

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF COLORADO

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

**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 foreign 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).

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