

# SURFACE DAMAGE AND RELEASE AGREEMENT

This Surface Damage and Release Agreement ("Agreement") is made and entered into this 24 day of February, 2013, by and between **Wells Fargo Bank, National Association, as Conservator of Betty J. Castor Conservatorship** (referred to herein as "Owner"), whose address is **1740 Broadway Street, MAC-C7300-488, Denver, CO 80274**, hereinafter called Owner (whether one or more) and **Noble Energy, Inc.**, whose address is **1625 Broadway, Suite 2200, Denver, CO 80202**, hereinafter called Operator sometimes referred to each as a "Party" or collectively as the "Parties".

## WITNESSETH

For and in consideration of the covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**1. OWNERSHIP.** Owner is the surface owner of certain lands located in **Weld County, Colorado** generally described as follows ("Lands"):

**Township 9 North, Range 58 West, 6th P.M.**

Section 12: W/2W/2

**2. OPERATOR'S OIL AND GAS OPERATIONS ON THE LANDS.** Operator intends to drill or cause to be drilled two (2) oil and/or gas wells ("Wells"), identified as the **CASTOR LD12-78HN, CASTOR FEDERAL LD13-78HN**, the surface pad drilling site will be located on the above described Section 12 land. In order for Operator to drill, construct, complete, produce, maintain, and operate the Wells and all facilities associated therewith, including, but not limited to, a permanent access road ("Access Road"), pipeline, flow lines, separator, tank battery, electric line and any other facilities or property necessary for Operator to conduct operations on the Wells (each a "Facility", collectively, the "Facilities"), it is necessary that Operator enter and utilize a portion of the surface of the Lands of Owner.

Owner grants a permanent subsurface easement for passage of any portion of the wellbore, whether producing or nonproducing, including the right to occupy and use the subsurface and the subsurface pore space displaced by the wellbore and the structures appurtenant thereto as permitted by this Agreement.

The parties enter into this Agreement to evidence their entire agreement regarding the payment of surface damages, entry, surface use, and any other matters relating to Operator's use of the Lands.

**3. LOCATION.** The Wells and Access Road to the wellsite, and the location of flow lines, separators, tank battery and other Facilities will need to be constructed upon the Lands. Operator agrees not to use more than eight (8) acres of the surface of the Lands during any drilling, completion, recompletion or workover operations; provided, however, that each

wellsite, separator and tank battery will not permanently exceed one (1) acre in area, absent written consent from the Owner.

The location of the Wells, drill site, Access Road, flow lines and tank battery and other Facilities to be constructed on the Lands are depicted on Exhibit "A".

Any changes to the Wells, drill site, Access Road, flow lines, tank battery or other Facilities locations may be made by Operator only with written consent of Owner.

**4. CONDUCT OF OPERATIONS.** Operator's operations on the Lands will be conducted pursuant to the terms of the Leases, this Agreement, the rules and regulations of the Colorado Oil & Gas Conservation Commission ("COGCC"), and applicable Colorado statutes and case law.

**5. COMPENSATION AMOUNT.** Operator will pay Owner the sum of \_\_\_\_\_ per well not less than 30 days prior to the commencement of drilling operations for the Wells as described hereinabove at Paragraph 2. Said sum shall be deemed full and agreed consideration for all damages caused or created by reason of the reasonable and customary ingress, egress, rights-of-way, drilling, completion, production and maintenance operations associated with the Wells and Facilities. Such damages will include, without limitation, damage to growing crops and crop land; the re-seeding, construction and use of access road; and the preparation and use of the wellsite area. Any subsequent major operations for said Wells (refrac, deepening, redrilling, etc.), except in case of emergency, shall require 10 days prior notice to Owner. Operator shall pay Owner all actual damages caused by subsequent operations including but not limited to (a) violations of this Agreement, (b) violations of regulations of the COGCC, (c) negligence, and (d) violations of 6C(ii) below.

If, for any reason, more acreage is necessary than the limits previously stated, Owner will be compensated in the amount of \_\_\_\_\_ per acre.

**6. ADDITIONAL SURFACE USE PROVISIONS, ACCESS ROAD, FENCES AND FACILITIES.** With respect to its operations on the Lands, Operator will comply with the following provisions:

**A. Access Road:**

- (i) Access Road will not exceed 30 feet in width absent written consent from the Owner. Whenever possible, Operator agrees to use existing roads, (which does not mean ranch 2 tract roads). Operator will maintain all access roads in good repair and condition such that the same can be used for all season use.
- (ii) During Drilling operations, Operator will insure that all vehicles accessing the Lands on its behalf remain on the Access Road. Operator shall have

the right to place a single strand fence on both sides of Access Road during drilling operations.

- (iii) Operator agrees to back-slope the Access Road.
- (iv) Operator will provide Owner with a minimum of 10 days prior written notice before restoring the surface of the Access Road to be permanently abandoned by Operator. No later than 10 days following receipt of such notice, Owner may elect, in writing, not to have such Access Road abandoned by Operator. In such event, Operator will have no liability under this Agreement, the Lease, or otherwise, to restore the surface of the Lands utilized as the Access Road. Failure to timely respond will be deemed as Owner's election that Operator proceeds with the abandonment of the Access Road and the restoration of the surface thereof.
- (v) Operator will stockpile and save any topsoil removed while constructing the Access Road for rehabilitation or re-seeding as reasonably directed by Owner.
- (vi) Operator will maintain the Access Road in good repair and condition, and Operator shall not haul rocks on the road and the wellsite in a form larger than 3/4" gravel.

**B. Surface Restoration:**

- (i) Upon permanent cessation of Operator's operations on the Lands, all areas thereof occupied or utilized by Operator will be restored by Operator to their original condition and contour as nearly as is reasonably practicable, and re-seeded, provided however, that Operator's intent to abandon the Access Road will be subject to the provisions of Paragraph 6(A)(iv) herein.
- (ii) Reclamation of all areas disturbed by drilling operations shall be commenced and completed as soon as possible after cessation of drilling operations. Operator agrees to take all steps necessary for reclamation to return the disturbed property as close to its original condition as possible.

**C. Other:**

- (i) Operator will install culverts on the Lands that may be necessary to maintain present drainage otherwise affected by its operations on the Lands.
- (ii) If by reason of the activities of the Operator, including, but not limited to, drilling, completing, equipping, and operating of the Well, there is damage to personal property of the Owner, including, but not limited to, livestock,

water wells, fences, gates, culverts, bridges, pipelines, ditches, or irrigation systems, and for which Owner has not been previously compensated pursuant to Paragraph 5, Operator will pay full market value, repair, or replace such personal property after consultation with and to the reasonable satisfaction of the Owner within thirty (30) days. Owner will promptly notify Operator of any items damaged after the Well's construction, and Operator will repair or replace such items after consultation with the Owner within thirty (30) days of the notification.

- (iii) Operator agrees that all trash, refuse pipes, equipment, liquids, chemicals, or other materials brought on the Lands that are not necessary for continued operations of the Well will be removed and disposed away from the Lands no later than 30 days after the completion of the Well. No such items will be burned or buried on the Lands.
- (iv) The wellsite and production/tank site shall be kept free and clear of all noxious weeds, unsightly growth and trash either during drilling operations or after completion and production. Additionally, the production/tank site shall be fenced pursuant to the reasonable requirements of Owner such that livestock will not have access to said site.
- (v) All guy lines for drilling and completion rigs shall be immediately removed after such work is completed.
- (vi) At the request of Owner, Operator agrees to fence off the perimeter of the wellsite with temporary fencing during drilling operations. Operator will also install swinging gates with locks at all access points where necessary as determined by Owner, and Operator shall be responsible for restoring Owner's existing fence to its original condition at any point of access.
- (vii) All pipelines of any type or purpose shall be buried not less than Three and one-half feet (3½') beneath the surface and water packed or compacted upon installation. In excavating for pipeline or for drilling operation or for any other purpose, all soils will be separated so that topsoil and subsurface soils shall be placed back in the proper order and leveled, with top soil on top. No pipeline shall be permitted which does not serve the well located upon Owner's property absent written consent from Owner.

**7. TANK BATTERY.** Operator shall install the tank battery and flow line in the approximate location shown on attached Exhibits "A".

**8. CATTLE GUARDS AND GATES.** The Operator shall construct cattle guards at all places where Operator requires access through Owner's fences. Stock gates shall be constructed at Owner's request if the movement of livestock will be interfered with. Operator

further agrees to notify and consult with Owner prior to cutting or damaging any fence, cattle guard or other improvement of Owner.

9. **WATER.** Operator shall not use any water from any existing water wells, reservoirs or springs on the lands. Operator shall not disturb, interfere with, fill or block any creek, spring, or other source of water on the lands absent written consent from Owner.

10. **DOGS AND FIREARMS.** Operator agrees that no dogs, firearms or hunting will be allowed on the property covered by this Agreement without the express written consent of Owner, and Operator agrees it will notify all contractors, subcontractors, agents and employees of this restriction.

11. **DEFAULT AND RIGHT TO CURE.** In the event of alleged default by Operator in the payment of any of the sums hereinabove provided to be made, in obligations to be performed, or any other terms, conditions or covenants of this Agreement, Owner will notify Operator, by certified mail, return receipt requested, of the alleged default. Operator will have 30 days from receipt of the written notification in which to dispute or otherwise respond to the notification before Owner may allege default. Receipt of the certified mail shall be deemed effective 3 days after the mailing unless sooner received by Operator.

Except as otherwise agreed in writing, no waiver by Owner of any breach by the Operator of any of its obligations, agreements, or covenants hereunder will be deemed to be a waiver of any subsequent or continuing breach of the same, nor will any forbearance by Owner to seek a remedy for any breach by the Operator be deemed to be a waiver by Owner of its rights or remedies with respect to such breach; however in no event will Operator be liable for consequential damages.

12. **INDEMNITY/RELEASE.** Owner hereby releases and agrees to hold harmless Operator from any and all liability and further payment, other than what has been provided herein, for damages on the Lands which arise from, out of or in connection with the Operator's operations on the Lands, but only as to those operations which are described in and permitted by this Agreement, and for those operations which the Amount has been paid and received by Owner pursuant to this Agreement.

Operator agrees to indemnify, defend and hold harmless Owner and its agents, tenants, beneficiaries and employees, Wells Fargo and its parent, affiliates and subsidiaries in their individual and corporate capacity and all of its officers, directors, employees, shareholders and agents from and against any claims, demands, causes of action, actions, losses, liabilities, expenses, damages or fines (including without limitation reasonable attorneys' fees and expenses, and costs and expenses reasonably incurred in investigating, preparing or defending against any litigation or claim, action, suit, proceeding or demand of any kind or character) arising out of or related to any operations conducted or actions taken under or pursuant to this Agreement or on the Premises by Operator or its agents, contractors, subcontractors, servants or employees, including without limitation, violation of law, order, rule or regulation.

**13. WAIVER OF 30-DAY NOTICE.** Owner hereby waives the minimum 30-day written notice requirement for operations to begin and any other notice or consultation requirements of the COGCC. Without waiving the foregoing, Operator agrees it will provide an initial notice to Owner after it has submitted a request for permit to drill from COGCC.

**14. NOTICE FOR ADDITIONAL OPERATIONS.** Operator will comply with COGCC rules and regulations requiring that advance notice be provided to Owner for subsequent operations on the Well, including, but not limited to, reworking operations thereto.

**15. NOTICES.** Notice by either Party will be promptly given, orally if possible (with exception of the default notice described in Paragraph 8), with subsequent written confirmation sent by United States mail, postage prepaid and addressed to either Party at the address as designated below; or to such other place as either Party may from time to time designate by notice to the other:

**Owner:**

Wells Fargo Bank, National Association, as Conservator of Betty J. Castor Conservatorship  
1740 Broadway Street,  
MAC-C7300-488  
Denver, Colorado 80274

**Operator:**

Noble Energy, Inc.  
1625 Broadway, Suite 2200  
Denver, CO 80202  
Phone: (303) 288-4000

**16. BINDING EFFECT.** The covenants and conditions herein contained are all of the provisions of this Agreement will insure to the benefit of and will be binding upon the Parties hereto, their respective heirs, representatives, successors or assigns. Owner agrees to contact any and all tenants of Lands or any other third parties utilizing the surface of the Lands that may be affected by Operator's activities on the Lands. It will be Owner's sole responsibility to advise such third parties of the existence of this Agreement and Operator's right to utilize the surface of the Lands pursuant to this Agreement for the payment of any consideration, if any, due such third party from Owner.

**17. ENTIRE AGREEMENT.** This instrument contains the entire agreement between the Parties and may not be modified orally or in any other manner other than by agreement in writing signed by all Parties or their respective successors or assigns.

**18. TERMINATION.** If Operator does not commence operations for the Well within the primary term of the Lease, this Agreement will terminate in its entirety without penalty to either Party, or will otherwise be renegotiated.

19. **CONFLICT.** This Agreement sets forth additional terms and conditions of the Lease between the parties hereto. If there is a conflict between this Agreement and the Lease with regard to surface use issues, this Agreement shall control.

20. **COUNTERPARTS.** This Agreement may be executed by facsimile, in counterparts, each of which will be considered an original and enforceable against either party.

21. **GOVERNING LAW AND VENUE.** This Agreement will be governed by, construed and enforced in accordance with the laws of Colorado. Venue shall be deemed to be in Weld County, Colorado.

22. **ATTORNEY'S FEES AND COSTS.** The Parties agree that the prevailing Party in any action resulting from a breach of this Agreement will be entitled to its reasonable attorneys' fees and costs incurred therein.

23. **AUTHORITY OF SIGNATORIES.** The signatories below declare, warrant and represent that they have the authority to enter into this Agreement on behalf of their respective principals, if any.

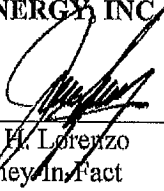
24. **SUCCESSORS.** This Agreement constitutes a covenant running with the Lands and will be binding upon and inure to the benefit of, and be enforceable by, the Parties and their respective successors, administrators, trustees, executors and assigns.

**25. ADDITIONAL PROVISIONS.**

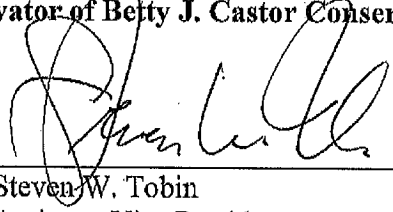
Wells Fargo as Conservator. Operator acknowledges and agrees that Wells Fargo has executed this Agreement as Conservator of the Betty Jean Castor Conservatorship and not in its individual or corporate capacity. The agreements of Conservator contained herein shall only be enforceable against the Conservatorship for the payment of any claim hereunder. By executing this Agreement, Operator agrees to look solely to the Conservatorship for the enforcement of its rights hereunder. Operator hereby waives any claim or any right to proceed for the enforcement of any of Operator's rights hereunder against Wells Fargo (in any capacity other than as Conservator of the Conservatorship), and its parent, affiliates and subsidiaries in their individual or corporate capacity and against any of its officers, employees, directors, shareholders or agents, none of which shall be held to any personal liability therefor. This section shall survive the termination of this Agreement and shall be binding on Operator and its successors and assigns.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

**OPERATOR:**  
**NOBLE ENERGY, INC.**

  
By: Joseph H. Lorenzo  
Title: Attorney In Fact

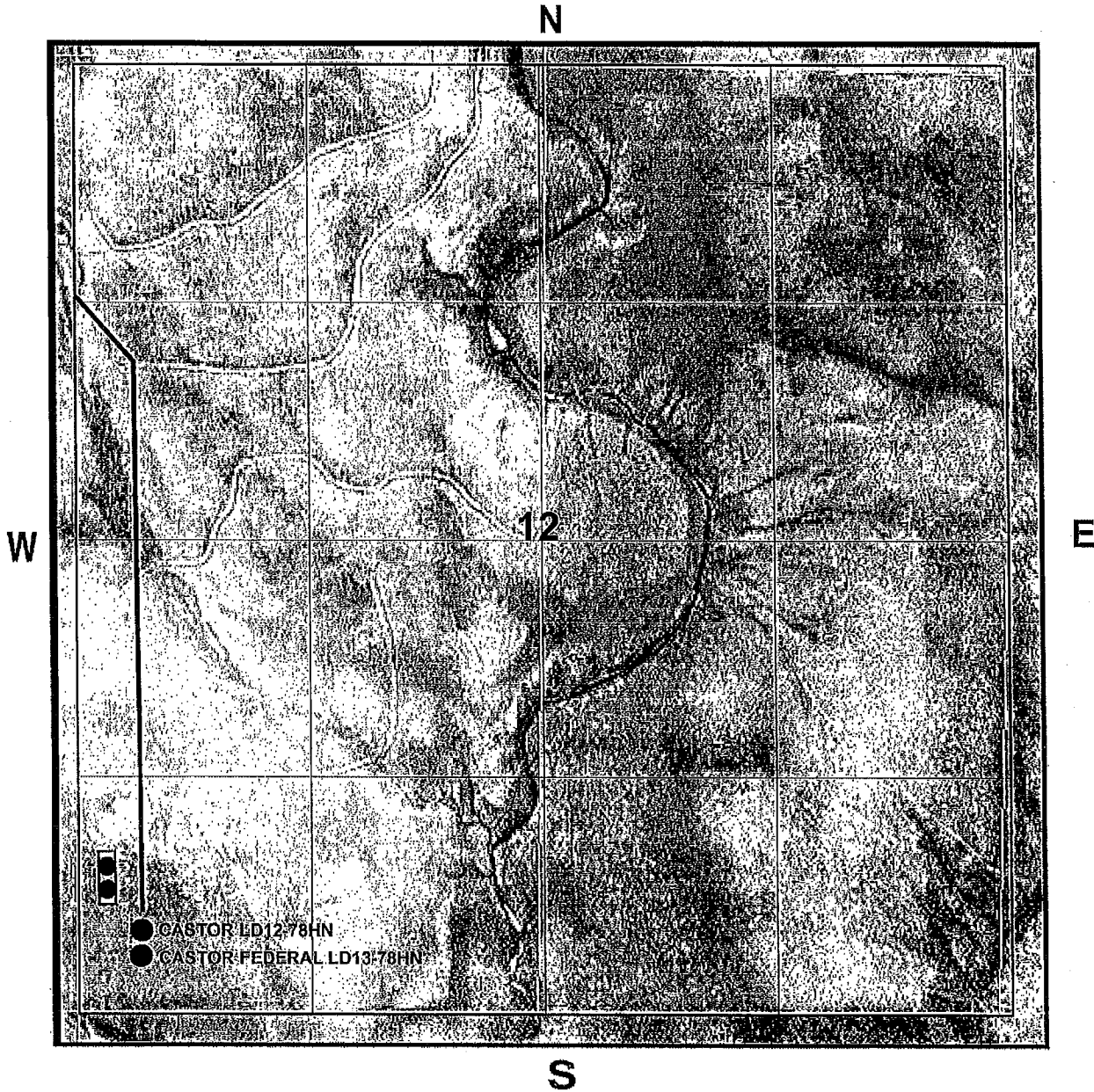
**OWNER:**  
**Wells Fargo Bank, National Association, as**  
**Conservator of Betty J. Castor Conservatorship**



  
By: \_\_\_\_\_  
Name: Steven W. Tobin  
Title: Assistant Vice President

## Exhibit "A"

Attached to and by reference made a part of that certain Surface Use Agreement dated 2/6, 2013, by and between Wells Fargo Bank, National Association, as Conservator of Betty J. Castor Conservatorship as "Owner", and Noble Energy, Inc. as "Noble" covering the following lands:

Township 9 North, Range 58 West, 6th P.M.  
Section 12: W/2W/2



Road Access   
Flowline   
Tank Battery 