

NEVADA DIVISION OF ENVIRONMENTAL PROTECTION

TEMPORARY AUTHORIZATION TO DISCHARGE

In compliance with the provisions of Chapter 445A of the Nevada Revised Statutes, the Permittee,

**Encore Energy, Inc.
16640 Wedge Parkway
Reno, NV 89511**

is authorized to discharge treated effluent from an oil removal treatment works and non-contact cooling tower blow down from a recycling facility located at:

**Bango Oil, LLC (Bango Oil)
22211 Bango Road
Fallon, NV 89406 (Churchill County)**

**Latitude: 39° 29' 57" N, Longitude: 119° 02' 28" W
Township 19N, Range 26E, SW¹/₄ NW¹/₄ Section 23**

onto non-paved land and road surfaces owned and controlled by Bango Oil as a dust suppressant via water truck application, and onto concrete-lined equipment pads located at the Bango Oil re-refining facility as a source of non-potable wash down and emergency water use (firewater storage),

in accordance with effluent limitations, monitoring requirements, and other conditions set forth in Parts I, II, and III hereof.

This permit shall become effective on **June XX, 2009**.

This permit and the authorization to discharge shall expire at midnight, **December XX, 2009**.

Signed this XXth day of June, 2009.

Mark A. Kaminski, P.E.
Staff Engineer III
Bureau of Water Pollution Control



Part I**I.A. EFFLUENT LIMITATIONS, MONITORING REQUIREMENTS CONDITIONS**

I.A.1. During the period beginning on the effective date of this permit, and lasting until the permit expires, the Permittee is authorized to discharge treated effluent from an oil removal treatment works and non-contact cooling tower blow down water for dust control water, concrete pad wash down water and emergency firewater storage at Bango Oil, located at 22211 Bango Road, Fallon, Churchill County, Nevada.

Samples taken in compliance with the monitoring requirements specified below shall be taken at the following locations:

- a. Flow shall be measured by the recording (totalizing) flow meter(s), installed to measure the discharge from the oil removal treatment works and non-contact blow down water discharged from the cooling towers.
- b. Samples of treated effluent from the oil removal treatment works shall be obtained from the discharge of the granular activated carbon (GAC) columns prior to discharge into the plant's non-potable plant water storage tanks.

The discharge shall be limited and monitored by the Permittee as specified below:

TABLE 1: PLANT DISCHARGE LIMITATIONS

PARAMETER	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	30-Day Average	Daily Maximum	Measurement Frequency	Sample Type or Location
Total Flow, gallons/day	14,000	21,000	Continuous	Flow Meter
Benzene, µg/l	5	5	Weekly	GAC Columns Outlet
Ethylbenzene, µg/l	100	100	Weekly	GAC Columns Outlet
Toluene, µg/l	100	100	Weekly	GAC Columns Outlet
Xylenes (Total), µg/l	200	200	Weekly	GAC Columns Outlet
MTBE, µg/l	20	20	Weekly	GAC Columns Outlet
TPH (All Ranges), mg/l	1.0	1.0	Weekly	GAC Columns Outlet
pH, Std. Units	6 – 9	6 – 9	Weekly	Non-Potable H ₂ O Storage Tanks Outlet
TDS, mg/l	M&R	M&R	Weekly	Non-Potable H ₂ O Tanks Outlet
Profile 1 Analysis	M&R (All Parameters)		Monthly	Non-Potable H ₂ O Tanks Outlet

Where: mg/L: Milligrams per liter.
µg/l: Micrograms per liter.
GAC: Granular Activated Carbon

I.A.2. Schedule of Compliance

- The Permittee shall implement and comply with the provisions of the schedule of compliance after approval by the Administrator, including in said implementation and compliance, any additions or modifications that the Administrator may make in approving the schedule of compliance
- a. The Permittee shall achieve compliance with the effluent limitations upon issuance of the permit.
 - b. The Permittee shall notify the Division in writing no more than fourteen (14) calendar days following construction completion and startup of the oil removal treatment works.
 - c. Within thirty (30) days of startup of the oil removal treatment works, the Permittee shall submit a copy of the engineer's Construction Quality Assurance (CQA) letter indicating that the oil removal treatment works was installed in accordance with the approved design plans. The CQA letter shall be wet stamped and signed by a Nevada Professional Engineer (P.E.).
 - d. Within thirty (30) days of the startup of the oil removal treatment works, the Permittee shall submit a copy of the as-built design plans wet stamped and signed by a Nevada Professional Engineer (P.E.).
 - e. Within ninety (90) days of the startup of the oil removal treatment works, the Permittee shall submit any updates made to the Bango Oil, LLC Operations & Maintenance (O&M) Manual (dated May 2009).
- I.A.3. If monitoring indicates that these permit limits are exceeded, then the Permittee shall notify the Division in writing within five (5) business days and provide an appropriate corrective actions plan to bring the treatment system in compliance with the required discharge limits.
- I.A.4. There shall be no objectionable odors from the industrial wastewater accumulation, storage, treatment or disposal facilities.
- I.A.5. There shall be no discharge from this facility except as authorized by this permit.
- I.A.6. There shall be no discharge of substances that would cause a violation of water quality standards of the State of Nevada.
- I.A.7. The non-paved, dust control areas on the property owned and controlled by Bango Oil shall be posted at all public roadway entrances leading into the facility's property where the dust control water will be applied. The posted roadway sign(s) shall indicate that non-potable water is being used for dust control purposes.
- I.A.8. The Bango Oil water truck(s) shall be placarded (labeled) as containing "Non-Potable Water. Avoid Contact".
- I.A.9. The application of dust control water shall be conducted in a manner to keep standing water to a minimum on the ground. No direct runoff of water from the dust control application areas is allowed.
- I.A.10. The water truck(s) shall not be used at the disposal site when the ground is wet, frozen, or covered with snow, such that surface runoff would occur.

- I.A.11. Water hose stands (spigots) at the concrete pads where the non-potable water is discharged for general wash down water shall be posted (labeled) to indicate “Non-Potable Water. Do Not Drink.”
- I.A.12. The non-potable water storage tanks located at the Bango Oil processing facility shall be posted (labeled) to indicate “Non-Potable Water”.
- I.A.13. The collection, treatment, storage and discharge facilities shall be constructed and operated in accordance with plans approved by the Division. The plans must be approved by the Division prior to the start of construction. Division approval of all changes to approved plans is required prior to implementation.
- I.A.14. The facility shall be operated in accordance with the Operations and Maintenance (O&M) Manual, which must be approved by the Administrator.
- I.A.15. There shall be no discharges of floating solids or visible foam in other than trace amounts.
- I.A.16. All solid, toxic, or hazardous waste shall be properly handled and disposed of pursuant to applicable laws and regulations. Any sludge generated during this operation shall be characterized and disposed of in accordance with local, State, and Federal regulations.
- I.A.17. The Permittee shall maintain a 100 ft buffer zone around all irrigation canals where dust control water cannot be discharged onto the ground at any time of the year.
- I.A.18. The Permittee shall maintain on-site at the facility an operations logbook for the oil removal treatment works system including, but not limited to: start-ups, shutdowns, and operational periods; sampling dates and times; name(s) of operational personnel performing system maintenance and inspections; and maintenance procedures performed.

I.B. MONITORING AND REPORTING

I.B.1. Monitoring

- a. **Representative Samples:** Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge.
- b. **Test Procedures:** Testing in compliance with provisions of this permit shall be done in accordance with the following.
- i. Analysis shall be performed by a State of Nevada certified laboratory. Analyses shall be conducted by a "certified laboratory" using an "approved method of testing", as defined at NAC 445A.0564 and NAC 445A.0562, respectively.
 - ii. Unless otherwise allowed by the Division, detection limits shall be half the discharge limit or less, or, if there is no discharge limit, half the applicable water quality criteria or less, or, if there is no limit or criteria, the lowest reasonably obtainable using an approved method.
- c. **Recording the Results:** For each measurement or sample taken pursuant to the requirements of this permit, the Permittee shall record the following information:

- i. The exact place, date, and time of sampling;
 - ii. The dates the analyses were performed;
 - iii. The person(s) who performed the analyses;
 - iv. The analytical techniques or methods used; and
 - v. The results of all required analyses.
 - d. **Additional Monitoring by Permittee:** If the Permittee monitors any pollutant at the location designated herein more frequently than required by this permit, using approved analytical methods as specified above, the results of such monitoring shall be included in the calculation and reporting of the values required in the DMR forms. Such increased frequency shall also be indicated on the DMR.
 - e. **Records Retention:** All records and information resulting from the monitoring activities, permit application, reporting required by this permit, including all records of analyses performed and calibration and maintenance of instrumentation and recordings from continuous monitoring instrumentation, shall be retained for a minimum of three (3) years, or longer if required by the Administrator.
 - f. **Detection Limits:** All laboratory analysis conducted in accordance with this discharge permit must meet the following criteria:
 - i. The most sensitive analytical method specified or approved in either 40 CFR 136 or SW-846 shall be used which is required or approved by the Nevada state laboratory certification program; and
 - ii. Each parameter shall have detection at or below the permit limits or the method detection limit as defined in the analytical method; or
 - iii. The Permittee is considered in compliance if the reported results are less than the established permit limit.
 - g. **Modification of Monitoring Frequency and Sample Type:** After considering monitoring data, stream flow, discharge flow and receiving water conditions, the Administrator may, for just cause, modify the monitoring frequency and/or sample type by issuing an order to the Permittee.
- I.B.2. **Reporting:** All reports, information, or applications submitted to the Division must be signed by the highest ranking certified operator or the person directly responsible for operating the facility. The first report submitted under this permit must include the written designation of the certified operator or an eligible facility representative authorized to sign DMRs or other periodic report submittals. If the certified operator or facility representative in responsible charge changes, a new designation letter must be submitted.
- a. Discharge Monitoring Reports

Analytical data and monitoring results shall be summarized, tabulated, and/or graphically illustrated for presentation in standardized Discharge Monitoring Reports (DMRs). The Permittee is considered compliant if the reported results are less than established permit limits. If there is no discharge during a reporting period, report this condition as 'no discharge' on the DMR for that period. If applicable, if groundwater wells are dry, report this condition as 'dry' on the DMR for that period. Laboratory reports for quantitative analyses conducted by

State of Nevada certified laboratories must accompany all report submittals.

DMRs shall be received by the 28th day of the month following the month of each sampling. The first report is due on **July 28, 2009**.

Each DMR shall include:

- i. Monitoring results for effluent discharge parameters described pursuant to Part I.A. of the permit shall be summarized and tabulated for each month period; and

An original, signed copy of the DMR (and of all reports required herein) shall be submitted to the State at the following address:

**Department of Conservation and Natural Resources
Division of Environmental Protection
Bureau of Water Pollution Control
Attn: Compliance Coordinator
901 S. Stewart Street, Suite 4001
Carson City, Nevada 89701**

- b. Compliance Reports:
Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each scheduled date.
- c. Other Information:
Where the Permittee becomes aware of failure to submit any relevant facts in a permit application or the submittal of incorrect information in a permit application or in any report to the Administrator, the Permittee shall promptly submit such facts or information.

I.B.3. **Definitions**

- a. The “30-day average discharge” means the total discharge during a month divided by the number of samples in the period that the facility was discharging. Where less than daily sampling is required by this permit, the 30-day average discharge shall be determined by the summation of all the measured discharges divided by the number of samples during the period when the measurements were made.
- b. The “daily maximum” is the highest measurement during the monitoring period.
- c. The “30-day average concentration”, other than for fecal coliform bacteria, means the arithmetic mean of measurements made during a month. The “30-day average concentration” for fecal coliform means the geometric mean of measurements made during a month. The geometric mean is the “nth” root of the product of “n” numbers.
- d. A “discrete” sample means any individual sample collected in less than 15 minutes.
- e. For flow-rate measurements, a “composite” sample means the arithmetic mean of no fewer than six individual measurements taken at equal time intervals for 24 hours, or for the duration of discharge, whichever is shorter.

For other than flow-rate, a “composite” sample means a combination of no fewer than six individual flow-weighted samples obtained at equal time intervals for 24 hours, or for the duration of discharge, whichever is shorter. Flow-weighted sample means that the volume of each individual sample shall be proportional to the discharge flow-rate at the time of sampling.

PART II

II.A. MANAGEMENT REQUIREMENTS

- II.A.1. **Change in Discharge:** All discharges authorized herein shall be consistent with the terms and conditions of this permit. The discharge of any pollutant identified in this permit more frequently than, or at a level in excess of, that authorized shall constitute a violation of the permit.

Any anticipated facility expansions or treatment modifications which will result in new, different, or increased discharges of pollutants must be reported by submission of a new application or, if such changes will not violate the effluent limitations specified in this permit, by notice to the permit-issuing authority of such changes. Any changes to the permitted treatment facility must comply with NAC 445A.283 to 445A.285. Pursuant to NAC 445A.263, the permit may be modified to specify and limit any pollutants not previously limited.

- II.A.2. **Facilities Operation – Proper Operation and Maintenance:** The Permittee shall, at all times, maintain in good working order and operate as efficiently as possible all collection systems, or pump stations installed or used by the Permittee to achieve compliance with the terms and conditions of this permit.

- II.A.3. **Adverse Impact – Duty to Mitigate:** The Permittee shall take all reasonable steps to minimize any adverse impact to receiving waters resulting from noncompliance with any effluent limitations specified in this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of non-complying discharge.
- II.A.4. **Noncompliance, Unauthorized Discharge, Bypassing, and Upset:**
- a. Any diversion, bypass, spill, overflow, or discharge of treated or untreated wastewater from wastewater treatment or conveyance facilities under the control of the Permittee is prohibited except as authorized by this permit. In the event the Permittee has knowledge that a diversion, bypass, spill, overflow, or discharge not authorized by this permit is probable, the Permittee shall notify the Division immediately.
 - b. The Permittee shall notify the Division within twenty-four (24) hours of any diversion, bypass, spill, upset, overflow, or release of treated or untreated discharge other than that which is authorized by the permit. A written report shall be submitted to the Division within five (5) days of diversion, bypass, spill, overflow, upset, or discharge detailing the entire incident including:
 - i. Time and date of discharge;
 - ii. Exact location and estimated amount of discharge;
 - iii. Flow path and any bodies of water which the discharge contacts;
 - iv. The specific cause of the discharge; and
 - v. The preventive and/or corrective actions taken.
 - c. The following shall be included as information which must be reported within 24 hours:
 - i. Any unanticipated bypass which exceeds any effluent limitation in the permit;
 - ii. Any upset which exceeds any effluent limitation in the permit; and
 - iii. Violation of a limitation for any toxic pollutant or any pollutant identified as the method to control a toxic pollutant.
 - d. The Permittee shall report all instances of noncompliance not reported under Part II.A.4.c. at the time DMRs are submitted. The reports shall contain the information listed in Part II.A.4.b.
 - e. A “**bypass**” means the intentional diversion of waste streams from any portion of a treatment facility.
 - i. **Bypass not exceeding limitations:** The Permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (a) and (b) of this section.
 - ii. **Anticipated bypass:** If the Permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of the bypass.

- f. **Prohibition of Bypass:** Bypass is prohibited, and the Administrator may take enforcement action against a Permittee for bypass, unless:
- i. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage.
 - ii. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment down time. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - iii. The Permittee submitted notices as required under paragraph (e) of this section.
- g. The Administrator may approve an anticipated bypass, after considering its adverse effects, if the Administrator determines that it will meet the three conditions listed in paragraph (f) of this section.
- h. An “**upset**” means an incident in which there is unintentional and temporary noncompliance with the permit effluent limitations because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error. Improperly designed treatment facilities. Lack of preventive maintenance, or careless or improper operation.
- i. **Effect of an Upset:** An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of paragraph (j) of this section are met.
- j. **Conditions Necessary for a Demonstration of an Upset:** The burden of proof is on the Permittee to establish that an upset occurred. A Permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that: In selecting the appropriate enforcement option, the Division shall consider whether or not the noncompliance was the result of an upset.
- i. An upset occurred and that the Permittee can identify the cause(s) of the upset;
 - ii. The facility was at the time being properly operated; and
 - iii. The Permittee submitted notice of the upset as required under paragraph c of this section; and
 - iv. All reasonable steps were taken to minimize adverse impacts as required by Part II.A.3. above.
- k. In selecting the appropriate enforcement options, the Administrator shall consider whether or not the noncompliance was the result of an upset. The burden of proof is on the Permittee to establish that an upset occurred.
- l. **Removed Substances:** Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollution from such materials from entering any navigable waters.

II.A.5. **Safeguards to Electric Power Failure:** In order to maintain compliance with the effluent limitations and prohibitions of this permit the Permittee shall either:

- a. Provide, at the time of discharge, an alternative power source sufficient to operate wastewater control facilities; or
- b. Halt or reduce all discharges upon the reduction, loss, or failure of the primary source of power to wastewater control facilities.

II.B. RESPONSIBILITIES

II.B.1. **Right of Entry and Inspection:** The Permittee shall allow the Administrator and/or his authorized representatives, upon the presentation of credentials, to:

- a. Enter at reasonable times upon the Permittee's premises where an effluent source is located or in which any records are required to be kept under the terms and conditions of this permit;
- b. Have access to and copy any records required to be kept under the terms and conditions of this permit;
- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations required in this permit;
- d. Perform any necessary sampling or monitoring to determine compliance with this permit at any location for any parameter.

II.B.2. **Transfer of Ownership or Control:** In the event of any change in control or ownership of facilities from which the authorized discharge emanates, the Permittee shall notify the succeeding owner or controller of the existence of this permit, by letter, a copy of which shall be forwarded to the Administrator. The Administrator may require modification or revocation and re-issuance of the permit to change the name of the Permittee and incorporate such other requirements as may be necessary. ALL transfer of permits must be submitted for Division approval.

II.B.3. **Availability of Reports:** Except for data determined to be confidential under Nevada Revised Statute (NRS) 445A.665, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the office of the Administrator. As required by the Act, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in NRS 445A.710.

II.B.4. **Furnishing False Information and Tampering with Monitoring Devices:** Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained by the provisions of NRS 445A.300 to 445A.730, inclusive, or by any permit, rule, regulation, or order issued pursuant thereto, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under the provisions of NRS 445A.300 to 445A.730, inclusive, or by any permit, rule, regulation, or order issued pursuant thereto is guilty of a gross misdemeanor and shall be punished by a fine of not more than \$10,000 or by imprisonment. This penalty is in addition to any other penalties, civil or criminal, provided pursuant to NRS 445A.300 to 445A.730, inclusive.

- II.B.5. **Penalty for Violation of Permit Conditions:** NRS 445A.675 provides that any person who violates a permit condition is subject to administrative and judicial sanctions as outlined in NRS 445A.690 through 445A.705.
- II.B.6. **Permit Modification, Suspension, or Revocation:** After notice and opportunity for a hearing, this permit may be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:
- a. Violation of any terms or conditions of this permit; or
 - b. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or
 - c. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge; or
- II.B.7. **Toxic Pollutants:** Notwithstanding Part II.B.6., if a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under Section 307(a) of the Act for a toxic pollutant which is present in the discharge and such standard or prohibition is more stringent than any limitation for such pollutant in this permit, this permit shall be revised or modified in accordance with the toxic effluent standard or prohibition and the Permittee so notified.
- II.B.8. **Liability:** Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the Permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable Federal, State, or local laws, regulations, or ordinances.
- II.B.9. **Property Rights:** The issuance of this permit does not convey any property rights, in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property, any invasion of personal rights, or any infringement of Federal, State, or local laws or regulations.
- II.B.10. **Severability:** The provisions of this permit are severable and if any provision of this permit or the application of any provisions of this permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected thereby.

PART III

III.A. OTHER REQUIREMENTS

- III.A.1. **Signature on Reporting Forms Required:** The authorized representative who is responsible for the overall operation of the facility from which the discharge described in the application or reporting form originates must sign reporting forms submitted to the Division.
- III.A.2. The Permittee shall notify the Division Administrator, by letter, not later than 30 days after the 30-Day Average daily effluent flow rate first equals or exceeds 85% of the design capacity of the Permittee's facility given in Part I.A.1 above. The letter shall include:

- a. The 30-day average effluent flow rate;
- b. The maximum 24-hour flow rate during the 30-day period reported above and the date the maximum flow occurred;
- c. The Permittee's estimate of when the 30-day average effluent flow rate will equal or exceed the design capacity of the facility;
- d. A status report on the facility that includes, but is not be limited to, an outline of past performance, remaining capacity of the limiting collection or disposal units or sites, past operational problems and improvements instituted; modifications to the system which are needed to attain the permitted flow rate due to changing site specific conditions or design criteria; and
- e. The Permittee's schedule of compliance to provide additional capacity before the 30-day effluent flow rate equals the present design capacity of the permitted facility.