IN THE UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

UNITED STATES OF AMERICA, Plaintiff, v. NOBLE ENERGY, INC., NOBLE MIDSTREAM PARTNERS LP, NOBLE MIDSTREAM SERVICES, LLC, Defendants.	)	Civil Action No. 1:21-cv-2165

COMPLAINT

The United States of America, by the authority of the Attorney General of the United States, and acting at the request of the United States Environmental Protection Agency ("EPA"), files this Complaint and alleges as follows:

NATURE OF THE ACTION

1. The United States brings this civil action against Noble Energy, Inc., Noble Midstream Partners LP, and Noble Midstream Services, LLC (collectively "Defendants") seeking civil penalties and injunctive relief for violations of the Clean Water Act. The violations include the unauthorized discharge of harmful quantities of oil into or upon the Cache la Poudre River ("Poudre River") and its adjoining shorelines in May and/or June 2014 in Weld County, Colorado. The violations also include the failure to comply with regulations issued to prevent and respond to oil spills, 40 C.F.R. Part 112, at two oil and gas facilities in Weld County, Colorado.

JURISDICTION, AUTHORITY, VENUE, AND NOTICE

2. This Court has jurisdiction over this case pursuant to 28 U.S.C. §§ 1331, 1345, and 1355; and 33 U.S.C. §§ 1319(b), 1321(b)(7)(E), and 1321(n).

3. The United States Department of Justice is authorized to bring this action by 33 U.S.C. § 1366 and 28 U.S.C. §§ 516 and 519.

4. Venue lies in this District pursuant to 33 U.S.C. §§ 1319(b) and 1321(b)(7)(E), and 28 U.S.C. §§ 1391(b) and 1395(a), because Defendants do business in this District and the violations which are the basis of this Complaint occurred in this District.

5. Notice of commencement of this action has been given to the State of Colorado pursuant to 33 U.S.C. § 1319(b).

DEFENDANTS

6. Noble Energy, Inc. ("Noble") is a Delaware corporation engaged in oil and gas production and exploration worldwide. Noble maintains its principal place of business in Houston, Texas, and at all relevant times has conducted business in Colorado.

7. Noble Midstream Partners LP ("NMP") is a Delaware master limited partnership formed in 2014 by its parent Noble Energy, Inc. and provides oil, gas, and water-related midstream services in the United States. NMP maintains its principal place of business in Houston, Texas, and at all relevant times since its formation has conducted business in Colorado.

8. Noble Midstream Services, LLC ("NMS") is a Delaware limited liability company formed in 2014 and provides oil, gas, and water-related midstream services in the United States. NMS maintains its principal place of business in Houston, Texas, and at all

relevant times since its formation has conducted business in Colorado. NMS is wholly owned by NMP.

9. Noble, NMP, and NMS are each a "person" within the meaning of Sections 311(a)(7) and 502(5) of the Clean Water Act, 33 U.S.C. §§ 1321(a)(7), 1362(5).

STATUTORY AND REGULATORY FRAMEWORK

Clean Water Act Section 311(b)(3)

10. Section 311(b)(3) of the Clean Water Act, 33 U.S.C. § 1321(b)(3), prohibits the "discharge of oil or hazardous substances … into or upon the navigable waters of the United States [and] adjoining shorelines …, in such quantities as may be harmful as determined by the President."

11. The President has delegated authority to the Administrator of EPA under Section 311(b)(3) and (b)(4) of the Clean Water Act for determining quantities of oil the discharge of which may be harmful. Exec. Order No. 12777, Sec. 8(a), 56 Fed. Reg. 54,757, 54,768 (Oct. 18, 1991).

12. Discharges of oil that violate applicable water quality standards, or cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines, or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines are, for purposes of Section 311(b)(3) of the Clean Water Act, 33 U.S.C. § 1321(b)(3), discharges of oil in such quantities that the Administrator has determined may be harmful to the public health or welfare or the environment of the United States. 40 C.F.R. § 110.3.

13. "Discharge" is defined by Section 311(a)(2) of the Clean Water Act, 33 U.S.C. § 1321(a)(2), to include "any spilling, leaking, pumping, pouring, emitting, emptying, or dumping."

14. "Oil" is defined by Section 311(a)(1) of the Clean Water Act, 33 U.S.C. § 1321(a)(1), as "oil of any kind or in any form, including, but not limited to, … oil mixed with wastes."

15. "Navigable waters" is defined by Section 502(7) of the Clean Water Act, 33 U.S.C. § 1362(7), to mean "waters of the United States, including the territorial seas." In turn, "waters of the United States" has been defined to include, inter alia, all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foregoing commerce; and tributaries to such waters; and wetlands adjacent to the foregoing waters. 40 C.F.R. § 110.1 (1993).

16. Section 311(b)(7)(A) of the CWA provides that any "person who is the owner, operator, or person in charge of any . . . onshore facility . . . from which oil or a hazardous substance is discharged" in violation of Section 311(b)(3) shall be subject to a civil penalty. 33 U.S.C. § 1321(b)(7)(A).

17. "Person" is defined by Section 311(a)(7) of the Clean Water Act, 33 U.S.C. § 1321(a)(7), to include corporations, associations, and partnerships.

18. "Owner or operator" is defined by Section 311(a)(6) of the Clean Water Act, 33 U.S.C. § 1321(a)(6), to mean, in the case of an onshore facility, "any person owning or operating such onshore facility."

19. "Onshore facility" is defined by Section 311(a)(10) of the Clean Water Act, 33 U.S.C. § 1321(a)(10), to include "any facility … of any kind located in, on, or under, any land within the United States other than submerged land."

20. Pursuant to Section 311(b)(7)(A) of the CWA, 33 U.S.C. § 1321(b)(7)(A), and 40 C.F.R. § 19.4, each violation of Section 311(b)(3) occurring after December 6, 2013 and on or before November 2, 2015 is subject to a civil penalty of up to $37,500 per day of violation or up to $2,100 per barrel of oil or unit of reportable quantity of hazardous substances discharged.

Clean Water Action Sections 301 and 309

21. Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant by any person, except as authorized by the Clean Water Act.

22. "Pollutant" is defined by Section 502(6) of the Clean Water Act, 33 U.S.C. § 1362(6), to include "solid waste, … chemical wastes, … and industrial … waste discharged into water."

23. "Discharge of a pollutant" is defined by Section 502(12) of the Clean Water Act, 33 U.S.C. § 1362(12), to mean "any addition of any pollutant to navigable waters from any point source."

24. "Navigable waters" is defined by Section 502(7) of the Clean Water Act, 33 U.S.C. § 1362(7), to mean "waters of the United States, including the territorial seas." In turn, "waters of the United States" has been defined to include, inter alia, all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foregoing commerce; and tributaries to such waters; and wetlands adjacent to the foregoing waters. 40 C.F.R. §§ 122.2 & 110.1 (1993); 40 C.F.R. § 120.2 (2020).

25. "Point source" is defined by Section 502(14) of the Clean Water Act, 33 U.S.C. § 1362(14), to mean "any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged."

26. Section 309(b) of the Clean Water Act, 33 U.S.C. § 1319(b), authorizes EPA to bring a civil action seeking "appropriate relief, including a permanent or temporary injunction," for violations of Section 301 of the Clean Water Act.

Clean Water Act Section 311(j)

27. Section 311(j) of the Clean Water Act, 33 U.S.C. § 1321(j), directs the President to promulgate regulations relating to oil spill prevention and response.

28. The President delegated to the Administrator of EPA the authority to promulgate such regulations under Section 311(j) of the Clean Water Act for discharges from non-transportation-related onshore facilities. Exec. Order No. 11548, Secs. 1(e) & 9, 35 Fed. Reg. 11,677 (July 20, 1970); Exec. Order No. 12777, Sec. 2(d)(1), 56 Fed. Reg. 54,757 (Oct. 18, 1991).

29. Those regulations, known as the Facility Response Plan ("FRP") and Spill Prevention Control and Countermeasure ("SPCC") regulations, are codified at 40 C.F.R. Part 112.

30. The term "non-transportation-related onshore facility" for purposes of the FRP and SPCC regulations includes "oil storage facilities including all equipment and appurtenances related thereto." 40 C.F.R. § 112.2 & 40 C.F.R. Part 112 Appendix A, section II(1)(F).

31. The term "discharge" for purposes of the FRP and SPCC regulations "includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping of oil." 40 C.F.R. § 112.2.

32. The term "navigable waters" for purposes of the FRP and SPCC regulations includes, but is not limited to, traditional navigable waters and tributaries of such waters. 40 C.F.R. § 112.2 (1993).

33. Section 311(b)(7)(C) of the Clean Water Act, 33 U.S.C. § 1321(b)(7)(C), provides that any person who fails or refuses to comply with any regulation issued under subsection (j) shall be subject to a civil penalty.

34. Pursuant to Section 311(b)(7)(C) of the CWA, 33 U.S.C. § 1321(b)(7)(C), and 40 C.F.R. § 19.4, each violation of a regulation issued under Section 311(j) occurring after December 6, 2013 and on or before November 2, 2015 is subject to a civil penalty of up to $37,500 per day of violation; each violation occurring after November 2, 2015 is subject to a civil penalty of up to $48,762 per day of violation.

Spill Prevention Control and Countermeasure Regulations

35. Section 311(j)(1)(C) of the Clean Water Act requires promulgation of regulations to establish procedures and methods for preventing and containing discharges of oil from onshore facilities. 33 U.S.C. § 1321(j)(1)(C). Pursuant to 33 U.S.C. § 1321(j)(1)(C), EPA promulgated the Spill Prevention Control and Countermeasures ("SPCC") regulations for non-transportation related onshore facilities, codified at 40 C.F.R. Part 112, Subparts A through C.

36. The SPCC regulations apply to owners and operators of non-transportation-related onshore facilities engaged in drilling, producing, gathering, storing, processing, refining,

transferring, distribution, using, or consuming oil and oil products that, due to their location, could reasonably be expected to discharge oil in quantities that may be harmful into or upon the navigable waters of the United States or adjoining shorelines. 40 C.F.R. § 112.1(b).

37. The SPCC regulations apply to facilities with an above ground storage capacity greater than 1,320 gallons. 40 C.F.R. § 112.1(d)(2)(ii).

38. Harmful quantities for purposes of the SPCC regulations are defined as discharges that: (a) violate applicable water quality standards, (b) cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines, or (c) cause a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines. 40 C.F.R. § 110.3.

39. To prevent discharges of oil in harmful quantities into navigable waters, 40 C.F.R. Part 112 requires an owner and operator of an onshore facility subject to the SPCC Regulations to prepare in writing and implement an SPCC Plan in accordance with 40 C.F.R. § 112.7 and other applicable sections of 40 C.F.R. Part 112. 40 C.F.R. § 112.3.

40. 40 C.F.R. § 112.9 sets forth additional SPCC requirements that apply to owners and operators of onshore oil production facilities (excluding a drilling or workover facility). "Production facility" is defined to mean "all structures (including but not limited to wells, platforms, or storage facilities), piping (including but not limited to flowlines or intra-facility gathering lines), or equipment (including but not limited to workover equipment, separation equipment, or auxiliary non-transportation-related equipment) used in the production, extraction, recovery, lifting, stabilization, separation or treating of oil (including condensate), or associated storage or measurement, and is located in an oil or gas field, at a facility." 40 C.F.R. § 112.2.

Facility Response Plan Requirements

41. Section 311(j)(5)(A) of the Clean Water Act, 33 U.S.C. § 1321(j)(5)(A), requires the President to promulgate regulations requiring owners or operators of specified facilities to submit to the President plans for responding to worst case oil discharges and a substantial threat of such discharges. 33 U.S.C. § 1321(j)(5)(A).

42. Facilities subject to Clean Water Act Section 311(j)(5)(A) requirements include onshore oil facilities that, because of their location, "could reasonably be expected to cause substantial harm to the environment" by discharging oil into or on the navigable waters of the United States or adjoining shorelines ("substantial harm facilities"). 33 U.S.C. § 1321(j)(5)(C)(iv).

43. Pursuant to Section 311(j)(5)(A), EPA promulgated Facility Response Plan ("FRP") regulations for non-transportation-related substantial harm facilities, codified at 40 C.F.R. §§ 112.20 and 112.21.

44. A facility is classified as a substantial harm facility if the facility's total oil storage capacity is greater than or equal to 1,000,000 gallons, and the facility is located at a distance (as calculated from the appropriate formula in 40 C.F.R. Part 112, Appendix C) such that a discharge from the facility could cause injury to fish and wildlife and sensitive environments. 40 C.F.R. § 112.20(f)(1)(ii)(B).

45. The FRP regulations require substantial harm facilities to, *inter alia*, develop and implement: (a) a Facility Response Plan detailing the facility's emergency plans for responding to an oil spill; (b) an oil spill response training program; and (c) a program of oil spill response drills/exercises. 40 C.F.R. §§ 112.20 and 112.21.

46. The Facility Response Plan must either follow the format contained in 40 C.F.R. Part 112, Appendix F, or contain the elements described in 40 C.F.R. § 112.20(h)(1)-(11). 40 C.F.R. § 112.20(h).

GENERAL ALLEGATIONS

M36 Facility

47. At all times relevant to this complaint, the M36 Facility was an oil and gas production and storage facility located in Weld County, Colorado, identified as the State M 36-ID, 17 Wattenberg Field Tank Battery.

48. At all times relevant to this complaint, Noble Energy, Inc. owned and operated the M36 Facility.

49. At all times relevant to this complaint, Noble Energy, Inc. was the "owner or operator" of the M36 Facility within the meaning of Section 311(a)(6) of the Clean Water Act, 33 U.S.C. § 1321(a)(6).

50. At all times relevant to this complaint, the M36 Facility was used for storing condensate, natural gas, and produced water received from multiple area wells operated by Noble Energy.

51. At all times relevant to this complaint, the M36 Facility had an above ground storage capacity greater than 1,320 gallons.

52. At all times relevant to this complaint, the M36 Facility was an "onshore facility" within the meaning of Section 311(a)(10) of the Clean Water Act, 33 U.S.C. § 1321(a)(10), and 40 C.F.R. § 112.2.

53. At all times relevant to this complaint, the M36 Facility was an onshore oil production facility (excluding a drilling or workover facility) within the meaning of 40 C.F.R. §§ 112.9 and 112.2.

54. At all times relevant to this complaint, the M36 Facility was a "non-transportation-related onshore facility" within the meaning of 40 C.F.R. § 112.2.

55. At all times relevant to this complaint, the M36 Facility was located in a 100-year floodplain approximately 400 feet from the Poudre River.

56. The Poudre River is a traditionally navigable water and is navigable-in-fact.

57. The Poudre River is a "navigable water" within the meaning of Section 502(7) of the Clean Water Act, 33 U.S.C. § 1362(7), and 40 C.F.R. § 112.2.

58. At all times relevant to this complaint, due to the M36 Facility's storage capacity and its location near the Poudre River, a discharge of oil from the M36 Facility could reasonably be expected to cause a violation of applicable water quality standards, a film or sheen upon or discoloration of the surface of the water or adjoining shorelines, or a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines.

59. At all times relevant to this complaint, the M36 Facility could reasonably be expected to discharge oil in quantities that may be harmful into or upon the navigable waters of the United States or adjoining shorelines, within the meaning of 40 C.F.R. § 112.1(b).

60. At all times relevant to this complaint, the M36 Facility was subject to the SPCC regulations.

61. The M36 Facility was decommissioned in April of 2019.

Wells Ranch Facility

62. The Wells Ranch Central Gathering Facility ("Wells Ranch Facility") is an oil and gas central gathering facility located at 32990 County Road 68, Gill, Colorado 80624.

63. From October 28, 2013, until at least January 1, 2015, Noble was identified as the owner and/or operator of the Wells Ranch Facility on the Facility FRP.

64. After January 1, 2015 and continuing until the present, Noble continued to manage, direct, or conduct operations at the Wells Ranch Facility, including operations related to environmental compliance and pollution control. During this time period, Noble employees served as the designated person responsible for environmental reporting at the Facility; communicated with federal regulators on environmental compliance efforts; requested that all communications regarding compliance matters be directed to Noble employees; provided Facility response training; and entered into spill response contractor agreements relating to the Facility. Noble also entered into an Operational Services Agreement with NMP and NMS on September 20, 2016, under which it agreed to provide the personnel necessary to manage, construct, design, maintain, and operate assets, including the Wells Ranch Facility.

65. Noble has been an "owner or operator" of the Wells Ranch Facility from October 2013 to present within the meaning of Section 311(a)(6) of the Clean Water Act, 33 U.S.C. § 1321(a)(6).

66. From approximately January 1, 2015 to present, NMS has been identified as the owner/operator of the Wells Ranch Facility on the Facility's FRP and SPCC plans.

67. NMS has been an "owner or operator" of the Wells Ranch Facility from approximately January 1, 2015 to present, within the meaning of Section 311(a)(6) of the Clean Water Act, 33 U.S.C. § 1321(a)(6).

68. Upon information and belief, from about September 20, 2016 to present, NMP has managed, directed, or conducted operations at the Wells Ranch Facility, including operations related to environmental management and compliance and pollution control.

69. Upon information and belief, NMP has been an "owner or operator" of the Wells Ranch Facility from approximately September 20, 2016 to present, within the meaning of Section 311(a)(6) of the Clean Water Act, 33 U.S.C. § 1321(a)(6).

70. Noble and NMS are jointly and severally liable as "owners or operators" for all violations alleged in this complaint that occurred at the Wells Ranch Facility between January 1, 2015 and September 20, 2016.

71. Noble, NMS, and NMP are jointly and severally liable as "owners or operators" for all violations alleged in this complaint that occurred at the Wells Ranch Facility from September 21, 2016 onward.

72. The Wells Ranch Facility gathers, processes, and stores oil, gas, and produced water received from production wells, which it then transfers off site for eventual sale, processing, or recycling.

73. The Wells Ranch Facility is an "onshore facility" within the meaning of Section 311(a)(10) of the Clean Water Act, 33 U.S.C. § 1321(a)(10), and 40 C.F.R. § 112.2.

74. The Wells Ranch Facility is an onshore oil production facility (excluding a drilling or workover facility) within the meaning of 40 C.F.R. §§ 112.9 and 112.2.

75. The Wells Ranch Facility is a "non-transportation-related onshore facility" within the meaning of 40 C.F.R. § 112.2.

76. The Wells Ranch Facility has the capacity to store over 6,000,000 gallons of oil in above ground storage tanks.

77. At all relevant times, the largest tank at the Wells Ranch Facility has had a capacity of over 370,000 gallons of oil. If not properly contained, a spill from that tank would flow into the County Road 68 drainage ditch, and then into an agricultural irrigation canal known as the North Side Lateral Ditch, and then into Crow Creek. From Crow Creek, such a spill would flow into the South Platte River, and then take one of two possible routes: it would either enter the diversion dam for the Riverside Inlet Canal and flow east to the Riverside Reservoir, or continue flowing along the South Platte River in an eastward direction. Such a discharge could reasonably be expected to cause a violation of water quality standards and/or a sheen on Crow Creek and the South Platte River. Uncontained spills or leaks from other oil containers at the Wells Ranch Facility could result in similar impacts.

78. Crow Creek is a perennial tributary of the South Platte River.

79. The South Platte River is a navigable-in-fact water.

80. The South Platte River is a "navigable water" within the meaning of Section 502(7) of the Clean Water Act, 33 U.S.C. § 1362(7).

81. Crow Creek is a "navigable water" within the meaning of Section 502(7) of the Clean Water Act, 33 U.S.C. § 1362(7).

82. The Wells Ranch Facility could reasonably be expected to discharge oil in quantities that may be harmful into or upon the navigable waters of the United States or adjoining shorelines, within the meaning of 40 C.F.R. § 112.1(b).

83. The Wells Ranch Facility is located at a distance such that a discharge of oil from the facility could cause injury to fish and wildlife and sensitive environments, within the meaning of 40 C.F.R. § 112.20(f)(1)(ii)(B).

84. Due to its oil storage capacity and location, the Wells Ranch Facility could reasonably be expected to cause substantial harm to the environment, within the meaning of Section 311(j)(5)(C)(iv) of the Clean Water Act, 33 U.S.C. § 1321(j)(5)(C)(iv), by discharging oil into or on navigable waters or adjoining shorelines.

85. The Wells Ranch Facility is subject to the FRP regulations.

86. The Wells Ranch Facility is subject to the SPCC regulations.

FIRST CLAIM FOR RELIEF
M36 Facility: Civil Penalties for Discharge of Oil in Violation of 33 U.S.C. § 1321(b)(3)

87. The previous paragraphs are realleged and incorporated by reference.

88. At some time between May 25, 2014 and June 2, 2014, high flows on the Poudre River inundated the M36 Facility. Floodwaters undercut the M36 tank battery, resulting in a broken valve on a 300-barrel storage tank, which discharged approximately 168 barrels of condensate and 5 barrels of produced water into the environment (the "M36 Discharge").

89. The M36 Discharge travelled approximately 400 feet from the tank battery to the Poudre River. From the storage tank, it flowed out of secondary containment, overland along the low-lying natural drainage, into wetlands abutting the Poudre River, and then reached the River

itself. The M36 Discharge was carried to the River at least in part by hydrologically connected floodwaters.

90. The discharge impacted grassland, riparian, and wetland wildlife habitats, as well as approximately 395 yards of the Poudre River.

91. Condensate is a low density mixture of hydrocarbon liquids, composed of, among other things, natural gas condensates or petroleum and hydrocarbons.

92. Produced water is a waste byproduct of crude oil production, which typically contains water, crude oil, grease, dissolved salts, and other contaminants.

93. Condensate and produced water are each "oil" within the meaning of Section 311(a)(1) of the Clean Water Act, 33 U.S.C. § 1321(a)(1).

94. The M36 Discharge caused a sheen upon the receiving waters and adjoining shorelines.

95. The M36 Discharge was in a quantity that "may be harmful" pursuant to 40 C.F.R. § 110.3.

96. The M36 Discharge constitutes a discharge of oil into or upon navigable waters of the United States and adjoining shorelines in harmful quantities, in violation of Section 311(b)(3) of the Clean Water Act, 33 U.S.C. § 1321(b)(3).

97. Pursuant to Section 311(b)(7)(A) of the Clean Water Act, 33 U.S.C. § 1321(b)(7)(A), and 40 C.F.R. § 19.4, Noble Energy, Inc. is liable for civil penalties not to exceed the statutory maximum per barrel discharged.

SECOND CLAIM FOR RELIEF
M36 Facility: Injunctive Relief for Discharge of a Pollutant in Violation of 33 U.S.C. § 1311(a)

98. The previous paragraphs are realleged and incorporated by reference.

99. The storage tank at the M36 Facility from which the M36 Discharge originated is a "point source" within the meaning of Section 502(14) of the Clean Water Act, 33 U.S.C. § 1362(14).

100. Condensate and produced water are each "pollutants" within the meaning of Section 502(6) of the Clean Water Act, 33 U.S.C. § 1362(6).

101. The M36 Discharge was not authorized by any Clean Water Act permit.

102. The M36 Discharge constitutes an unauthorized discharge of a pollutant from a point source to navigable waters, in violation of Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a).

103. Noble Energy, Inc. is subject to appropriate injunctive relief pursuant to Section 309(b) of the Clean Water Act, 33 U.S.C. § 1319(b), to prevent further discharges in violation of the Clean Water Act.

THIRD CLAIM FOR RELIEF
M36 Facility: Civil Penalties for SPCC Violations

104. The previous paragraphs are realleged and incorporated by reference.

105. Noble is required to prepare in writing and implement an SPCC Plan for the M36 Facility. 40 C.F.R. § 112.3.

106. From at least March 30, 2012 until at least April 2, 2019, Noble Energy, Inc. failed to have an SPCC Plan for the M36 Facility that met the requirements of the SPCC Regulations, 40 C.F.R. Part 112.

107. On March 30, 2012, Noble Energy, Inc. certified an SPCC Plan for the M36 Facility (the "2012 M36 SPCC Plan"). The 2012 M36 SPCC Plan was in effect at the time of the M36 Discharge in 2014.

108. The 2012 M36 SPCC Plan failed to comply with the SPCC regulations:

a. it failed to identify the measure or measures used to prevent discharges from tank batteries, as required by 40 C.F.R. § 112.9(c)(4); and

b. it contained an oil spill contingency plan that failed to follow 40 C.F.R. Part 109, as required by 40 C.F.R. § 112.7(d)(1), in the following ways:

i. it failed to adequately define the authorities, responsibilities, and duties of all persons, organizations, or agencies involved in oil removal operations by only listing two people as the entire spill response team with contractor support, in violation of 40 C.F.R. § 109.5(a);

ii. it failed to identify critical water use areas, or the order of priority for protecting water uses, 40 C.F.R. § 109.5(b)(1), (d)(5);

iii. it failed to identify who will make a request for federal disaster assistance, in violation of the requirement in 40 C.F.R. § 109.5(b)(4) to establish a prearranged procedure for requesting federal disaster assistance;

iv. it failed to identify the quantity of response materials onsite, in violation of requirement in 40 C.F.R. § 109.5(c)(1) to inventory available equipment, materials, and supplies for oil spill response;

v. it failed to estimate the equipment, materials, and supplies required to remove a maximum oil discharge, in violation of 40 C.F.R. § 109.5(c)(2); and

vi. it included an incomplete identification of the oil discharge response operating team, in violation of 40 C.F.R. § 109.5(d)(1).

109. Each deficiency in the M36 2012 SPCC Plan is a violation of 40 C.F.R. Part 112.

110. After the M36 Discharge, Noble removed and reconfigured tanks at the M36 Facility, before ultimately decommissioning the Facility in April of 2019. Actions included the replacement of tanks during the July 2014 to December 2014 time frame. The removal and reconfiguration of tanks at the M36 Facility materially affected the Facility's potential for a discharge.

111. Noble did not amend the M36 2012 SPCC Plan to reflect the removal and reconfiguration of the tanks at the M36 Facility at any point prior to April 2019, in violation of 40 C.F.R. § 112.5(a).

112. Because Noble did not amend the M36 2012 SPCC Plan to reflect facility changes, it also failed to obtain review and certification by a Professional Engineer of the amendments, as required by 40 C.F.R. § 112.5(c).

113. Pursuant to Section 311(b)(7)(C) of the Clean Water Act, 33 U.S.C. § 1321(b)(7)(C), and 40 C.F.R. § 19.4, Noble Energy, Inc. is liable for civil penalties not to exceed the statutory maximum per day for each violation of the SPCC regulations.

FOURTH CLAIM FOR RELIEF
Wells Ranch Facility: Civil Penalties for Failure to Develop and Implement a Facility Response Training Program and Drills/Exercises Program

114. The previous paragraphs are realleged and incorporated by reference.

115. Defendants are required to develop and implement a facility response training program for the Wells Ranch Facility to train personnel involved in oil spill response activities, in accordance with 40 C.F.R. § 112.21(a) and (b).

116. Defendants are required to develop and implement a drill/exercise program for the Wells Ranch Facility that meets the requirements of 40 C.F.R. § 112.21(a) and (c). The program must follow the National Preparedness for Response Exercise Program ("PREP") Guidelines, or an alternative program that has been approved by the Regional Administrator for EPA Region 8. 40 C.F.R. § 112.21(c).

117. Two versions of the PREP Guidelines were in effect during the period of operation at issue: the 2002 PREP Guidelines (Attachment A) and the 2016 PREP Guidelines (Attachment B).

118. To maintain a drills/exercises program that complies with either the 2002 or the 2016 PREP Guidelines, the Wells Ranch Facility must conduct and document multiple planned and unannounced exercises, on a regular prescribed basis. These exercises include:

a. Qualified individual notification exercises. The Facility must conduct quarterly exercises in which contact is made with the person designated in the FRP as the individual with full authority to implement the facility response plan (the "qualified individual" or "QI"), and confirmation is received from that person. The purpose is to ensure that the QI will respond as expected and carry out his or her required duties in a spill response emergency or

significant threat of a spill. 2002 PREP Guidelines at 2-2, 2-19, 4-2; 2016 PREP Guidelines §§ 2.3.1, 2.3.8.2(1), 4.1.

b. Incident management team exercises. The Facility must conduct annual exercises to ensure that incident management team is familiar with the response plan and is able to use it effectively to conduct a response, including all response countermeasures described in the plan. 2002 PREP Guidelines at 2-4, 2-19, 4-5 to 4-6; 2016 PREP Guidelines §§ 2.3.4, 2.3.8.2(4), 4.3.

c. Equipment deployment exercises. The Facility must conduct semi-annual exercises to ensure that response equipment owned by the facility is appropriate for the operating environment in which it is intended to be used and that operating personnel are trained in its deployment and operation. 2002 PREP Guidelines at 2-6, 2-19, 4-7 to 4-10; 2016 PREP Guidelines §§ 2.3.6, 2.3.8.2(8), 4.4. The Facility must also ensure that the entity providing oil response resources (the "oil spill removal organization" or "OSRO") conducts annual equipment deployment exercises in each operating environment in which they expect to operate. 2002 PREP Guidelines at 2-7; 2016 PREP Guidelines § 2.3.6.1.

119. The Wells Ranch Facility must also successfully complete any government-initiated unannounced exercise ("GIUE") initiated by EPA. 2002 PREP Guidelines at 2-13 to 2-14, 2-16 to 2-17, 4-11 to 4-12; 2016 PREP Guidelines §§ 2.3.7.2, 4.6. The measure of an effective GIUE will be the overall ability of the responders identified in the FRP to rapidly and effectively control a small discharge, with particular attention to those actions that afford the best chances to control a spill and minimize its impact in the first few hours of the incident. 2002 PREP Guidelines at 2-16; 2016 PREP Guidelines § 2.3.7.2.3. EPA determines whether a

government-initiated unannounced exercise is successfully completed. 2002 PREP Guidelines at 2-14; 2016 PREP Guidelines §§ 2.3.7.2.1, 2.3.7.2.3.

120. On September 21, 2016, representatives of EPA arrived at the Wells Ranch Facility and conducted an unannounced inspection and GIUE (the "2016 Exercise").

121. The 2015 Wells Ranch FRP, which was in place at the time of the 2016 Exercise, states that the drills and exercises program at the Wells Ranch Facility is based on the PREP Guidelines for oil pollution response. The 2015 Wells Ranch FRP did not incorporate an alternative program that had been approved by the Regional Administrator for EPA Region 8.

122. In the 2016 Exercise, Defendants were tasked with responding to a hypothetical scenario, based on the "Small/Average Most Probable Discharge" scenario in the 2015 Wells Ranch FRP, in which 2,100 gallons of crude oil discharged from secondary containment at the Wells Ranch Facility and flowed into Crow Creek.

123. EPA determined that Defendants did not successfully complete the 2016 Exercise in accordance with the PREP Guidelines, for the following reasons:

a. Within one hour of the start of the 2016 Exercise, 1,000 feet of oil spill containment boom did not arrive at the Wells Ranch Facility and Defendants did not have the means to deploy the containment boom, as required by the PREP Guidelines (*see* 2002 PREP Guidelines at 2-16; 2016 PREP Guidelines § 2.3.7.2.3, sub-objective 2).

b. Within two hours of the start of the 2016 Exercise, oil recovery devices did not arrive at the Wells Ranch Facility and were not successfully implemented, as required by the PREP Guidelines (*see* 2002 PREP Guidelines at 2-16; 2016 PREP Guidelines § 2.3.7.2.3, sub-objective 3).

c. Defendants' OSRO did not arrive at the Wells Ranch Facility until at least two hours and twenty minutes after the start of the 2016 Exercise.

d. Defendants did not have all of the oil spill response equipment identified in the 2015 FRP at the Wells Ranch Facility at the time of the 2016 Exercise.

e. Defendants failed to notify all of the organizations listed in its 2015 FRP of the hypothetical oil discharge in the 2016 Exercise, as required by the PREP Guidelines (*see* 2002 PREP Guidelines at 2-16; 2016 PREP Guidelines § 2.3.7.2.3, sub-objective 1).

124. Concurrent with the 2016 Exercise, EPA identified the following additional training and drills/exercises deficiencies at the Well Ranch Facility:

a. Defendants failed to retain documentation of QI notification exercises, incident management team exercises, and equipment deployment exercises for the Wells Ranch Facility within the prior three years, as required by the PREP Guidelines (*see* 2002 PREP Guidelines at 4-2, 4-5 to 4-10; 2016 PREP Guidelines §§ 4.1, 4.3, 4.4) and 40 C.F.R. Part 112, app. F §§ 1.3(A)(4).

b. Defendants failed to conduct QI notification exercises, incident management team exercises, and equipment deployment exercises within the prior three years, as required by the PREP Guidelines (*See* 2002 PREP Guidelines at 2-2, 2-4 to 2-5, and 2-6 to 2-8; 2016 PREP Guidelines §§ 2.3.8.2(1); 2.3.8.2(4); 2.3.8.2.(8)).

c. Defendants failed to provide the QI with specific response training experience;

d. Defendants failed to train facility personnel in spill response;

e. Defendants failed to provide training for the facility response contractor;

f. Defendants failed to hold periodic discharge prevention meetings; and

g. Defendants failed to incorporate the FRP into training.

125. On August 22, 2017, representatives of EPA arrived at the Wells Ranch Facility and conducted another unannounced inspection and GIUE (the "2017 Exercise").

126. The 2016 Wells Ranch FRP, which was in place at the time of the 2017 Exercise, states that states that the drills and exercises program at the Wells Ranch Facility is based on the PREP Guidelines for oil pollution response. Attachment 17. The 2016 Wells Ranch FRP did not incorporate an alternative program that had been approved by the Regional Administrator for EPA Region 8.

127. The 2017 Exercise involved the same hypothetical scenario as the 2016 Exercise, i.e., responding to a discharge of 2,100 gallons of crude oil from secondary containment at the Wells Ranch Facility which flowed into Crow Creek.

128. EPA determined that Defendants did not successfully complete the 2017 Exercise in accordance with the PREP Guidelines, for the following reasons:

a. The 2016 FRP identified 1,000 feet of containment boom with anchors as oil spill response equipment that would be kept at the Wells Ranch Facility. At the time of the 2017 Exercise, Defendants did not have 1,000 feet of containment boom or anchors at the Wells Ranch Facility.

b. Within one hour of the start of the 2017 Exercise, 1,000 feet of oil spill containment boom did not arrive at the Wells Ranch Facility, and Defendants did not have the means to deploy the containment boom as required by the 2016 PREP Guidelines § 2.3.7.2.3,

sub-objective 2. Defendants' OSRO did not provide 1,000 feet of containment boom. By the end of the 2017 Exercise, 1,000 feet of containment boom had not arrived.

c. Defendants' OSRO, with which it contracted to assist with oil spill response, did not arrive at the Wells Ranch Facility until one hour and forty minutes after the start of the 2017 Exercise.

d. Locations for deployment of containment boom had not been identified in advance. Defendants did not know where to deploy containment boom.

e. Defendants lacked knowledge of the proper operation of oil skimmer equipment and would not have been effective at recovering spilled oil.

f. Defendants failed to notify all potentially affected landowners, agricultural irrigation and ditch organizations, reservoirs, and parks of the hypothetical oil discharge. Therefore, Defendants failed to conduct proper emergency notifications as required by PREP Guidelines § 2.3.7.2.3, sub-objective 1.

129. Concurrent with the 2017 Exercise, EPA determined that the training and drills/exercises program at the Wells Ranch continued to be deficient in a number of aspects:

a. Defendants failed to retain documentation of incident management team exercises or equipment deployment exercises for the Wells Ranch Facility, as required by PREP Guidelines §§ 4.3; 4.4;

b. Defendants failed to conduct incident management team exercises and equipment deployment exercises within the prior three years, as required by PREP Guidelines §§ 2.3.8.2(4); 2.3.8.2.(8).

c. Defendants failed to provide the QI with specific response training experience;

d. Defendants failed to adequately train facility response personnel to work with OSRO personnel;

e. Defendants failed to adequately train facility response personnel in equipment deployment, including operation of skimmer;

f. Defendants failed to adequately train facility response personnel in implementing the 2016 FRP;

g. Defendants failed to provide training for facility response contractor; and

h. Defendants failed to hold periodic discharge prevention meetings.

130. From at least October 3, 2013 to at least April 3, 2019, Defendants failed to develop and implement an adequate facility response training program and were in violation of 40 C.F.R. § 112.21(a) and (b).

131. From at least October 3, 2013 to at least March 9, 2020, Defendants did not develop and implement a drills/exercises program, including evaluation procedures, that adheres to the PREP Guidelines and, therefore, were in violation of 40 C.F.R. § 112.21(a) and (c).

132. Pursuant to Section 311(b)(7)(C) of the Clean Water Act, 33 U.S.C. § 1321(b)(7)(C), and 40 C.F.R. § 19.4, Defendants are liable for civil penalties not to exceed the statutory maximum per day for each violation of the FRP regulations.

FIFTH CLAIM FOR RELIEF
Wells Ranch Facility: Civil Penalties for FRP Violations

133. The previous paragraphs are realleged and incorporated by reference.

134. Defendants are required to prepare and submit a Facility Response Plan for the Wells Ranch Facility that meets the requirements of 40 C.F.R. § 112.20(h) and Appendix F to 40 C.F.R. Part 112. 40 C.F.R. § 112.20.

135. On October 28, 2013, Noble certified an FRP for the Wells Ranch Facility (the "2013 Wells Ranch FRP").

136. The 2013 Wells Ranch FRP failed to comply with the FRP regulations in a number of ways:

a. it failed to provide a response equipment testing and deployment drill log which includes prompts for information about the last inspection or response equipment test date and the last deployment drill date, as required by 40 C.F.R. Part 112, app. F §§ 1.3(A)(4) & 1.3.3;

b. it failed to provide a vulnerability analysis which satisfies the requirements of Attachment C-III to Appendix C, as required by 40 C.F.R. Part 112, app. F § 1.4.2. Specifically, the 2013 Wells Ranch FRP used an incorrect flow rate in the planning distance calculation;

c. it failed to include personnel response training logs and discharge prevention meeting logs in the Facility Response Plan or as an annex to it, as required by 40 C.F.R. Part 112, app. F § 1.8.3;

d. it failed to provide a Site Plan Diagram which includes the location and capacity of secondary containment systems, hazardous material, location of communications and emergency response equipment, and location of electrical equipment that might contain oil, as required by 40 C.F.R. Part 112, app. F § 1.9(1)(H)-(K); and

e. it failed to provide a Site Drainage Plan Diagram which includes, as appropriate, other utilities and the direction of discharge flow from discharge points, as required by 40 C.F.R. Part 112, app. F § 1.9(2)(E) & (H).

137. In January 2015, Defendants revised the FRP for Wells Ranch (the "2015 Wells Ranch FRP").

138. The 2015 Wells Ranch FRP continued to violate the FRP regulations in a number of ways:

a. it failed to provide a response equipment testing and deployment drill log which includes prompts for information about the last inspection or response equipment test date, the last deployment drill date, and the oil spill removal organization certification, as required by 40 C.F.R. Part 112, app. F §§ 1.3(A)(4) & 1.3.3;

b. it relied on an oil spill removal organization to provide certain response equipment without obtaining an oil spill removal organization certification, as required by 40 C.F.R. Part 112, app. F §§ 1.3(A)(4) & 1.3.3;

c. it failed to provide a vulnerability analysis which satisfies the requirements of 40 C.F.R. Part 112, Appendix F, as required by 40 C.F.R. Part 112, app. F §§ 1.4 & 1.4.2. Specifically, the 2015 Wells Ranch FRP used an incorrect flow rate in the planning distance calculation;

d. it failed to accurately describe a medium discharge scenario, as required by 40 C.F.R. Part 112, app. F § 1.5;

e. it failed to consider available remediation equipment in developing discharge scenarios, as required by 40 C.F.R. Part 112, app. F §§ 1.5.1.2(8) & 1.5.2.1;

f. it failed to identify sufficient response resources to respond to a discharge to navigable waters of less than or equal to 2,100 gallons (i.e., a small discharge), including but not limited to: 1,000 feet of containment boom and a means of deploying it within one hour of the discovery of a discharge, as required by 40 C.F.R. Part 112, app. E §§ 3.1 & 3.3.1 and app. F §§ 1.7 & 1.7.1;

g. it failed to identify sufficient response resources to respond to a discharge to navigable waters of up to 36,000 gallons of oil or 10 percent of the worst case discharge, whichever is less (i.e., a medium discharge), as required by 40 C.F.R. Part 112, app. E, §§ 4.1, 4.5 and app. F §§ 1.7, 1.7.1.1;

h. it failed to identify sufficient response resources to respond to the worst case discharge of oil to navigable waters within the specified times, as required by 40 C.F.R. Part 112, app. E, §§ 5.1, 5.3, 5.7 and app. F §§ 1.7, 1.7.1.1;

i. it failed to address the need for additional response training as part of the description of implementation of response actions, as required by 40 C.F.R. Part 112, app. F § 1.7.1.1(2);

j. it failed to adequately describe the response training program to be carried out under the 2015 FRP, as required by 40 C.F.R. Part 112, app. F § 1.8.3;

k. it failed to describe a facility drills/exercises program that met the PREP Guidelines, as required by 40 C.F.R. § 112.20(h)(8) and 40 C.F.R. Part 112, app. F § 1.8.2; and

l. it failed to adequately describe the facility response personnel and their respective responsibilities during a response action, as required by 40 C.F.R. Part 112, app. F §§ 1.3(A)(5), 1.3.4.

139. Defendants revised the Facility Response Plan for the Wells Ranch Facility in October 2016 (the "2016 Wells Ranch FRP").

140. The 2016 Wells Ranch FRP continued to violate the FRP regulations in a number of ways:

a. it failed to adequately describe emergency response equipment and its location and limitations, as required by 40 C.F.R. Part 112, app. F §§ 1.3(A)(3) & 1.3.2;

b. it failed to provide a response equipment testing and deployment drill log which includes prompts for information about the last inspection or response equipment test date, the last deployment drill date, and the oil spill removal organization certification, as required by 40 C.F.R. Part 112, app. F §§ 1.3(A)(4) & 1.3.3;

c. it failed to list the amount of time needed for response personnel to respond to an emergency and the responsibility of response personnel in an emergency, as required by 40 C.F.R. Part 112, app. F §§ 1.3(A)(5) & 1.3.4;

d. it failed to provide a facility-wide evacuation plan and Site Evacuation Plan Diagram, and to reference existing community evacuation plans, as required by 40 C.F.R. Part 112, app. F §§ 1.3(A)(6), 1.3.5.1, 1.3.5.3, 1.9(3);

e. it failed to provide a vulnerability analysis which satisfies the requirements of 40 C.F.R. Part 112, Appendix F, as required by 40 C.F.R. Part 112, app. F §§ 1.4 & 1.4.2. Specifically, the planning distance calculation in the 2016 Wells Ranch FRP did not provide an adequate analysis of sensitive environments for fish and wildlife and proximity to drinking water sources;

f. it failed to provide an adequate hazard identification, including facility total containment volume, all secondary containment volumes, and an accurate schematic drawing of the facility, as required by 40 C.F.R. Part 112, app. F §§ 1.4.1(4)-(5);

g. it failed to accurately describe a medium discharge scenario, as required by 40 C.F.R. Part 112, app. F § 1.5;

h. it failed to consider available remediation equipment in developing discharge scenarios, as required by 40 C.F.R. Part 112, app. F §§ 1.5.1.2(8) & 1.5.2.1;

i. it failed to identify sufficient response resources to respond to a discharge to navigable waters of less than or equal to 2,100 gallons (i.e., a small discharge), including but not limited to: 1,000 feet of containment boom and a means of deploying it within one hour of the discovery of a discharge, as required by 40 C.F.R. Part 112, app. E §§ 3.1 & 3.3.1 and app. F §§ 1.7 & 1.7.1.1;

j. it failed to identify sufficient quantity of containment boom to respond to a discharge to navigable waters of 36,000 gallons of oil or 10 percent of the worst case discharge, whichever is less (i.e., a medium discharge), as required by 40 C.F.R. Part 112, app. E §§ 4.1 & 4.5 and app. F §§ 1.7 & 1.7.1.1;

k. it failed to adequately describe how and where the facility intends to recover, reuse, decontaminate, or dispose of materials after a discharge, including handling of contaminated equipment and materials, personnel protective equipment, decontamination solutions, adsorbents, and spent chemicals, and failed to adequately address needed governmental permits, as required by 40 C.F.R. Part 112, app. F § 1.7.2.1;

l. it failed to provide a plan to contain and control a discharge through drainage in compliance with 40 C.F.R. Part 112, app. F § 1.7.3. Specifically, the 2016 Wells Ranch FRP included incorrect information about the total containment volume and the route of drainage from oil storage and transfer areas;

m. it failed to describe a facility drills/exercises program that met the PREP Guidelines, as required by 40 C.F.R. § 112.20(h)(8) and 40 C.F.R. Part 112, app. F § 1.8.2;

n. it failed to include personnel response training logs in the Facility Response Plan or as an annex to it, as required by 40 C.F.R. Part 112, app. F § 1.8.3;

o. it failed to provide a Site Plan Diagram which identifies secondary containment systems (location and capacity) and location of communication and emergency response equipment, as required by 40 C.F.R. Part 112, app. F § 1.9(1);

p. it failed to provide a Site Drainage Plan Diagram, as required by 40 C.F.R. Part 112, app. F § 1.9(2); and

q. it failed to adequately describe the facility response personnel and their respective responsibilities during a response action, as required by 40 C.F.R. Part 112, app. F §§ 1.3(A)(5), 1.3.4.

141. Each deficiency in the 2013 Wells Ranch FRP, 2015 Wells Ranch FRP, and 2016 Wells Ranch FRP is a violation of 40 C.F.R. § 112.20.

142. Between 2017 and 2019, Defendants revised the Wells Ranch FRP on at least four occasions: October 2017, June 2018, June 2019, and September 2019. Each revision failed to fully resolve deficiencies identified in the Plan.

143. On March 4, 2020, EPA approved the February 2020 Wells Ranch FRP.

144. From at least October 28, 2013 until March 5, 2020, Defendants failed to have a Facility Response Plan that met the Facility Response Plan requirements, 40 C.F.R. § 112.20.

145. Pursuant to Section 311(b)(7)(C) of the Clean Water Act, 33 U.S.C. § 1321(b)(7)(C), and 40 C.F.R. § 19.4, Defendants are liable for civil penalties not to exceed the statutory maximum per day for each violation of the FRP regulations.

SIXTH CLAIM FOR RELIEF
Wells Ranch Facility: Civil Penalties for SPCC Violations

146. The previous paragraphs are realleged and incorporated by reference.

147. Defendants are required to prepare in writing and implement an SPCC Plan for the Wells Ranch Facility. 40 C.F.R. § 112.3.

148. From at least January 7, 2015 until at least November 3, 2017, Defendants failed to have an SPCC Plan for the Wells Ranch Facility that met the requirements of the SPCC Regulations, 40 C.F.R. Part 112.

149. On January 7, 2015, NMS certified an SPCC Plan for the Wells Ranch Facility (the "2015 Wells Ranch SPCC Plan").

150. As part of the 2016 Exercise, EPA conducted a review of the 2015 Wells Ranch SPCC Plan and Defendants' implementation of the Plan. EPA determined that Defendants failed to comply with the SPCC regulations in a number of ways:

a. the Plan failed to adequately describe the type of oil in each fixed oil storage container and its storage capacity, and failed to provide a facility diagram adequately marking the location and contents of each fixed oil storage container, in violation of 40 C.F.R. § 112.7(a)(3)(i);

b. Defendants failed to conduct inspections and tests in accordance with written procedures developed for the Wells Ranch Facility and keep the written procedures and signed records of the inspections and tests with the SPCC Plan for a period of three years, as required by 40 C.F.R. § 112.7(e);

c. Defendants failed to ensure responsible supervision during drainage of dike areas as provided in 40 C.F.R. § 112.8(c)(3)(iii), in violation of 40 C.F.R. § 112.9(b)(1); and

d. Defendants failed to perform all required inspections for field drainage systems, in violation of 40 CFR 112.9(b)(2);

151. Pursuant to Section 311(b)(7)(C) of the Clean Water Act, 33 U.S.C. § 1321(b)(7)(C), and 40 C.F.R. § 19.1, Defendants are liable for civil penalties not to exceed the statutory maximum per day for each violation of the SPCC regulations.

REQUEST FOR RELIEF

WHEREFORE, the United States respectfully requests that this Court:

(A) Order Noble Energy, Inc. to pay a civil penalty of up to $2,100 per barrel of oil for violation of Section 311(b)(3) of the Clean Water Act, 33 U.S.C. § 1321(b)(3), pursuant to Section 311(b)(7)(A) of the Clean Water Act, 33 U.S.C. § 1321(b)(7)(A), and 40 C.F.R. § 19.4;

(B) Order Defendants to pay a civil penalty of up to $37,500 per day of violation for each violation of the FRP Regulations, Facility Response Training and Drills/Exercises Regulations, and SPCC Regulations, occurring after December 6, 2013 and on or before November 2, 2015, and $48,762 per day of violation for each violation occurring after November 2, 2015, pursuant to Section 311(b)(7)(C) of the Clean Water Act, 33 U.S.C. § 1321(b)(7)(C) and 40 C.F.R. 19.4;

(C) Order Noble Energy, Inc. to take all necessary actions to prevent further discharges into waters of the United States;

(D) Award the United States its costs of this action; and

(E) Grant such other relief as the Court may deem just and proper.

Respectfully submitted,

FOR THE UNITED STATES OF AMERICA

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