

**MINOR MODIFICATION TO PERMIT NO. R9UIC-CA1-FY17-3
ISSUED TO MCKITTRICK LIMITED**

In accordance with 40 CFR § 144.41, this permit is hereby modified to address specific financial assurance conditions stipulated in Paragraph II.G of the Permit as a result of a change in ownership of the entity responsible for providing financial assurance for plugging and abandonment of Well McKittrick WD-1.

Portions of pages 24 and 25 of the Permit are hereby revised and now read as follows (for clarity, changes are shown with removals struck out and with new additions in **bold and underlined text**):

Pages 24-25

G. FINANCIAL ASSURANCE REQUIREMENTS

1. Demonstration of Financial Assurance

The Permittee ~~is required to~~ **must** demonstrate and **at all times** maintain financial assurance and resources sufficient to close, plug, and abandon any authorized underground injection operations by this Permit, as provided in the Plugging and Abandonment Plan contained in Appendix G and consistent with 40 CFR § 144 Subpart ~~DE~~ .

In addition, the Permittee shall meet the following specific financial assurance requirements:

- a. The Permittee ~~established financial assurance~~ **must obtain and maintain insurance** for the plugging and abandonment of Well McKittrick WD-1 in the amount of \$59,200 ~~by demonstrating that it passed the financial test as specified in 40 CFR § 144.63(f)(1)(i). The Permittee submitted a letter signed by the chief financial officer of Harbert Power Fund V, LLC (the "Fund") along with a copy of the Deloitte & Touche, LLP report on examination of the Fund's financial statement ended December 31, 2018, to support its use of the financial test to demonstrate financial assurance. The plugging and abandonment amount has been factored in the cost for an independent third party to plug and abandon Well McKittrick WD-1.~~ **as specified in 40 CFR § 144.63(e). The Permittee submitted a plugging and abandonment insurance policy (Policy Number CPC E659271 00) and its binder issued by Great American E&S Insurance Company with a policy period from March 4, 2021 to March 4, 2022 along with a copy of a certificate of insurance for plugging and abandonment to support its use of the plugging and abandonment insurance to demonstrate financial assurance. The Permittee must renew the insurance policy each year for the life of the well or until an alternate financial assurance has been approved by EPA.**
- b. ~~The financial assurance mechanism shall be reviewed and updated annually, and a description of that review and any updates, such as the firm's latest year end~~

financial statements, shall be set forth in the Quarterly Report due on January 28 of each year. At its discretion, and upon written request, EPA may require the Permittee to change to an alternate method of financial assurance. Any such change must be approved in writing by EPA prior to the change. **Prior to January 28 of each year, the Permittee must pay the premium to extend the insurance policy through March of the following year. Proof of plugging and abandonment insurance through March of the following year shall be submitted with the Quarterly Report due on January 28 of each year. The Quarterly Report shall also contain a description of any other updates to the financial assurance mechanism. Failure to pay the premium, without substitution of adequate alternate financial assurance will constitute a significant violation of this permit and 40 CFR § 144.63. Such violation will be deemed to begin upon receipt by EPA of a notice of future cancellation, termination, or failure to renew due to nonpayment of the premium, rather than upon date of expiration. Failure to provide proof of insurance through the March of the following year by January 28 of each year will be construed as notice of failure to renew due to nonpayment of the premium.**

- c. EPA may periodically require the Permittee to update the estimated Plugging and Abandonment Plan (see Appendix G) and/or the cost associated with it, and the Permittee shall make such an adjustment within sixty (60) days of notice from EPA. Alternately, EPA may independently adjust the required financial assurance amount, as warranted. **The Permittee must maintain the insurance policy in full force and effect until EPA consents to termination of the insurance policy in accordance with 40 CFR § 144.63(e)(10). The plugging and abandonment insurance can be cancelled by the Permittee not less than ninety (90) days after notifying EPA and obtaining written consent. At its discretion EPA may require the Permittee to change to an alternate method of financial assurance.**
- d. **EPA may periodically require the Permittee to update the estimated Plugging and Abandonment Plan (see Appendix G) and/or the cost associated with it. Alternately, EPA may independently adjust the required financial assurance amount, as warranted, and notify the Permittee.**

Whenever the current plugging and abandonment cost estimate increases to an amount greater than the face amount of the policy, the Permittee within sixty (60) days after the increase, must either cause the face amount to be increased to an amount at least equal to the current plugging and abandonment estimate and submit evidence of such increase to the Regional Administrator, or obtain other financial assurance as specified in 40 CFR § 144.63 to cover the increase.

All other permit conditions remain unchanged.

This minor modification is effective immediately upon signature.

Tomás Torres, Director
Water Division, EPA Region 9