



STATE OF NEVADA

Department of Conservation & Natural Resources

DIVISION OF ENVIRONMENTAL PROTECTION

Jim Gibbons, Governor

Allen Biaggi, Director

Leo M. Drozdoff, P.E., Administrator

NOTICE OF PROPOSED ACTION

Web posting 6/2/09

The Administrator, Division of Environmental Protection, Carson City, Nevada is issuing the following notice of proposed action under the Nevada Revised Statutes. The Administrator has received an application for temporary discharge permit # TNEV2009465 from:

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

The applicant operates Bango Oil, LLC (Bango Oil) located at 22211 Bango Road, Fallon, NV 89406 (Churchill County). Bango Oil is an oil recycling facility, which re-refines used lubrication oil. Under Order No. 2146 from the Division, Bango Oil has been directed to construct an oil removal treatment works and use the treated effluent on the company's property for dust control water and non-potable plant reuse water (concrete pad washing and emergency fire water storage). This non-potable reuse water also includes input of non-contact blow down water from two cooling towers. The treated effluent from the treatment works must meet the Division's effluent standards for facilities treating sources of water contacted with petroleum hydrocarbons. The permitted discharge flow rate is not to exceed 14,000 gallons per day (30-day average basis). The Division has made the tentative determination to issue this temporary discharge permit for a period of 180 days (6 months).

Persons wishing to comment upon or object to the proposed determinations by the Administrator regarding permit issuance, or request a hearing pursuant to the Nevada Administrative Code, Water Pollution Control, should submit their comments or request, in writing, within fourteen (14) calendar days of the date of newspaper publication, hand-delivered, e-mailed, faxed or postmarked no later than 5:00 P.M. PST on Friday, June 19, 2009, either in person or by mail to:

Department of Conservation and Natural Resources
Division of Environmental Protection
Bureau of Water Pollution Control
901 S. Stewart St, Suite 4001
Carson City, Nevada 89701-5249

The request must be filed within the comment period and must indicate the interest of the person filing the request and the reasons why a hearing is warranted. All comments or objections received within the fourteen (14) day period will be considered in the formulation of final determinations regarding the application. If written comments indicate a significant degree of public interest in the proposed permit, the Administrator shall hold a public hearing. A public notice of such hearing will be issued not less than thirty (30) days prior to the hearing date.

If no hearing is held and the determinations of the Administrator are substantially changed from the tentative determinations, the Administrator will give public notice of the revised determinations. Additional comments

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and objections will be considered at that time. The application, proposed permit, comments received, and other information are on file and may be copied or copies may be obtained by writing to the above address or by calling Mark A. Kaminski, P.E., Bureau of Water Pollution Control at (775) 687-9424, or via e-mail at: mkaminsk@ndep.nv.gov. The office fax number is (775) 687-4684. The fact sheet and proposed permit conditions for this permit can be viewed at the following website: <http://ndep.nv.gov/admin/public.htm>

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NEVADA DIVISION OF ENVIRONMENTAL PROTECTION
FACT SHEET
(Pursuant to NAC 445A.236)

Permittee Name: Encore Energy, Inc.
16640 Wedge Parkway
Reno, NV 89511

Permit Number: Temporary Discharge Permit # TNEV2009465

Location: 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, SW¼ NW¼ Section 23

Bureau of Corrective Actions Sites: There is no Bureau of Corrective Actions remediation site located within a one-mile radius of Bango Oil.

Wellhead Protection Area: Bango Oil is located outside the 6,000 ft Drinking Water Protection Area #4 (DWPA #4) for any public supply well. Bango Oil is not located within a delineated wellhead capture zone for any public supply well.

General: On March 5, 2009, the Division (Bureau of Water Pollution Control (BWPC)) received a permit application for a temporary discharge permit (# TNEV2009465) from Encore Energy, Inc. (Bango Oil, LLC). The temporary permit application from Bango Oil, LLC was in response to the Division's Order No. 2146, which required Bango Oil, LLC to treat all of the wastewater generated by the re-refining process to achieve the water quality standards required for surface application or plant reuse. A temporary discharge permit may be issued by the Division (BWPC) for a maximum of a 180 day (6 month) period of time, pursuant to NRS 445A.485, after which time the discharge shall cease or the discharger shall have applied for and received a Permanent Discharge Permit. As part of Order No. 2146, Bango Oil, LLC followed up its temporary permit application with submittal of Permanent Discharge Permit Application # NEV2009509 on March 9, 2009. The Division (BWPC) may issue a permanent discharge permit for a period of five (5) years.

Bango Oil is located one and one-quarter miles northwest of the intersection of Bango Road and U.S. Highway 50 in Churchill County. Bango Oil is an oil recycling facility, which re-refines non-hazardous, used lubrication oil (e.g., used motor oil) into a saleable resource (e.g., lubrication oil). The treated industrial (i.e., non-domestic) wastewater from this facility is proposed to be discharged for dust control on the company's property via water truck application. Internally, the treated water can be reused at the plant for washing down the concrete-lined equipment processing pads and for serving as an emergency water source for fire fighting. The proposed area of dust control application at Bango Oil is the 88-acre company land parcel, of which five acres are fenced and house the operating equipment. Dust control surfaces are defined as non-paved areas including dirt haul roads. The Division routinely permits sources of non-potable water to be used as a roadway dust control agent throughout the State of Nevada.

Bango Oil generates two industrial wastewater streams. The first industrial wastewater stream, accounting for approximately 90% of the total plant volume, will be treated effluent from an oil removal treatment works. This wastewater stream is first generated when the used lubrication oil is processed at the facility to remove tramp moisture (water) impurity content to meet a finished moisture specification (e.g., less than 1% H₂O content). To meet the Division's petroleum hydrocarbon limits for general effluent discharge and to minimize any residual hydrocarbon odor, Bango Oil has proposed an industrial treatment works consisting of chemical flocculation, dissolved air flotation (DAF), particulate filtration, air stripping (w/exhaust afterburner) and adsorption polishing (granular activated carbon or GAC). The treated effluent will be discharged into two non-potable water storage tanks, which then fill the company's water truck, provide pad wash down water and serve as an emergency source of water for fire fighting. DAF solids (sludge) are recovered in a filter press with disposal of the sludge cake at an approved landfill.

The second industrial wastewater stream is non-process contact blow down from the company's two cooling towers units, which are operated for general process cooling. This wastewater stream accounts for the other 10% of the company's industrial wastewater volume. The cooling towers units are supplied with makeup water from an on-site industrial supply well. The cooling tower water is periodically treated with a chemical de-scaling agent to minimize scale formation. During cooling tower operation, evaporation (concentration) of the water occurs, and the basin water is periodically blown down (discharged) and replenished with fresh makeup water to limit salt (TDS or Total Dissolved Solids) buildup. The cooling tower blow down is also discharged into the two non-potable water storage tanks for filling water trucks, providing pad wash down water and serving as an emergency water reserve for fire fighting.

Under Order No. 2146 and until the facility obtains its discharge permits (i.e., temporary and permanent) to discharge treated wastewater on-site, the company's industrial wastewater is being hauled by a contractor to Reno Drain Oil Services (# NEV92028), which is located at 11970 Interstate-80 East in Sparks.

Receiving Water Characteristics: Depth to groundwater in the facility's supply well was indicated to be 53 ft below ground surface in 2005 (Well Log # 98431). The facility's non-public supply well is perforated (screened) from 260 to 300 ft below ground surface. A recent analysis (2009) of this groundwater quality by the Division indicates that the local groundwater aquifer exceeds the 10 µg/l (10 ppb) Arsenic (As) drinking water standard as it had tested at 190 µg/l of arsenic level. The source of this arsenic is naturally occurring deposits within the aquifer (i.e., water-bearing formation). The application rate of non-potable water onto the ground surface by a water truck for dust control measure is not expected to adversely impact State groundwater resources since disposal of the effluent is principally by surface evaporation and groundwater recharge is not expected to occur. The proposed permit conditions prohibit any surface runoff from the water trucks and also provide a buffer zone of 100 ft from any irrigation canals.

Flow: A recording flow measurement device is required to track the volume of treated effluent discharged from this treatment works and cooling tower blow down. The permit application requests flow limits of 14,000 gals/day (30-day Average) / 21,000 gals/day (Daily Maximum).

DMR Analysis: Treated effluent data from the Bango Oil treatment works is not presently available to the Division as the untreated wastewater has been hauled off-site to Reno Drain Oil Services while the treatment works at Bango Oil is under construction.

Proposed Effluent Limitations and Special Conditions: Hydrocarbon and VOC limits in Table 1 below follow the Division’s guidelines for treatment works, which remediate sources of hydrocarbon contaminants. The sampling location for the hydrocarbon and VOC parameters is the GAC discharge to monitor any sign of column breakthrough. The proposed treatment works design incorporates four (4) GAC columns operated in series-flow arrangement.

Table 1: Plant Discharge Limitations

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

Schedule of Compliance: The Permittee shall submit the following items to the Division for review and approval (**all compliance deliverables shall be addressed to the attention of the Compliance Coordinator, Bureau of Water Pollution Control**):

- The Permittee shall notify the Division in writing no more than fourteen (14) calendar days following startup of the oil removal treatment works.
- 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.).
- 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.).

- 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).

Procedures for Public Comment: The Notice of the Division's intent to issue this temporary discharge permit for a period of 180 days (6 months), subject to the conditions contained within the permit is being sent to the **Lahontan Valley News** and **Reno Gazette-Journal** newspapers for publication. The notice is also being electronically mailed to interested persons on our public notification mailing list. Anyone wishing to comment on the proposed permit can do so in writing within a period of fourteen (14) calendar days of the date of publication of the public notice in the newspaper. The comment period can be extended at the discretion of the Administrator. The deadline date and time by which all comments are to be submitted (via postmarked mail or time-stamped faxes, e-mails, or hand-delivered items) to the Division is **Friday, June 19, 2009, by 5:00 P.M. PST.**

A public hearing on the proposed determination can be requested by the applicant, any affected State, any affected interstate agency, the Regional Administrator or any interested agency, person or group of persons.

The request must be filed within the comment period and must indicate the interest of the person filing the request and the reasons why a hearing is warranted.

Any public hearing determined by the Administrator to be held must be conducted in the geographical area of the proposed discharge or any other area the Administrator determines to be appropriate. All public hearings must be conducted in accordance with NAC 445A.238.

The final determination of the Administrator may be appealed to the State Environmental Commission pursuant to NRS 445A.605.

Proposed Determination: The Division has made the tentative determination to issue the proposed temporary discharge permit for a period of 180 days (6 months).

Prepared by: Mark A. Kaminski, P.E.
Staff Engineer III
Technical Services Branch
NDEP Bureau of Water Pollution Control

Date: June 2, 2009

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.