



## SANCTION NOTICE

To: **BP Exploration Operating Company Limited**  
**Company Number: 00305943**

Addresses: Chertsey Road 1 Wellheads Avenue  
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Date: **21 July 2021**

### 1. SANCTION

- 1.1. For the reasons given in this Sanction Notice, the Oil and Gas Authority (“**OGA**”) gives a Financial Penalty Notice which imposes on bp a financial penalty of **£50,000** (fifty thousand pounds).

### 2. SUMMARY OF FACTS

- 2.1. On **27 August 2019**, bp submitted an application to the OGA to carry out an Extended Well Test (“**EWT**”) on two wells: wells 30/01c-A1 and 30/01c-A2, drilled under Licence P363 (the “**Licence**”).<sup>1</sup>
- 2.2. On **29 August 2019**, the OGA issued consents for each well to conduct an EWT in accordance with the programme of work submitted in the application. The consents included requirements to report to the OGA the results of the EWT on a weekly basis and at the end of the EWT.
- 2.3. On **5 December 2019**, following a request from the OGA, bp confirmed that operations had concluded on both wells; however, it failed to report in accordance with the EWT reporting requirements.

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<sup>1</sup> Licence documents (as at grant of licence) are published on the webpage: [Licence Documents \(arcgis.com\)](http://arcgis.com). For current licence position (after assignments and operatorship transfers over time), data is published at: [Oil and Gas Authority: Licence data - Data downloads and publications - Data centre \(ogauthority.co.uk\)](http://ogauthority.co.uk).

### 3. BACKGROUND

- 3.1. The relevant wells, 30/01c-A1 and 30/01c-A2, were drilled under the Licence which contains model clauses relating to wells.<sup>2</sup>

#### Well 30/01c-A1

- 3.2. On **28 November 2018**, bp submitted an Initial Drilling Application for Well 30/01c-A1. On **16 May 2019**, the OGA consented to drilling, which included consent for Spud, Respod and Mechanical Sidetrack. The OGA considered the well as “*DEVELOPMENT for the purposes of the working obligations specified in the licence*”. On **23 June 2019**, drilling of the well commenced.

#### Well 30/01c-A2

- 3.3. On **28 November 2018**, bp submitted an Initial Drilling Application for Well 30/01c-A2. On **20 May 2019**, the OGA consented to drilling, which included consent for Spud, Respod and Mechanical Sidetrack. The OGA considered the well as “*DEVELOPMENT for the purposes of the working obligations specified in the licence*”. On **25 June 2019**, drilling of the well commenced.

#### EWT Applications and Consents

##### *OGA Guidance to Licensees*

- 3.4. The main purpose of an EWT is to gain reservoir understanding;<sup>3</sup> this is typically done during the pre-development phase. However, the OGA may consider long clean-up flows from development wells to temporary facilities to be an EWT, even if there is no explicit data gathering objective.<sup>4</sup>
- 3.5. The OGA authorises EWTs by means of an **EWT Consent**, which references the licence model clauses allowing the getting of petroleum and, if applicable, flaring. An EWT Consent application is made online through **WONS**, the OGA’s Well Operations and Notifications System, and requires the submission of a supporting letter of application setting out the timetable and objectives of the test and the quantities of oil and gas to be produced, saved or flared.<sup>5</sup>
- 3.6. Once licensees have completed their analysis of the EWT data, the operator should submit to the OGA a report fully describing the test results (including but not limited to the total quantities of oil and gas produced, saved or flared and the durations of the flow and build up periods) and the conclusions reached as a result of the EWT.<sup>6</sup>

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<sup>2</sup> The relevant model clauses for Licence P363 can be found here: [The Petroleum \(Current Model Clauses\) Order 1999](#).

<sup>3</sup> [OGA Guidance for Licensees, Extended Well Tests \(EWTs\), 2 April 2019](#), p. 6.

<sup>4</sup> [OGA Guidance for Licensees, Extended Well Tests \(EWTs\), 2 April 2019](#), p. 4.

<sup>5</sup> [OGA Guidance for Licensees, Extended Well Tests \(EWTs\), 2 April 2019](#), p. 4.

<sup>6</sup> [OGA Guidance for Licensees, Extended Well Tests \(EWTs\), 2 April 2019](#), p. 6.

*bp's EWT applications*

3.7. On **27 August 2019**, bp submitted an application to the OGA for consent to carry out an EWT on each well, in accordance with a programme of work submitted in the respective applications. On **29 August 2019**, the OGA issued a similarly worded consent for each well to conduct an EWT in accordance with a programme of work submitted in the application (the “**Consents**”). The Consents included, among other things, the following reporting requirements (the “**Reporting Requirements**”):

- “e. each Friday, during the course of the said test, the Licensees shall give to the OGA, a report giving daily rates of production, measured wellhead pressures, flowing or shut-in as applicable, cumulative petroleum production amounts to date and all other information of significance including, but not limited to, details of water cuts, down hole pressures and gas oil ratios and of any other problems met in the course of the said test to date;*
- f. the Licensees shall within 90 days of completion of the said test, submit to the OGA a single well report fully describing the test results and the conclusions reached;*
- g. the said well will be closed in upon completion of the test and the Licensees shall inform the OGA that it has been closed in as soon as is practicable after this has happened.”*

In this case, the Reporting Requirements would have allowed the OGA to track that the EWT proceeded within the boundaries set out in the test plan submitted by bp as part of the EWT application. Specifically, weekly reporting would have helped ensure the clean-up criteria being used did not result in excessive flaring.

3.8. As set out in the OGA’s EWT Guidance, the OGA requires an EWT consent to be obtained whenever a well is expected to be flowed for a total of more than 96 hours, or produces a total of more than 2,000 tonnes of oil/oil equivalent.<sup>7</sup> Once the OGA consents to an EWT the Reporting Requirements apply whether or not the thresholds are met.

3.9. Having not heard from bp since the Consents were granted on **29 August 2019**, on **5 December 2019**, the OGA sought an update from bp as to the status of the wells. bp confirmed that operations had concluded on both wells. The fact that the EWTs had been conducted and concluded should have been reported to the OGA in accordance with the Reporting Requirements. It was not.

3.10. On **22 October 2020**,<sup>8</sup> following notification that an OGA Enquiry had been opened into this case, bp responded by letter to the OGA in which it provided a summary of the EWT results, namely flow quantities and duration. This summary does not comply with the Reporting Requirements.

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<sup>7</sup> [OGA Guidance for Licensees, Extended Well Tests \(EWTs\), 2 April 2019](#), p. 4.

<sup>8</sup> Although the case team was aware of the issue in December 2019, the case was put on hold during the period of regulatory easement due to Covid-19 pandemic. Work resumed in June 2020 and in October 2020 bp was informed that an Enquiry had been opened into the suspected breach.

3.11. On **20 November 2020**, bp reported to the OGA that it had conducted an internal investigation which concluded that it failed to report to the OGA as required by the Licence on both wells. bp provided the internal investigation report to the OGA on **26 February 2021** which set out among other things that:

- *"There was no formal guidance in force for managing OGA consents: a corporate process simplification initiative had resulted in the withdrawal of the previous guidance in 2018 and although replacement guidance had been drafted, it had not been formally issued.*
- *The requirements of the Vorlich EWT consents to submit a weekly report and the final report after 90 days were not satisfied due to a lack of awareness by the relevant engineers of consent requirements and no unified process in place to track compliance.*
- *No verification of compliance with OGA consents was conducted as there was no single unified process in place for the management of consents."*

#### 4. LICENSEES

4.1. For the purposes of this Sanction Notice, the OGA considers it appropriate to address the Notice to bp as operator,<sup>9</sup> an operator being a relevant person as defined in Section 9A(1)(b)(ii) of the Petroleum Act 1998.<sup>10</sup> This is because the OGA considers that, as bp was the operator of the Vorlich field at the time, compliance with consents was in the direct control of bp.

#### 5. FAILURE TO COMPLY

5.1. Under section 42 of the Energy Act 2016, the OGA may give a Sanction Notice where it considers a person has failed to comply with a petroleum-related requirement which is imposed on it. Petroleum related requirements mean:

- *"a duty imposed under section 9C of the Petroleum Act 1998 to act in accordance with the current strategy or strategies produced under section 9A(2) of that Act for enabling the principal objective to be met,*
- *a term or condition of an offshore licence, or*
- *a requirement imposed on a person by or under a provision of this Act which, by virtue of the provision, is sanctionable in accordance with [Chapter 5 of the Energy Act 2016]."<sup>11</sup>*

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<sup>9</sup> [Energy Act 2016](#), Section 42(2) provides that where there has been a failure to comply with a petroleum-related requirement imposed jointly on two or more persons, the OGA may give a sanction notice in respect of that failure to one only of those persons.

<sup>10</sup> [Petroleum Act 1998](#), Section 9A(1)(b)(ii).

<sup>11</sup> [Energy Act 2016](#), section 42(3).

- 5.2. The OGA considers that bp failed to comply with terms of the Consents provided by the EWT, in that it did not comply with the Reporting Requirements.
- 5.3. This is a failure to comply with Clauses 15.1 and 16.1 of bp’s Licence (as inserted by The Petroleum (Current Model Clauses) Order 1999).<sup>12</sup> This is evidenced, in particular, by bp’s internal investigation which concluded that it failed to meet the Reporting Requirements by not reporting as set out therein at paragraphs e, f and g, which was part of the consent for the EWT. In accordance with the Licence,<sup>13</sup> bp must comply with a consent provided by the OGA. bp’s failure to comply with the terms of the Consents therefore constitutes a failure of a petroleum related requirement.

## 6. SANCTION

### Type and level

- 6.1. In deciding which type and level of sanction to apply to the failure to comply, the OGA has in mind various matters including its obligations under the strategy in force at the time,<sup>14</sup> those listed at section 8 of the Energy Act 2016, in particular the need to maintain a stable and predictable system of regulation which encourages investment in relevant activities,<sup>15</sup> and the OGA’s Sanction Procedure (the “**Sanction Procedure**”).<sup>16</sup>
- 6.2. As set out in paragraph 42 of the Sanction Procedure, the OGA considers that any penalty determined should be among other things:
- 6.2.1. Effective in addressing the underlying cause of the failure to comply;
  - 6.2.2. Dissuasive of future failure to comply, either by the person or, further to publication of the Sanction Notice, other persons in similar circumstances; and
  - 6.2.3. Proportionate to the significance of the failure in the context of the petroleum-related requirement and the impact on the relevant persons.
- 6.3. The OGA has considered the sanctions available, including the following: licence revocation; operator removal; financial penalty; enforcement notice. The OGA does not consider it

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<sup>12</sup> The relevant model clauses for Licence P363 can be found here: [The Petroleum \(Current Model Clauses\) Order 1999](#).

<sup>13</sup> “The OGA authorises EWTs by means of an “EWT Consent”, which references the licence Model Clauses allowing the getting of petroleum” [OGA Guidance for Licensees, Extended Well Tests \(EWTs\), 2 April 2019](#), p. 4. The relevant model clauses for Licence P363 can be found here: [The Petroleum \(Current Model Clauses\) Order 1999](#).

“A consent given by the [OGA] in pursuance of clause 15(1) of this licence may be given subject to such conditions as are specified in the document signifying the consent and may in particular [...] be limited to a period so specified.” [The Petroleum \(Current Model Clauses\) Order 1999](#), clause 16(1).

“The Licensee shall not—

(a) erect or carry out any relevant works, either in the licensed area or elsewhere, for the purpose of getting petroleum from that area or for the purpose of conveying to a place on land petroleum got from that area; or

(b) get petroleum from that area otherwise than in the course of searching for petroleum or drilling wells;

except with the consent in writing of the [OGA] or in accordance with a programme which the [OGA] has approved or served on the Licensee in pursuance of the following provisions of this clause.” [The Petroleum \(Current Model Clauses\) Order 1999](#), clause 15(1).

<sup>14</sup> The failure to comply took place in 2019 at which time the Maximising Economic Recovery Strategy for the UK was in place.

<sup>15</sup> [Energy Act 2016](#), section 8.

<sup>16</sup> [OGA’s Sanction Procedure, version 2, May 2019](#).

would be appropriate in this case to remove the licence or the operator because the failure to comply does not warrant a sanction of that severity.

- 6.4. Having considered the sanctions at its disposal, the OGA considers a Financial Penalty Notice meets the aims set out at paragraphs 6.1 and 6.2 above.

#### Financial Penalty Notice

- 6.5. Through this Sanction Notice, the OGA gives a Financial Penalty Notice in this matter pursuant to sections 42 and 44 of the Energy Act 2016.

- 6.6. Pursuant to section 44(2) of the Energy Act 2016, a Financial Penalty Notice is a notice which:

*“(a) specifies the petroleum-related requirement in question;*

*(b) gives details of the failure to comply with the requirement;*

*(c) informs the person or persons to whom the notice is given that the person or persons must –*

*(i) comply with the petroleum-related requirement before the end of a period specified in the notice, in a case where it is appropriate to require such compliance and the failure to comply with the requirement has not already been remedied at the time the notice is given, and*

*(ii) pay the OGA a financial penalty of the amount specified in the notice before the end of a period specified in the notice.”*

#### *Financial Penalty*

- 6.7. A financial penalty, pursuant to section 44(2)(c)(ii) of the Energy Act 2016, should be among other things dissuasive of future failures to comply, either by bp or, further to publication of the Sanction Notice, other persons in similar circumstances.

- 6.8. The OGA issues bp with a financial penalty. The OGA has the statutory power to impose a financial penalty up to £1 million.<sup>17</sup> The OGA gives notice to bp that, within 30-days of the date of this Sanction Notice, it is to pay a financial penalty of £50,000 to the OGA, to be then paid to HM Treasury. The OGA considers the financial penalty of £50,000 to be proportionate to the significance of the failure in the context of the petroleum-related requirement and the impact on bp.

#### *Financial Penalty – Relevant Factors*

- 6.9. As required by section 45 of the Energy Act 2016, the OGA has published its Financial Penalty Guidance.<sup>18</sup> Paragraph 21 of the OGA’s Financial Penalty Guidance<sup>19</sup> states that the OGA

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<sup>17</sup> [Energy Act 2016](#), section 45(1).

<sup>18</sup> [Financial Penalty Guidance](#), 20 March 2017, Rev 1.0.

<sup>19</sup> [Financial Penalty Guidance](#), 20 March 2017, Rev 1.0.

may also take into account when determining the amount of the financial penalty matters relating to the specific circumstances of the failure to comply including, but not limited to:

- 6.9.1. The extent to which the person(s) may have sought to benefit from the failure to comply;
- 6.9.2. Any gain (financial or otherwise) made by the person(s) or any connected body as a consequence of the failure to comply;
- 6.9.3. The severity of the failure to comply in the context of the relevant petroleum-related requirement;
- 6.9.4. The degree of harm caused, or increased cost incurred, by the failure to comply;
- 6.9.5. The extent to which parties have followed industry Codes of Practice where these are relevant to the failure to comply; and
- 6.9.6. The duration of the contravention.

6.10. The Financial Penalty Guidance also states that the OGA may take into account the following mitigating (clause 21.2) and aggravating (clause 21.3) factors:<sup>20</sup>

<b>Mitigating</b>	<b>Aggravating</b>
Action taken by the person(s) in advance to address the failure to comply	Persistent inaction to address the failure to comply
Previous conduct by the person with respect to this and other petroleum related requirements	Previous conduct by the person with respect to this and other the petroleum related requirements
The presence of internal mechanisms/processes intended to prevent the failure to comply	Absence of internal mechanisms / processes to prevent the failure to comply
Co-operation with the OGA's investigation	Evidence of senior management involvement in support of the failure to comply

*Financial Penalty – Application of Relevant Factors*

**Benefit from the failure to comply**

6.11. There is no evidence to suggest that bp deliberately failed to comply or intended to benefit from the failure.

**Gain as a consequence of the failure to comply**

6.12. There is no evidence that bp directly benefitted materially from the failure to comply.

**Severity of failure to comply**

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<sup>20</sup> [Financial Penalty Guidance](#), 20 March 2017, Rev 1.0.

- 6.13. The OGA has repeatedly signalled to the UK upstream oil and gas industry (“**Industry**”) that compliance with its regulatory obligations is vitally important to sustaining the Industry’s social licence to operate in the UKCS.<sup>21</sup> A failure to comply with the terms and conditions of a licence or consent has the potential to undermine public confidence in the ability of the Industry to operate within proscribed limits which in turn impacts and/or affects the Industry’s social licence to operate, may undermine the confidence of investors, and potentially undermines the authority of the regulator. In particular, the OGA notes its duty under section 8(1) of the Energy Act 2016 to have regard to such matters when exercising its functions.<sup>22</sup>
- 6.14. Failure to comply with the terms and conditions of a licence or consent impacts and/or affects social licence to operate and potentially undermines public confidence in the industry and its regulator to operate within its proscribed limits. In this case, the potential severity relates to a possible breach of what is, in effect, a consent to flare hydrocarbons. As set out in the OGA’s EWT Guidance, the OGA requires an EWT consent to be obtained whenever a well is expected to be flowed for a total of more than 96 hours, or produces a total of more than 2,000 tonnes of oil/oil equivalent.<sup>23</sup> The EWT application requests a maximum amount of hydrocarbon to be flared and, if accepted by the OGA, becomes the limit in the EWT Consent. This limit of mass agreed in the EWT Consent acts as a flare consent. Anything beyond this limit can result in a breach; a breach of a flare consent.

#### **Degree of harm**

- 6.15. If a licensee obtains consent, it must comply with the terms of that consent for good reason. If the wells had not performed as expected, the weekly data would have flagged this up to the OGA. In this case, the wells performed to expectation and no EWT thresholds were breached. bp avoided flaring of unauthorised volumes.
- 6.16. By failing to comply with the Reporting Requirements, bp unintentionally created an unregulated environment in which the OGA was unsighted of bp’s actions. Had the OGA not asked bp for an update on the EWTs in **December 2019**, bp may never have told the OGA that the work had been done. This failure to track work could have exposed bp to a potential flare breach and both bp and the OGA to reputational harm. As a consequence of bp’s failure to comply, the OGA has spent its finite resources enquiring into the failure and liaising with bp to try to ensure compliance with the Reporting Requirements.

#### **Industry Codes of Practice**

- 6.17. There are no relevant industry codes of practice governing reporting of EWTs.

#### **Duration of the contravention**

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<sup>21</sup> The OGA signalled to industry in June 2019 and October 2020 that compliance with its regulatory obligations is vitally important to sustaining the Industry’s social licence to operate in the UKCS. [Open letter from the OGA to licensees and infrastructure owners to outline the next stage of our regulatory approach, 4 June 2019](#). [Thematic Review into Industry Compliance with Regulatory Obligations, 29 October 2020](#).

<sup>22</sup> [Energy Act 2016](#), section 8(1).

<sup>23</sup> [OGA Guidance for Licensees, Extended Well Tests \(EWTs\), 2 April 2019](#), p. 4.



6.18. There was a long duration of the contravention. The completion of the EWT was reported to the OGA on **5 December 2019**. bp provided the EWT well reports for each well fully describing the test results and the conclusions reached on **24 June 2021**; this is far in excess of the 90 days from the completion of the EWT as provided for at paragraph f of the Reporting Requirements. bp did not provide a report every Friday in accordance with paragraph e of the Reporting Requirements. bp only informed the OGA of the completion of the test following a prompt by the OGA and not as soon as practicable as provided for at paragraph g of the Reporting Requirements.

#### **Mitigating circumstances**

6.19. bp has fully cooperated with the Enquiry and Investigation. bp conducted its own internal investigation to determine any failure and prevent any future failure to comply and shared this in full with the OGA. In its internal investigation, bp recognised that it failed to communicate the Reporting Requirements to the OGA.

#### **Aggravating circumstances**

6.20. The contravention demonstrates a persistent inaction to address the failure to comply as bp met the Reporting Requirements on **24 June 2021**, far in excess of the 90 days from the completion of the EWT as provided for at paragraph f of the Reporting Requirements.

6.21. In its internal investigation, bp found an absence of internal mechanisms / processes to prevent the failure to comply: *“There was no formal guidance in force for managing OGA consents: a corporate process simplification initiative had resulted in the withdrawal of the previous guidance in 2018 and although replacement guidance had been drafted, it had not been formally issued.”* This suggests that the corporate simplification initiative (“**Initiative**”) was likely a cause of the failure to comply. The Initiative removed bp’s formal guidance for managing OGA consents. This removed a level of bp’s governance processes.

#### *Financial Penalty – Decision*

6.22. Having taken into account all the circumstances of the case and the mitigating and aggravating factors set out in the Sanction Procedure and Financial Penalty Guidance, the OGA imposes a financial penalty of **£50,000**.

## **7. PUBLICATION**

7.1. Pursuant to section 53 of the Energy Act 2016, the OGA may publish details of any Sanction Notice given in accordance Chapter 5 of the Energy Act 2016.

7.2. The OGA may not publish anything that, in the OGA's opinion is (a) commercially sensitive; (b) not in the public interest to publish; or (c) otherwise not appropriate for publication.<sup>24</sup> With respect to this Sanction Notice, the OGA considers that it does not contain any

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<sup>24</sup> [Energy Act 2016](#), section 53(2).

commercially sensitive information; it is in the public interest to publish it; and it is appropriate for publication.