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IN THE FIRST JUDICIAL DISTRICT COURT  
IN AND FOR LARAMIE COUNTY, STATE OF WYOMING

PEOPLE OF THE STATE OF  
WYOMING,

Plaintiff,

v.

ENCORE GREEN LLC.,  
a Wyoming limited liability company, and  
MARVIN LEE NASH,

Defendants.

Docket No. 190-708

**FILED**

NOV 14 2018

DIANE SANCHEZ  
CLERK OF THE DISTRICT COURT

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**COMPLAINT**

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Plaintiff, the People of the State of Wyoming, through the Department of Environmental Quality (the Department), Water Quality Division (the Division), and the Wyoming Attorney General's Office alleges:

**NATURE OF THE ACTION**

1. This is a civil action brought by the People of the State of Wyoming against Encore Green LLC, a Wyoming limited liability company, and Marvin Lee Nash, owner and general manager of Encore Green LLC, under sections 901(a) and 901(j) of the Wyoming Environmental Quality Act (Act). Wyo. Stat. Ann. § 35-11-901(a), (j).

2. Encore Green LLC and Mr. Nash (Defendants) violated Article 3 of the Wyoming Environmental Quality Act (Act) by operating a disposal system or other facility capable of causing or contributing to pollution without a permit and discharging produced oilfield wastewater to land owned by Owen Goertz located at NWNW Section 8, Township 15 North, Range 64 West, in Laramie County, Wyoming (Goertz Property).

3. Plaintiff seeks a civil penalty and injunctive relief for violations of the Act and the Water Quality Rules and Regulations. Wyo. Stat. Ann. § 35-11-901(a), (j).

### **JURISDICTION AND VENUE**

4. This Court has jurisdiction over the subject matter in this action because the Plaintiff seeks a civil penalty and injunctive relief. Wyo. Stat. Ann. § 35-11-901(a), (j).

5. The Court has jurisdiction over the Parties because the facts underlying the Plaintiff's claims occurred in Wyoming. Wyo. Stat. Ann. § 5-1-107(a).

6. Laramie County is a proper venue for this matter because the alleged violations occurred in Laramie County. Wyo. Stat. Ann. § 35-11-903(c).

7. Actions to enforce the Act may be brought in Laramie County. Wyo. Stat. Ann. § 35-11-903(c).

### **PARTIES**

8. The Department, through the Division, is the agency of Wyoming state government responsible for administering and enforcing the water quality title of the Act, the Water Quality Rules and Regulations, and related permits. Wyo. Stat. Ann. §§ 9-2-2013 and 35-11-104, -109, and -110.

9. Actions to enforce the Act must be brought in the name of the People of the State of Wyoming. Wyo. Stat. Ann. § 35-11-903(c).

10. Encore Green LLC is a Wyoming limited liability company.

11. Mr. Nash is an individual domiciled in the State of Wyoming.

12. At all times relevant to this Complaint, Mr. Nash was the general manager of Encore Green LLC and was a director, officer, or agent of Encore Green LLC.

13. Defendants are “persons” under the Act. Wyo. Stat. Ann. § 35-11-103(a)(vi).

#### **STATUTORY AND REGULATORY BACKGROUND**

14. The Act establishes a statutory scheme that is designed to enable the State of Wyoming to prevent, reduce, and eliminate pollution; to preserve and enhance the State of Wyoming’s air, water, and land resources; and to allow the State of Wyoming to plan the development, use, reclamation, and enhancement of its air, land, and water resources. Wyo. Stat. Ann. § 35-11-102.

15. The Act prohibits any person from “caus[ing], threaten[ing] or allow[ing] the discharge of any pollution or wastes into the waters of the state” “except when authorized by a permit.” Wyo. Stat. Ann. § 35-11-301(a)(i).

16. The Act defines pollution as “contamination or other alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity or odor of the waters or any discharge of any acid or toxic material, chemical or chemical compound, whether it be liquid, gaseous, solid, radioactive or other substance, including wastes, into any waters of the state which creates a nuisance or renders any waters harmful, detrimental or injurious to public health, safety or welfare, to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses, or to livestock, wildlife or aquatic life, or which degrades the water for its intended use, or adversely affects the environment.” Wyo. Stat. Ann. § 35-11-103(c)(i).

17. Pollution “does not mean water, gas or other material which is injected into a well to facilitate the production of oil, or gas or water, derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the state, and if the state determines that such injection or disposal well will not result in the degradation of ground or surface or water resources.” Wyo. Stat. Ann. § 35-11-103(c)(i).

18. The Act defines wastes as “sewage, industrial waste and all other liquid, gaseous, solid, radioactive, or other substances which may pollute any waters of the state.” Wyo. Stat. Ann. § 35-11-103(c)(ii).

19. The term “[w]aters of the state’ means all surface and groundwater, including waters associated with wetlands, within Wyoming.” Wyo. Stat. Ann. § 35-11-103(c)(vi).

20. The Act also prohibits any person from “[c]onstruct[ing], install[ing], modify[ing] or operat[ing] any sewerage system, treatment works, disposal system or other facility... capable of causing or contributing to pollution” except when authorized by a permit. Wyo. Stat. Ann. § 35-11-301(a)(iii).

21. The term “[d]isposal system’ means a system for disposing of wastes, either by surface or underground methods, including sewerage systems, treatment works, disposal wells, and absorption fields.” Wyo. Stat. Ann. § 35-11-103(c)(v).

22. The Act authorizes the Department to establish permitting requirements for discharges of pollution or wastes into waters of the state. Wyo. Stat. Ann. §§ 35-11-301(a)(i) and 35-11-302(a)(i), (ii), and (v). The Act also authorizes the Department to establish permitting requirements for the construction, installation, modification, or operation of sewerage systems,

treatment works, disposal systems, and other facilities capable of causing or contributing to pollution. Wyo. Stat. Ann. §§ 35-11-301(a)(iii), 35-11-302(a)(iii).

23. Chapter 3 of the Water Quality Rules and Regulations contains requirements and procedures for permits to construct, install, or modify sewerage systems, treatment works, disposal systems, wastewater facilities, treated wastewater reuse systems, and other facilities capable of causing or contributing to pollution. *Rules Wyo. Dep't of Env'tl. Quality, Water Quality*, ch. 3.

24. Chapter 3 of the Water Quality Rules and Regulations prohibits the construction, installation, or modification of a disposal system or other facility capable of causing or contributing to pollution without a permit. *Rules Wyo. Dep't of Env'tl. Quality, Water Quality*, ch. 3, § 5(b).

25. Chapter 3 of the Water Quality Rules and Regulations prohibits land application or surface disposal of pollution or wastes except when authorized by a permit. *Rules Wyo. Dep't of Env'tl. Quality, Water Quality*, ch. 3, § 5(d).

26. Chapter 8 of the Water Quality Rules and Regulations establishes groundwater quality standards “to protect the natural quality of underground water... [f]rom pollution that may result from above-ground facilities capable of causing or contributing to pollution.” *Rules Wyo. Dep't of Env'tl. Quality, Water Quality*, ch. 8, § 4(a)(iii).

27. The groundwater quality standards contained in Chapter 8 of the Water Quality Rules and Regulations establish maximum concentration limits for various pollutants. *Rules Wyo. Dep't of Env'tl. Quality, Water Quality*, ch. 8, Table I.

28. All groundwater within the State of Wyoming is protected by the groundwater quality standards, including water in the vadose zone. *Rules Wyo. Dep't of Env'tl. Quality, Water Quality*, ch. 8, § 3(c). The vadose zone is the “unsaturated zone in the earth, between the land

surface and the top of the first saturated aquifer that is not a perched water aquifer.” *Rules Wyo. Dep’t of Env’tl. Quality, Water Quality*, ch. 8, § 2(u).

29. Any person who violates any provision of the Act, the Water Quality Rules and Regulations, or any standard or permit adopted under those provisions “is subject to a penalty not to exceed ten thousand dollars (\$10,000.00) for each violation for each day during which violation continues, a temporary or permanent injunction, or both[.]” Wyo. Stat. Ann. § 35-11-901(a).

30. Any person who willfully and knowingly violates any provision of the Act, the Water Quality Rules and Regulations, or any standard or permit adopted under those provisions is subject to a penalty of up to twenty-five thousand dollars (\$25,000) per day of violation, imprisonment for up to one (1) year, or both. Wyo. Stat. Ann. § 35-11-901(j).

31. Any director, officer, or agent of a corporate permittee who willfully and knowingly authorizes, orders, or carries out the violation of any provision of the Act, the Water Quality Rules and Regulations, or any standard or permit adopted under those provisions is also subject to a penalty of up to twenty-five thousand dollars (\$25,000) per day of violation, imprisonment for up to one (1) year, or both. Wyo. Stat. Ann. § 35-11-901(j).

### **ALLEGATIONS**

32. On May 30, 2018, the Department issued Encore Green LLC a Chapter 3 permit to construct and operate a pilot water treatment plant (Permit 18-146). The permit authorized Encore Green LLC to operate a pilot water treatment works at the Goertz Property. The permit did not authorize Encore Green LLC to construct or operate a disposal facility or other facility capable of

causing or contributing to pollution, nor did the permit authorize Encore Green to land apply or surface dispose of wastes or pollution at the Goertz Property.

33. On October 22, 2018, the Division received a permit application from WWC Engineering, prepared on behalf of Encore Green LLC and signed by Mr. Nash, for land application of treated produced oilfield wastewater that originated from the pilot treatment plant authorized by Permit 18-146.

34. The permit application received by the Division included a water quality analysis of the treated produced oilfield wastewater. According to the laboratory analytical report prepared by Energy Laboratories on July 5, 2018, that accompanied the permit application, the treated produced oilfield wastewater possessed the following characteristics:

- a. Alkalinity: 246 mg/L
- b. Ammonia: 9.8 mg/L
- c. Barium: 0.15 mg/L
- d. Bicarbonate: 300 mg/L
- e. Benzene: 1050 ug/L
- f. Boron: 0.18 mg/L
- g. Calcium: 59 mg/L
- h. Chloride: 25 mg/L
- i. Copper: 0.077 mg/L
- j. Ethylbenzene: 2.9 ug/L
- k. Iron: 0.06 mg/L
- l. Manganese: 0.316 mg/L
- m. Magnesium: 13 mg/L

- n. Nickel: 0.011 mg/L
- o. Nitrate: 4.94 mg/L
- p. Nitrite: 0.06 mg/L
- q. Oil and grease: 7 mg/L
- r. pH: 7.78
- s. Potassium: 8 mg/L
- t. Radionuclides: 0.2 pCi/L (Radium 226) to 10.7 pCi/L (Strontium 90)
- u. Selenium: 0.006 mg/L
- v. Sodium: 53 mg/L
- w. Sulfate: 42 mg/L
- x. Toluene: 59 ug/L
- y. Total Dissolved Solids: 391 mg/L
- z. Uranium: 0.0038 mg/L
- aa. Xylenes (Total): 6.3 ug/L

35. The permit application received by the Division on October 22, 2018, stated that Encore Green LLC intended to apply 400 barrels of treated produced oilfield wastewater from the pilot water treatment plant to land located at the Goertz Property.

36. The Administrator of the Division must review and approve, deny, or return applications for Chapter 3 permits to construct, install, or modify sewerage systems, treatment works, disposal systems, or other facilities within sixty (60) days of receipt by the Division. *Rules Wyo. Dep't of Env'tl. Quality, Water Quality*, ch. 3, § 9(a). Therefore, the Division has until December 21, 2018, to review and approve, deny, or return the Chapter 3 permit application received from Encore Green LLC on October 22, 2018.



37. On the morning of October 29, 2018, Mr. Nash telephoned Rich Cripe, Water and Waste Water Program Manager for the Division, and stated that he intended to apply the treated produced oilfield wastewater to land at the Goertz Property that day.

38. At around 11:00 a.m. on October 29, 2018, Mr. Cripe told Mr. Nash via telephone that the application was under review, that the Division had not yet issued the permit, and that a permit must be issued prior to the application of the treated produced oilfield wastewater.

39. Mr. Keith Guille, Public Information Officer for the Department, also spoke with Mr. Nash by telephone on the morning of October 29, 2018. Mr. Nash told Mr. Guille that he intended to apply the treated produced oilfield wastewater that afternoon, and Mr. Guille informed Mr. Nash that he could not do so without a permit.

40. At approximately 1:30 pm on October 29, 2018, Mr. Nash or individuals under his control, direction, or authority applied the treated produced oilfield wastewater from Encore Green LLC's pilot water treatment plant to land located at the Goertz Property.

41. Mr. Nash or individuals under his control, direction, or authority applied water onto land at the Goertz Property through a system of pipes and sprinklers.

42. Mr. Nash directed, authorized, and ordered operation of the pipe and sprinkler system to apply the treated produced oilfield wastewater from Encore Green LLC's pilot water treatment plant to the Goertz Property.

43. As of October 29, 2018, the Department had not issued a permit to Encore Green LLC, Mr. Nash, or any other entity authorizing the operation of a disposal system or other system capable of causing or contributing to pollution, nor had the Department issued a permit to Encore Green LLC, Mr. Nash, or any other entity authorizing land application or surface disposal of the treated produced oilfield wastewater.

44. On October 31, 2018, Mr. Cripe and Ms. Brianna Forrest, Regulatory and Enforcement Engineer for the Division, called Mr. Nash to inquire if Mr. Nash had discharged the treated produced oilfield wastewater. Mr. Nash responded that he had applied 350 gallons of treated produced oilfield wastewater from the pilot water treatment plant to land at the Goertz Property.

**CLAIM ONE: CONSTRUCTING, INSTALLING, AND OPERATING  
A DISPOSAL SYSTEM OR OTHER FACILITY  
CAPABLE OF CAUSING OR CONTRIBUTING TO POLLUTION  
AND APPLYING WASTES TO LAND WITHOUT A PERMIT**

45. Plaintiff repeats and incorporates by this reference the allegations contained in paragraphs 1–44 of this Complaint.

46. Defendants constructed, installed, and operated a disposal system or other facility capable of causing or contributing to pollution in violation of the Act and the Water Quality Rules and Regulations when they used a system of pipes and sprinklers to dispose of the treated produced oilfield wastewater to the Goertz Property by applying it to land without a permit. *See* Wyo. Stat. Ann. § 35-11-301(a)(iii); *Rules Wyo. Dep't of Envtl. Quality, Water Quality*, ch. 3, § 5(b), (d).

47. The system of pipes and sprinklers used to apply the water to land at the Goertz Property was a disposal system or other facility capable of causing or contributing to pollution. *See* Wyo. Stat. Ann. § 35-11-301(a)(iii).

48. The treated produced oilfield wastewater was waste because it was industrial waste and it was liquid which may pollute a water of the state, including groundwater. Wyo. Stat. Ann. § 35-11-103(c)(ii).

49. The treated produced oilfield wastewater was capable of causing or contributing to pollution because:

- a. It contained pollutants that could alter the physical, chemical, or biological properties of waters of the state;
- b. It was capable of rendering water harmful, detrimental, or injurious to public, health, safety, or welfare;
- c. It was capable of rendering water harmful, detrimental, or injurious to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses;
- d. It was capable of rendering water harmful, detrimental, or injurious to livestock, wildlife, or aquatic life; and
- e. It contained pollutants that could adversely affect the environment.

*See Wyo. Stat. Ann. § 35-11-103(c)(i); see also Rules Wyo. Dep't of Env'tl. Quality, Water Quality, ch. 8, Table I.*

50. The treated produced oilfield wastewater was capable of rendering water harmful, detrimental, or injurious to domestic use, agricultural use, public health, safety, welfare, livestock, wildlife, and aquatic life because it contained concentrations of the following chemicals in excess of the United States Environmental Protection Agency's National Primary Drinking Water Regulations:

- a. Ammonia: Ammonia is a pungent, foul-smelling compound of hydrogen and nitrogen. Exposure to ammonia is toxic to fish and may be fatal to aquatic life.
- b. Manganese: Exposure to manganese in drinking water reduces intelligence quotients and impairs intellectual development in children, including delays in manual dexterity, short-term memory, and visual identification skills. High levels of exposure may result in manganism, a neurological disorder which

causes depression, mood swings, compulsive behavior, psychosis, muscle weakness, slowed speech, tremor, instability, and balance problems. Chronic manganese exposure can cause symptoms similar to Parkinson's disease.

- c. Benzene: Benzene is carcinogenic and causes cancer in humans. It also causes anemia and decreases blood platelet levels.
- d. Ethylbenzene: Air exposure to ethylbenzene causes eye, skin, and mucous membrane irritation. Ethylbenzene can also chest constriction, respiratory tract irritation, vertigo, ataxia, headache, nausea, irritability, fatigue, sleepiness, and headache after chronic exposure. There is not sufficient scientific evidence available to determine whether ethylbenzene causes cancer, but it may be a carcinogen.
- e. Toluene: Toluene has adverse effects on the nervous system. Temporary effects from single exposures to toluene include headache, dizziness, and unconsciousness. Chronic effects from long-term toluene exposure include cognitive impairment, vision and hearing loss, fatigue, confusion, weakness, memory loss, and nausea.
- f. Xylenes: Exposure to xylenes results in similar adverse nervous system effects as exposure to toluene.
- g. Strontium 90: Strontium 90 is a radioactive chemical with a half-life of twenty-nine (29) years. When strontium 90 enters the human body through drinking water or food, strontium 90 behaves like calcium and is deposited in the bones or skeleton. Ingesting strontium 90 increases the risks of bone cancer, cancer of soft tissue near bones, and leukemia.

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*See* Wyo. Stat. Ann. § 35-11-103(c)(i); *see also* 40 C.F.R. § 141, Subpart G.

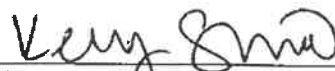
51. Defendants willfully and knowingly violated the Act and the Water Quality Rules and Regulations by disposing of the treated produced oilfield wastewater by applying it to land without a permit, for which the Department is entitled to a judgment for penalties and injunctive relief under the Act. Wyo. Stat. Ann. § 35-11-901(a), (j).

**PRAYER FOR RELIEF**

The People of the State of Wyoming respectfully request that this Court provide the following relief:

- A. Find that Defendants violated the Act and the Water Quality Rules and Regulations;
- B. Enjoin Defendants from further violating the Act and the Water Quality Rules and Regulations;
- C. Assess Defendants a fine up to the statutory maximum of twenty-five thousand dollars (\$25,000.00) for each day of each violation alleged in the Complaint; and
- D. Grant Plaintiff such further relief as this Court may deem just and proper.

**DATED** this 14th day of November, 2018.



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# CIVIL COVER SHEET

This civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleadings or other papers as required by law. This form, approved by the Wyoming Supreme Court, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM)

## I. CAPTION

People of the State of Wyoming

Wyoming Attorney General's Office,

2320 Capitol Ave., Cheyenne, WY 82002

Plaintiff Name and Current Address

v.

Encore Green LLC., and Marvin Lee Nash,

Defendant.

**FILED**

Docket # 190-708

NOV 14 2018

DIANE SANCHEZ  
CLERK OF THE DISTRICT COURT

## II. NATURE OF SUIT (Place an "X" in One Box Only)

GENERAL CIVIL			OTHER CIVIL
<b>CONTRACT</b> <input type="checkbox"/> Business Organization Litigation <input type="checkbox"/> Com. Const. Contract Litigation <input type="checkbox"/> Contract Other (not Debt Collection)	<b>DISSOLUTION OF MARRIAGE</b> <input type="checkbox"/> Divorce w/Minor Children <input type="checkbox"/> Divorce w/o Minor Children <input type="checkbox"/> Judicial Separation <input type="checkbox"/> Annulment	<b>PROBATE</b> <input type="checkbox"/> Ancillary Admin/Foreign Prob <input type="checkbox"/> Decree of Title Distribution <input type="checkbox"/> Determination of Heirship <input type="checkbox"/> Letters of Administration <input type="checkbox"/> Estate Unspecified <input type="checkbox"/> Summary Probate <input type="checkbox"/> Testate/Intestate Estate <input type="checkbox"/> Will Only Filings <input type="checkbox"/> Trust Matters <input type="checkbox"/> Guardianship <input type="checkbox"/> Conservatorship <input type="checkbox"/> Guardian & Conservatorship	<input type="checkbox"/> Appointment/Removal of a Fiduciary <input type="checkbox"/> Arbitration Award Confirmation <input type="checkbox"/> Birth Certificate Amendment/Establishment <input type="checkbox"/> Debt Collection <input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Emancipation of Minor <input type="checkbox"/> False or Frivolous Lien <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Foreign Protection Order/Foreign Stalking Order <input type="checkbox"/> Forfeiture of Property <input checked="" type="checkbox"/> Governmental Action Environmental Case <input type="checkbox"/> Injunction <input type="checkbox"/> Material Witness/Foreign Subpoena <input type="checkbox"/> Name Change <input type="checkbox"/> Involuntary Hospitalization <input type="checkbox"/> Public Nuisance <input type="checkbox"/> Specific Relief <input type="checkbox"/> Structured Settlement Protection Act <input type="checkbox"/> Successor to Civil Trust Appointment <input type="checkbox"/> Transcript Judgment from Circuit Court <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Replevin <input type="checkbox"/> Unspecified
<b>TORT</b> <input type="checkbox"/> P1 or WD - Environmental or Toxic Tort <input type="checkbox"/> P1 or WD - Fed Employer Liability Act <input type="checkbox"/> P1 or WD - Medical Malpractice <input type="checkbox"/> P1 or WD - Product Liability <input type="checkbox"/> P1 or WD - Vehicular <input type="checkbox"/> Personal Injury Unspecified <input type="checkbox"/> Property Damage <input type="checkbox"/> Tort Unspecified <input type="checkbox"/> Wrongful Termination of Employment	<b>DOMESTIC RELATIONS</b> <input type="checkbox"/> Custody/Parental Visitation <input type="checkbox"/> Grandparental Visitation <input type="checkbox"/> Paternity <input type="checkbox"/> Child Support/Parental Contribution <input type="checkbox"/> Child Support w/ Paternity <input type="checkbox"/> UIFSA w/Paternity <input type="checkbox"/> UIFSA <input type="checkbox"/> Dom Register Foreign Judgment <input type="checkbox"/> TPR State/DFS <input type="checkbox"/> TPR Family/Private	<b>ADOPTION</b> <input type="checkbox"/> Adoption <input type="checkbox"/> Confidential Intermediary	
<b>CIRCUIT COURT</b> <input type="checkbox"/> Small Claims <input type="checkbox"/> Forecible Entry and Detainer <input type="checkbox"/> Stalking Protection Order <input type="checkbox"/> Family Violence Protection Order	<b>PROPERTY</b> <input type="checkbox"/> Property with Mineral Rights <input type="checkbox"/> Property w/o Mineral Rights		

## III. RELATED CASE(S) IF ANY (see instructions)

Docket No. \_\_\_\_\_ Judge \_\_\_\_\_ Court (if different) \_\_\_\_\_  
 Docket No. \_\_\_\_\_ Judge \_\_\_\_\_ Court (if different) \_\_\_\_\_

## IV. \$ AMOUNT IN CONTROVERSY, (estimated) (see instructions)

\$ 10,000 per violation per day

SIGNATURE OF ATTORNEY OF RECORD OR PRO SE LITIGANT

DATE

11/14/18

IN THE DISTRICT COURT STATE OF WYOMING  
FIRST JUDICIAL FOR LARAMIE COUNTY  
DOCKET 190-708

THE PEOPLE OF STATE OF WYOMING )  
 )  
Plaintiff )  
 )  
v. )  
 )  
ENCORE GREEN LLC., )  
A Wyoming Limited Liability Company and )  
MARVIN LEE NASH )  
Defendant )

**FILED**

DEC 18 2018

DIANE SANCHEZ *low*  
CLERK OF THE DISTRICT COURT

ANSWER TO COMPLAINT

Comes Now Encore Green LLC and Marvin Lee Nash by and through their attorney John E Frentheway (for a limited appearance to file this answer) and answer the complaint in the above captioned matter by saying the following:

1) The defendants specifically deny the following paragraphs of the complaint paragraphs 1, 2, 3, 4, 12, 13, 14, 15, 33, 34, 35, 36, 37, 39, 40, 42, 44, 46, 47, 48



- 2) The defendants admit that the recitation of statutes, rules and regulations that are within the following paragraphs may be accurate but categorically deny any implied allegation that there was a violation of any of the statutes, rules and regulations express or implied in these paragraphs by the Defendants; paragraphs 5, 6, 7, 8, 9, 10, 11, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 38, 41, 43.
- 3) With regard to paragraph 49 Defendants admit that treatment produced oilfield wastewater (here in referred to as TPOW) can be capable of causing or contributing to pollution. However, the Defendants specifically deny that defendants ever produced any water base liquid that had the capacity to pollute or corrupt any land or waters.
- 4) Defendants specifically deny the implied allegations as they would be directed towards the defendants in paragraphs 49a, 49b, 49c, 49d, and 49e.
- 5) With regard to paragraph 50 of the complaint the defendants would admit that TPOW has the capability of rendering water harmful as stated.
- 6) Defendants deny the implied allegation that the Federal EPA drinking water standards were ever given as a measure for the water based liquid that would be produced by the defendants.
- 7) The defendant further state, with regard to paragraphs 50a, 50b, 50c, 50d, 50e, 50f, 50g that the renditions provided in the complaint may be accurate but those standards only apply to drinking water not to the redirected water developed by the defendants.
- 8) Defendants further state that the federal EPA drinking water standards were never

held out by the State of Wyoming to be a standard to be accomplished by the defendants and are not material in this action.

9) With regard to paragraph 51 of the complaint to defendants deny the allegations therein.

#### Affirmative Defenses

A) The complaint fails to state a claim upon which relief can be granted.

B) This court lacks jurisdiction over the subject matter of this complaint.

C) The complaint fails to properly name necessary parties and this action.

D) The Wyoming Executive Department of DEQ Rules and Regulations and enforcement of the same violate the original intent of the Wyoming Constitution.

E) The Rules and Regulations of the Wyoming Department of Environmental quality were not properly established pursuant to The Wyoming Administrative Procedures Act.

F) This complaint incorporates potential imposition of criminal sanctions without providing for due process as established in the US and Wyoming Constitutions.

G) This action sites non-applicable Wyoming Statutes, Rules and Regulations and then conflates them with non-applicable Federal laws and Regulations to exact an unjust, negative, adverse and punitive result without prior notice or requirement in violation of Due Process.

H) The plaintiff has failed to properly describe the water base liquid (redirected water put to beneficial use) used by the defendant for beneficial agricultural purposes and then uses old statutory definitions and descriptions to unjustly stifle and stop the Defendant. The intent of this action is to keep the defendant from working a safe scheme of providing healthy reliable water to the agriculture community, provide a seriously needed service to the petroleum industry and give society as a whole hope of cleaner air and an indefinite supply of water. This the Plaintiff is trying to do without sensible, solid and balanced information or a fair, forthright examination of the facts or evidence.

This law suit is attempting to use the court system for the exact opposite purpose of what the US and Wyoming constitutions established governments to do.

**WHEREFORE** the defendants request that

- A. The plaintiff take nothing by this complaint.
- B. Defendant should be awarded reasonable fees and costs for litigating this action.
- C. Grant other relief that The Court sees as fair and reasonable to the defendants

DATED this 18<sup>th</sup> day of December, 2018.

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John E. Frentheway (Wyo. Bar 5-1998)  
1878 Horse Creek Road  
Cheyenne, Wyoming 82009  
307 631-4613  
Frenthewayjn49@gmail.com

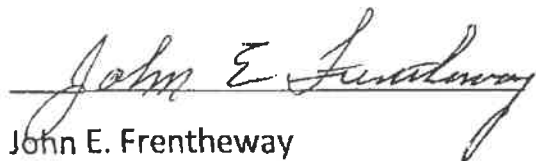
Certificate of Service

I hereby certify that the above and forgoing Answer was served upon  
By hand delivery to:

Wyoming Attorney General's Office

2424 Pioneer Ave.

Cheyenne, Wyoming 82002

  
John E. Fretheway

Date Dec 18, 2018

IN THE DISTRICT FOR THE FIRST JUDICIAL DISTRICT  
STATE OF WYOMING, COUNTY OF LARAMIE

FILED

AUG 23 2019 KB

GENERAL ORDER REQUIRING ACTION

DIANE SANCHEZ  
CLERK OF THE DISTRICT COURT.

THE FOLLOWING CASES having come to the attention of the Court and the Court finding that no substantial and bona fide action of record towards disposition has been taken in over ninety (90) days;

IT IS HEREBY ORDERED that if no action is taken within thirty (30) days these cases will be dismissed.

<u>DOCKET NO.</u>	<u>TITLE OF CAUSE</u>	<u>ATTORNEY</u>
✓✓ 167-257	Janel Zlomke v. Jeremy Zlomke	✓ Janel Zlomke -m 5409 Eastview St. Cheyenne, WY 82001 WY Children's Law Cen. 453 N. 6th St Laramie WY 8207
✓✓ 171-083	Buchhammer & Kehl Pc v. Lily Harris	✓ Katherine Osten -m ✓ Tammy Hudson - CSSW -B ✓ William Knight -m 139 W. 2nd St. Ste 1C Casper, WY 82601 ✓ Lily Harris -m 4525 Flaming Gorge Ave. Cheyenne, WY 82009
✓✓ 176-209	Charles Sauer II v. Lisa Marie Sauer	✓ Ron Pretty -B ✓ Doug Bailey -B
✓✓ 180-105	Lisa Kastner v. Gregory Kastner	✓ Zenith Ward -B ✓ Rennie Polidora -M ✓ Tammy Hudson - CSSW -B Jacobs Polidora LLC P.O. Box 1564 Laramie, WY 8207
✓✓ 188-989	Navy Federal Credit Union v. Michael Marange	✓ Benjamin Vinci -M Vinci Law Office 2250 S. Oneida St. Ste. 303 Denver, CO 80224

Distributed 8-23-19  
by KB  
- Diane Sanchez

<u>DOCKET NO.</u>	<u>TITLE OF CAUSE</u>	<u>ATTORNEY</u>
✓✓ 189-175	Amanda McCord v. William McCord	✓ Amanda McCord – Pro se <i>m</i> 5723 Lunsford Dr. Apt. A Cheyenne, WY 82001  ✓ William McCord – Pro se <i>m</i> 3507 Carla Drive Cheyenne, WY 82009
✓✓ 189-200	Wy St v. US Currency Totaling \$1,060.00, et al.	✓ Benjamin Fischer – AG's Office <i>m</i> ✓ Dion Custis <i>B</i>
✓✓ 189-613	Maria Caparotta v. Ashley Gilbert	✓ Maria Caparotta – Pro se <i>m</i> P.O. Box 3233 Cheyenne, WY 82003
✓✓ 189-620	John Frank Belo, Jr. v. Griselda Elias Belo	✓ John Frank Belo, Jr. – Pro se <i>m</i> 6199 General Lee Ave. Mobile, AL 36619
✓✓ 189-630	Russell Robinson, Jr. v. Angel Womack Robinson	✓ Russell Robinson, Jr. – Pro se <i>m</i> 710 S. Fork Rd. Cheyenne, WY 82007
✓✓ 190-135	Katey Losinski v. Nicholas Losinski	✓ Katey Losinski – Pro se <i>m</i> 5104 Griffith Ave. Cheyenne, WY 82009
✓✓ 190-659	Holly Lyon v. Lewis Lyon	✓ Ron Pretty <i>B</i>
✓✓ 190-696	Autumn White v. Jonathon White	✓ Autumn White – Pro se <i>m</i> 6393 CR 224 Pine Bluffs, WY 82082  ✓ Jonathon White – Pro se <i>m</i> P.O. Box 904 Pine Bluffs, WY 82082
✓✓ 190-708	St Wy v. Encore Green LLC Marvin Lee Nash	✓ Kelly Shaw – AG's Office <i>m</i>  ✓ Michelle Burns <i>B</i> 500 Greybull Ave. Greybull, WY 82426
✓✓ 190-871	Lester Cole v. Frank Cole & Cole Corporation	✓ Nicholas & Tangeman LLC. PO Box 928 Laramie, WY 82073 – Philip Nicholas / Robert Nicholas – <i>m</i> ✓ Alexander Davison <i>B</i>

Nicholas Law  
Office  
PO Box 19816  
Cheyenne, WY 82001

<u>DOCKET NO.</u>	<u>TITLE OF CAUSE</u>	<u>ATTORNEY</u>
✓✓ 190-956	Collectioncenter Inc. v. Mining Electrical Service LLC, et al.	✓ Stephen Owens <i>m</i> P.O. Box 4000 Rawlins, WY 82301
✓✓ 190-964	Collectioncenter Inc. v. Pride Weed Control Inc., et al.	✓ Stephen Owens <i>m</i> P.O. Box 4000 Rawlins, WY 82301
✓✓ 190-997	Sheray Nichols v. Darrell Rivers	✓ George Thompson – Pro se <i>m</i> 355 Quarter Horse Rd. Durango, CO 81303 ✓ Sheray Nichols – Pro se <i>m</i> 312 Derr Ave. Cheyenne, WY 82007 ✓ Darrell Rivers – Pro se <i>m</i> 608 Park St. Sheridan, WY 82801
✓✓ 191-185	St Wy v. 122 E. Fifth Ave. Cheyenne, WY	✓ Russell Farr – AG's Office <i>m</i> ✓ Dion Custis <i>B</i>
✓✓ 191-270	John & Lori Robertson v. Leann Bundy	✓ Sue Davidson <i>B</i> ✓ Katye Brown
✓✓ 191-373	Christopher Crawford v. Angelica Welch	✓ Christopher Crawford – Pro se <i>m</i> 209 W. 17 <sup>th</sup> St. Room #106 Cheyenne, WY 82001
✓✓ 191-393	Patricia Ridley v. Jakob Ridley	✓ Patricia Ridley – Pro se <i>m</i> 3201 S. Greeley Hwy. #38 Cheyenne, WY 82007
✓✓ 191-451	William Lyon v. Ethan Newcome	✓ William Lyon – Pro se <i>m</i> 5804A Camp Carlin Dr. Cheyenne, WY 82001 ✓ Ethan Newcome – Pro se <i>m</i> 6804A Camp Carlin Dr. Cheyenne, WY 82001
✓✓ 191-473	First Interstate Bank v. Mitchell Rayl & Westwinds Transport, LLC	✓ Timothy Woznick <i>★</i> Crowley Fleck PLLP 237 Storey Blvd Suite 11C Cheyenne, WY 82009



DOCKET NO.

✓ 191-515

TITLE OF CAUSE

Natasha Carsten v.  
Charles Carsten

ATTORNEY

✓ Natasha Carsten – Pro se *m*  
5990 CR 210  
Pine Bluffs, WY 82082

IT IS FINALLY ORDERED that the Clerk of the District Court enter this Order in each of the court cases affected.

Dated this 22<sup>d</sup> day of August, 2019.

  
PETER H. FROELICHER  
DISTRICT JUDGE

I hereby certify that I distributed a true and correct copy of the foregoing this 23<sup>rd</sup> day of August, 2019, as indicated. [M-mail; B-box in Clerk's Office, H-hand delivery; F-facsimile transmission.]

  
Deputy Clerk

2. On November 30, 2018, Darlene R. Nash, Registered Agent for Defendant Encore Green LLC, was served a Summons and copy of the Complaint by the Laramie County Sheriff.

3. On November 30, 2018, Defendant Marvin Lee Nash was personally served a Summons and copy of the Complaint by the Laramie County Sheriff.

4. On December 18, 2018, Defendants Encore Green LLC and Marvin Nash filed an answer to the Complaint.

5. On March 18, 2019, Plaintiff served its first set of discovery, including Interrogatories, Requests for Admissions, and Requests for Production of Documents on Defendants Encore Green LLC and Marvin Nash.

6. On April 29, 2019 and May 7, 2019, Defendants served responses to the first set of discovery. Defendants failed to file initial disclosures in this case.

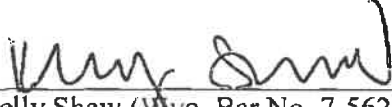
7. On May 16, 2019, Plaintiff sent a letter to Defendants regarding the inadequacy of some of the discovery responses and requesting responses be provided that complied with the Wyoming Rules of Civil Procedure. Plaintiff also requested Defendants provide initial disclosures.

8. Discovery is currently ongoing in this matter.

9. The parties have a settlement agreement in principle, but settlement negotiations are ongoing.

WHEREFORE, Plaintiff respectfully asks this Court to remove this matter from the dismissal docket and consider this Notice as proof of ongoing action in the case.

DATED this 13th day of September, 2019.

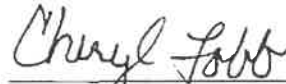
  
\_\_\_\_\_  
Kelly Shaw (Wyo. Bar No. 7-5624)  
Assistant Attorney General  
Wyoming Attorney General's Office  
2320 Capitol Avenue  
Cheyenne, WY 82002  
Ph: (307) 777-7895  
kelly.shaw @wyo.gov

**CERTIFICATE OF SERVICE**

I hereby certify that on the 13th day of September, 2019, a true copy of the foregoing *Plaintiff's Notice of Ongoing Settlement Negotiations* was mailed, postage prepaid to the following:

Michelle M. McColloch Burns  
Burns Law Office  
500 Greybull Avenue  
Greybull, WY 82426

John E. Frentheway  
1878 Horse Creek Road  
Cheyenne, WY 82009

A handwritten signature in cursive script that reads "Cheryl Lobb". The signature is written in dark ink and is positioned above a horizontal line.

Cheryl Lobb, Paralegal  
Wyoming Attorney General's Office

IN THE FIRST JUDICIAL DISTRICT COURT  
IN AND FOR LARAMIE COUNTY, STATE OF WYOMING

PEOPLE OF THE STATE OF  
WYOMING,

Plaintiff,

v.

ENCORE GREEN LLC.,  
a Wyoming limited liability company, and  
MARVIN LEE NASH,

Defendants.

Docket No. 190-708

**FILED**

SEP 17 2019 *SS*

DIANE SANCHEZ  
CLERK OF THE DISTRICT COURT

**ORDER FOLLOWING PLAINTIFF'S NOTICE OF ONGOING  
SETTLEMENT NEGOTIATIONS**

THIS MATTER, having come before the Court on Plaintiff's Notice of Ongoing Settlement Negotiations, the parties being represented by counsel and this Court being fully advised in the premises, hereby finds that the above-captioned case should be removed from the dismissal docket as the parties are actively working on settling the case. The case shall be permitted to continue.

IT IS THEREFORE ORDERED that the above captioned case be removed from the dismissal docket and that the parties continue to work steadfastly on settlement pursuant to the Wyoming Rules of Civil Procedure so that the matter may be resolved expediently.

DATED this 17<sup>th</sup> day of September, 2019.



PETER H. FROELICHER, DISTRICT JUDGE

**CERTIFICATE OF SERVICE**

I hereby certify that on the <sup>17<sup>th</sup></sup> day of September, 2019, a true copy of the foregoing *Order Following Plaintiff's Notice of Ongoing Settlement Negotiations* was mailed, postage prepaid to the following:

Michelle M. McColloch Burns  
Burns Law Office  
500 Greybull Avenue  
Greybull, WY 82426

-M

Erik Petersen  
Senior Assistant Attorney General  
Kelly Shaw  
Assistant Attorney General  
Wyoming Attorney General's Office  
Kendrick Building  
2320 Capitol Avenue  
Cheyenne, WY 82002

-M

J. Frantzenway - M



Clerk of District Court

IN THE DISTRICT FOR THE FIRST JUDICIAL DISTRICT  
STATE OF WYOMING, COUNTY OF LARAMIE

**FILED**

JAN 14 2020 *KS*

DIANE SANCHEZ  
CLERK OF THE DISTRICT COURT

**GENERAL ORDER REQUIRING ACTION**

THE FOLLOWING CASES having come to the attention of the Court and the Court finding that no substantial and bona fide action of record towards disposition has been taken in over ninety (90) days;

IT IS HEREBY ORDERED that if no action is taken within thirty (30) days these cases will be dismissed.

<u>DOCKET NO.</u>	<u>TITLE OF CAUSE</u>	<u>ATTORNEY</u>
164-018	Quiles v Quiles	Alex Quiles – Pro se 2011 Morrie Ave. Cheyenne, WY 82001  Sue Davidson
190-696	White v White	Autumn White – Pro se 6393 CR 224 Pine Bluffs, WY 82082  Jonathon White – Pro se 6393 CR 224 Pine Bluffs, WY 82082
190-708	People of the State of Wyoming v Encore Green, LLC Marvin Lee Nash	Kelly Shaw - AG Michelle Burns
191-270	Robertson v Bundy	Sue Davidson Katie Brown Shelly Flot
191-670	Elder v Retail Associates, Inc.	Ron Pretty Lance Shurtleff

<u>DOCKET NO.</u>	<u>TITLE OF CAUSE</u>	<u>ATTORNEY</u>
191-788	Coleman v Knapp	Lucas Buckley Sean Larson Curtis Buchhammer
191-876	Davis v McMahan	Jared Crecelius  Catherine McMahan – Pro se 417 West Prosser Road Cheyenne, WY 82009
191-895	Kautz v Avila	Jenna Kautz – Pro se 2023 Chaparral Rd. Cheyenne, WY 82009  Eric Avila – Pro se 161 Park Lane Dr. Torrington, WY 82240
191-913	Bowker v Bowker	Dallas Bowker – Pro se 3409 Hayes Ave. Cheyenne, WY 82001  Kari Bowker – Pro se 707 El Rancho Dr. Rawlins, WY 82301
192-093	In the Interest of Hemp	Zenith Ward Jared Crecelius
192-167	Brown v Ingels	Christina Brown – Pro se 1701 Taft Ave. #426 Cheyenne, WY 82001  Curtis Ingels – Pro se
192-191	Nace v Carlton	Ron Pretty  Amanda Carlton 817 Seymour Ave. Cheyenne, WY 82007



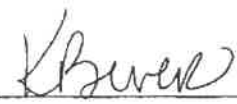
<u>DOCKET NO.</u>	<u>TITLE OF CAUSE</u>	<u>ATTORNEY</u>
192-194	Miller v Miller	Angela Miller – Pro se 9702 Choke Cherry Rd. Cheyenne, WY 82009  James Miller – Pro se 6027 Atlantic Drive Cheyenne, WY 82001
192-208	Brimm v Brimm	Susan Feinman Laura Jackson  Carolyn Brimm – Pro se 2109 Eagle Rd. Cheyenne, WY 82009
180-942	Roth v Roth	Robert Roth 636 N. Table Mountain Loop Cheyenne, WY 82009  Anne Beaver 1574 Barberry Ridge Cheyenne, WY 82009

IT IS FINALLY ORDERED that the Clerk of the District Court enter this Order in each of the court cases affected.

Dated this 14<sup>th</sup> day of January, 2020.

  
 PETER H. FROELICHER  
 DISTRICT JUDGE

I hereby certify that I distributed a true and correct copy of the foregoing this 15<sup>th</sup> day of January, 2020, as indicated. [M-mail; B-box in Clerk's Office, H-hand delivery; F-facsimile transmission.]

  
 Deputy Clerk