and record to determine that range. This pressure range shall be submitted with the first Quarterly Report due after the effective date of the Permit.

25. Respondent submitted historic cyclic annual ranges to EPA on August 13, 2024, which was more than 90 days after normal injection operations after the effective date of the Permit.

26. Under 40 C.F.R. § 144.51(a) and Part III.E.1 of the Permit, any permit noncompliance constitutes a violation of the SDWA and is grounds for enforcement action, permit termination, revocation and reissuance, or modification, or denial of a permit renewal application.

#### **IV. ALLEGED VIOLATION**

27. Respondent's failure to comply with Part II.D.6.c of its Permit within 90 days of normal injection operations is a violation of its Permit, 40 C.F.R. § 144.51(a), and the SDWA.

#### **V. ADMINISTRATIVE PENALTY**

28. In consideration of the penalty factors of Section 1423(c)(4)(B) of the SDWA, 42 U.S.C. § 300h-2(c)(4)(B), Respondent agrees to pay a civil penalty in the amount of NINETEEN THOUSAND THREE HUNDRED SIXTY-THREE DOLLARS (\$19,363) ("Assessed Penalty") within thirty (30) days after the date the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk ("Filing Date").

29. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

30. When making a payment, Respondent shall:

- a. Identify every payment with Respondent's name and the docket number of this Consent Agreement, Docket No. UIC-09-2025-0055.
- b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve via electronic mail proof of such payment to the following persons:

Regional Hearing Clerk

U.S. Environmental Protection Agency, Region 9

R9HearingClerk@epa.gov

and

Adam Howell

Enforcement and Compliance Assurance Division

U.S. Environmental Protection Agency - Region 9

Howell.Adam@epa.gov

and

U.S. Environmental Protection Agency

Cincinnati Finance Division

CINWD\_AcctsReceivable@epa.gov

"Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

31. Interest, Charges, and Penalties on Late Payments. Pursuant to 33 U.S.C. § 1319(g)(9), 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Consent Agreement, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing, and EPA is authorized to recover the following amounts.

- a. Interest. Interest begins to accrue from the Effective Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until the unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. Interest will be assessed at prevailing rates, per

33 U.S.C. § 1319(g)(9). The rate of interest is the IRS standard underpayment rate.

b. Handling Charges. The United States' enforcement expenses including, but not limited to, attorneys' fees and costs of collection proceedings.

c. Late Payment Penalty. A twenty percent (20%) quarterly non-payment penalty.

32. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Consent Agreement, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following.

- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14;
- b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
- c. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
- d. Request that the Attorney General bring a civil action in the appropriate district court to recover the full remaining balance of the Assessed Penalty, in addition to interest and the amounts described above, pursuant to 33 U.S.C. § 1319(g)(9). In any such action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

33. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

34. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Consent Agreement shall not be deductible for purposes of federal taxes.

## **VI. APPLICABILITY**

35. This CA/FO shall apply to and be binding on Respondent, Respondent's officers, directors, partners, trustees, authorized representatives, agents, employees, contractors, successors and assigns. Action or inaction of any persons, firms, contractors, employees, agents or corporations acting under, through, or for Respondent shall not excuse any failure of Respondent to fully perform its obligations under this CA/FO. Changes in ownership, real property interest, or transfer of personal assets shall not alter Respondent's obligations under this CA/FO.

## **VII. RESPONDENT'S ADMISSIONS AND WAIVERS**

36. In accordance with 40 C.F.R. § 22.18(b)(2), for the purpose of this proceeding, Respondent:

- a. admits the jurisdictional allegations of this CA/FO;
- b. admits the facts stipulated in this CA/FO or neither admits nor denies specific factual allegations contained in this CA/FO;
- c. consents to all conditions specified in this CA/FO and to the assessment of the civil administrative penalty set forth in Section V above; and
- d. waives any right to contest the allegations set forth in this CA/FO and waives its right to appeal this CA/FO.

37. Respondent also waives the right to a hearing under 40 C.F.R. § 22.15(c) and Section 1423(c)(3) of the SDWA, 42 U.S.C. § 300h-2(c)(3), and to any appeal of the Final Order under Section 1423(c)(6) of the SDWA, 42 U.S.C. § 300h-2(c)(6).

38. By signing this Consent Agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the Final Order accompanying the Consent Agreement.

## **VIII. RESERVATION OF RIGHTS**

39. In accordance with 40 C.F.R. § 22.18(c), compliance with this CA/FO only resolves Respondent's SDWA civil penalty liabilities for the violations specifically alleged herein and does not in any case affect the right of the EPA to pursue injunctive or other equitable relief or criminal sanctions for any violations of law or in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

40. This CA/FO is not a permit or modification of any existing permit issued pursuant to any federal, state, or local laws or regulations, and shall in no way relieve or affect Respondent's obligations under any applicable federal, state or local laws, regulations, or permits.

**IX. ADDITIONAL TERMS**

41. Each party shall bear its own attorney's fees and costs.
42. This CA/FO can be signed in counterparts.
43. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.
44. The undersigned representative of Respondent certifies he has authority to bind Respondent to this Agreement.
45. By signing this CA/FO, Respondent acknowledges that this CA/FO does not contain any confidential business information (CBI) or waives any claim of CBI.

**X. PUBLIC NOTICE**

46. As required by Section 1423(c) of the SDWA, 42 U.S.C. § 300h-2(c)(3), and 40 C.F.R. § 22.45, prior to submitting this Agreement to the Regional Judicial Officer or Regional Administrator for approval, the EPA will provide public notice of this Agreement and a reasonable opportunity to comment on the matter. The EPA may modify or withdraw its consent to this Agreement if comments received disclose facts or considerations indicating this Agreement is inappropriate, improper, or inadequate, or if a hearing is requested under Section 1423(c) of the SDWA, 42 U.S.C. § 300h-2(c)(3).

**XI. EFFECTIVE DATE**

47. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), the Effective Date of this CA/FO is the date that the Final Order, having been signed by the Regional Judicial Officer, is filed with the Regional Hearing Clerk.



In the Matter of: McKittrick Limited  
DOCKET NO. UIC-09-2025-0055

IT IS SO AGREED.

For Complainant the U.S. Environmental Protection Agency, Region 9:

AMY MILLER-  
BOWEN

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Digitally signed by  
AMY MILLER-BOWEN  
Date: 2025.04.07  
09:49:22 -07'00'

Amy Bowen-Miller, Director

Enforcement and Compliance Assurance Division

IT IS SO AGREED.

For Respondent McKittrick Limited:

A handwritten signature in blue ink, appearing to read "B. Colbert", is written over a horizontal line.

Brent Colbert

Plant Manager, Redwood Sites

3.26.2025

Date

**FINAL ORDER**

IT IS HEREBY ORDERED that this Consent Agreement and Final Order (U.S. EPA Docket No. UIC-09-2025-0055) be entered, and that Respondent shall pay a civil penalty in the amount of NINETEEN THOUSAND THREE HUNDRED SIXTY-THREE DOLLARS (\$19,363) in accordance with the terms of this Consent Agreement and Final Order.

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Beatrice Wong  
Regional Judicial Officer  
U. S. Environmental Protection Agency, Region IX

**CERTIFICATE OF SERVICE**

I certify that the original of the foregoing Consent Agreement and Final Order in the matter of McKittrick Limited (Docket No. UIC-09-2025-0055) has been filed with Regional Hearing Clerk, and a copy was served on respondent and Counsel for Complainant by email, as indicated below:

**RESPONDENT:** Brent Colbert  
Plant Manager  
WCAC Operating Services  
34759 Lencioni Avenue  
Bakersfield, CA 93308  
Brent.Colbert@contourglobal.com

**COMPLAINANT:** Rebekah Reynolds  
Assistant Regional Counsel  
U.S. EPA – Region IX  
Water Section IV (ORC-2-4)  
75 Hawthorne Street  
San Francisco, CA 94105  
Reynolds.Rebekah@epa.gov

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Regional Hearing Clerk  
U.S. EPA – Region IX