

SANCTION NOTICE

To: **Equinor U.K. Limited**
Company Number: 01285743

Addresses: **Equinor UK Limited**
Equinor House,
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Kingswells,
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AB15 8QG

Date: **1 December 2022**

1. SANCTION

- 1.1. For the reasons given in this Sanction Notice, the North Sea Transition Authority (“**NSTA**”)¹ gives a Financial Penalty Notice which imposes on Equinor U.K. Limited (“**Equinor**”) a financial penalty of **£65,000** (sixty-five thousand pounds).

2. SUMMARY

- 2.1. Where there has been a failure to comply with a petroleum related requirement, the NSTA may issue a sanction under Chapter 5 of the Energy Act 2016.² A petroleum-related requirement includes a duty to comply with a term or condition of an offshore licence.³ Flare consents are given under the model clauses to which the licence refers. A flare consent is a term or condition of an offshore licence.
- 2.2. Licence P2460 covers the Barnacle field. The Barnacle field is in blocks 211/29f and 211/30c, in UK waters south of the Statfjord field. At the time of the breach Esso Exploration and

¹ On 21 March 2022, the Oil & Gas Authority (“**OGA**”) changed its business name to the North Sea Transition Authority (“**NSTA**”). The abbreviation NSTA is used throughout this document to refer to both the NSTA now and when it was known as the OGA. The NSTA exercises powers under Chapter 5 of the Energy Act 2016 on behalf of the OGA. Any reference in this Notice to the exercise of power under Chapter 5 of the Energy Act 2016 refers to the NSTA exercising powers on behalf of the OGA.

² [Chapter 5, Energy Act 2016](#).

³ Section 42(3), [Chapter 5, Energy Act 2016](#).

Production UK Limited (“**Esso**”) was a co-licensee with Equinor and Spirit Energy Resources Limited (“**Spirit**”). Esso sold its interest to Equinor on 19 February 2021. The P2460 licensees are: Equinor and Spirit. The P2460 licence Operator is Equinor.

- 2.3. The annual flare consent for Barnacle for the period **1 January 2020 to 31 December 2020** allowed flaring of 2.04 tonnes/day (amounting to a cumulative limit of 746.64 tonnes for the 366 days of 2020). Equinor provided data on 20 November 2020 and confirmed that the Consent was exceeded in June 2020. This was discussed with Equinor at the Barnacle Flare Consent Stewardship Meeting held on 23 November 2020.

3. BACKGROUND

- 3.1. Barnacle production started in **December 2019** via a single extended reach well drilled from the Statfjord ‘B’ platform (“**SFB**”) located in the Norwegian sector. The operator of SFB is Equinor ASA – a separate Norwegian entity, distinct from Equinor U.K. Limited. Barnacle production is commingled⁴ and processed on SFB with fluids from other fields. Any flaring from Barnacle is part of a commingled stream. The Barnacle flare is attributed by allocation⁵ of the overall flare from SFB; there is no separate Barnacle flare stream.
- 3.2. The annual flare consent for Barnacle for the period **1 January 2020 to 31 December 2020** was issued on **19 December 2019** (the “**Consent**”). The Consent allowed flaring of 2.04 tonnes/day (amounting to a cumulative limit of 746.64 tonnes for the 366 days of 2020).
- 3.3. On **20 November 2020**, further to an application by Equinor to increase the flare consent for Barnacle for **2021** to 4.19 tonnes/day, the NSTA queried whether the increased flare implied the Consent for **2020** had been breached. Equinor provided data on **20 November 2020** and confirmed that the Consent was exceeded in June 2020. This was discussed with Equinor at the Barnacle Flare Consent Stewardship Meeting held on 23 November 2020.

Jurisdictional Issues

- 3.4. Equinor has stated:

“It is worth emphasising that no flaring related to production from Barnacle has taken place in the UKCS. Rather all flaring that could be attributable to the Barnacle field forms part of flaring from the Statfjord B platform and is carried out on the NCS. There is a flare consent in place for Statfjord at an installation level (as required by Norwegian regulations) and this fully accounts for any flaring that could be attributed to the Barnacle field. To be clear, this is not a situation where gas being flared is not accounted for at all. It is fully accounted for within the Norwegian consents.”

⁴ Once the fluids come out of the well, they are mixed with fluids from other wells so there is no dedicated Barnacle production stream. This means an allocation system is required to determine the contribution of gas from each field towards fuel and flare, and how much gas from each field is left over for export from the platform.

⁵ Allocation will be done by the Statfjord operator, Equinor ASA, in accordance with the agreed allocation model between Barnacle and Statfjord.

- 3.5. Whether or not the gross flare from SFB is accounted for within Norwegian consents is not a relevant factor to the NSTA. UK consent was exceeded by at least 348 tonnes.⁶

Flare Consents

The purpose of a flare consent

- 3.6. The introduction to the [NSTA's Flare and Vent Guidance](#) provides the following description of the function of flaring and venting:

*"Flaring and venting are controlled processes to dispose of gas, essential for emergency and safety purposes on oil and gas installations, and in situations where it may not be feasible for the gas to be used, exported or re-injected. Flaring is the ignition of gas, and venting is the release of unignited gas."*⁷

- 3.7. The NSTA issues flaring consents to regulate and limit the volume of gas that is flared consistent with the net zero obligation in the [Strategy](#). Flare consents for producing fields maybe short term (less than 12 months), for example where there is a concern over the stability of the level of flaring, or more typically, annual. The Barnacle Field had been issued with an annual flare consent.
- 3.8. The NSTA considers the effective management of flare consents is a vital indicator of good stewardship of fields by operators and licensees. The management of flare consents is an important component of a stable well-regulated environment in which the UK upstream oil and gas industry ("**Industry**") investors and the public can have confidence.

Equinor Management of Flare Consents

- 3.9. Equinor set out that, in response to this breach, it has strengthened its monitoring of flare consents:

"Procedures were implemented to report via the Petroleum Production Reporting System (PPRS) and monitor allocated flare versus consent... [The matter was to be escalated] to senior management in the event the data indicates an end of year flare position above consent... [C]ontrary to our process, [Equinor], whilst continuing to input the numbers into PPRS, did not monitor the cumulative allocated flare versus consent. [...] Following our internal review, the process has been strengthened to ensure the allocated flare versus flare consent is reviewed by senior management on a monthly basis to ensure compliance..."

- 3.10. Equinor's internal review concluded that allocated flare tracking against consent was not being monitored as per its process, policies and procedures; and that the impact of the coronavirus pandemic and working remotely were cited as key issues for the non-compliance. Procedures were fit for purpose if properly implemented but not followed due to the reasons as set out above.

⁶ Equinor was issued a replacement consent on 24 November 2020, hence any breach ceased on this date. The value of 348 tonnes is the calculated exceedance between actual flare to end October 2020 (1182 tonnes) against the consented flare (748 tonnes).

⁷ [NSTA's Flare and Vent Guidance, June 2021](#), p. 3.

3.11. Equinor noted that the internal review led to the following actions which were completed by March 2021:

“To ensure appropriate checks were in place, the following was strengthened:

- In the event the actual plus extrapolated data indicates a potential end of year position above consent, raise immediately with [the nominated member of senior management] who is responsible for a decision on timing/approach re pro-actively engaging the NSTA and whether to amend the flare consent*
- To avoid single-point failure, a new process to be implemented in that [the nominated member of senior management] now reviews all monthly consents and checks compliance*
- Flare consent monitoring and confirmation of compliance will be also be covered in the quarterly SSU Committee presented to the senior leadership team in Equinor UKI as an additional check/act*
- Further discussions [...on the...] implementation of these learnings.”*

Extent of actual harm from Barnacle Flare Consent breach

3.12. The NSTA has compared the overall SFB flare for the five months before Barnacle started production with the gross SFB flare data for 2020, particularly the three-month rolling average data which balances the monthly differences. There does not appear to be an increase in the gas flared on SFB during this period. This observation suggests that the addition of Barnacle production has not resulted in any increase in the overall SFB flare. Therefore, there appears to have been no actual harm, either in terms of a loss of resource or increase in environmental emissions, from the addition of Barnacle production across SFB. The breach of the Consent was essentially administrative.

4. LICENSEES

- 4.1. The P2460 licensees are Equinor and Spirit. The P2460 Licence Operator is Equinor. Clause 1(2) of the relevant Model Clauses applicable to the P2460 Licence, sets out that *“any obligations which are to be observed and performed by the Licensee shall at any time at which the Licensee is more than one person be joint and several obligations”*.⁸ Consequently, the NSTA has considered whether both licensees should be subject to investigation. The NSTA notes that obligations under a licence are joint and several. In taking any action, the NSTA will determine whether that action applies solely to one party, such as the operator, or to all licensees.
- 4.2. The NSTA has determined that in the circumstances of this case, action should only be taken against Equinor. In making its decision the NSTA has taken into account the fact that Equinor was in day-to-day control of the Barnacle field, which it operates. Co-licensees do not

⁸ [The Petroleum Licensing \(Production\) \(Seaward Areas\) Regulations 2008 as amended by the Petroleum and Offshore Gas Storage and Unloading Licensing \(Amendment\) Regulation 2017, Schedule, Model Clauses](#), clause 1(2).

normally get involved in the management and monitoring of consents, and there is no evidence that Spirit has done so. Therefore, any action is taken solely against Equinor.

5. FAILURE TO COMPLY

5.1. Under section 42 of the Energy Act 2016, the NSTA 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. *“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,*
- b. *a term or condition of an offshore licence, or*
- c. *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].”⁹*

5.2. Equinor has failed to comply with a flare consent.

5.3. Clause 17(1) of Licence P2460 states in pertinent part:

“The Licensee shall not-
(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.”¹⁰

5.4. Clause 18(1) of Licence P2460 allows the consent to include conditions:

“A consent given by the OGA in pursuance of clause 17(1) of this licence may be given subject to such conditions as are specified in the document signifying the consent and may in particular, without prejudice to the generality of the preceding provisions of this paragraph, be limited to a period so specified.”

5.5. Clause 23(3) of Licence P2460 sets out that a licensee cannot flare beyond the consented amount:

“Notwithstanding anything in the preceding provisions of this clause, the Licensee shall not—
(a) flare any gas from the licensed area; or
(b) use gas for the purpose of creating or increasing the pressure by means of which petroleum is obtained from that area,

⁹ Section 42(3), [Chapter 5, Energy Act 2016](#).

¹⁰ Licence P2460- Tab 1.

except with the consent in writing of the Minister and in accordance with the condition, if any, of the consent.”

- 5.6. The annual flare consent for Barnacle for the period **1 January 2020 to 31 December 2020** allowed flaring of 2.04 tonnes/day (amounting to a cumulative limit of 746.64 tonnes for the 366 days of 2020). Equinor confirmed that the Flare Consent was exceeded in **June 2020**, contrary to Clause 23(3) of Licence P2460. Failure to comply with the flare consents is a failure to comply with the terms of a licence. Failure to comply with the terms of a licence is a failure to comply with a petroleum-related requirement.

6. SANCTION

Whether a sanction is appropriate

- 6.1. In deciding whether to apply a sanction and, if so, which type and level of sanction to apply to the failure to comply, the NSTA has in mind various matters including its obligations under the relevant Strategy in place at the time,¹¹ 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. NSTA action against a breach of a flare consent helps to maintain a stable and predictable system of regulation.
- 6.2. As set out in paragraph 24 of the NSTA’s Sanction Procedure (the “**Sanction Procedure**”), the NSTA considers that any sanction 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 NSTA considers it prudent to apply a sanction in this case as it will be dissuasive of future failure to comply, either by the person or other persons in similar circumstances. Any sanction will be proportionate to the significance of the failure. In turn, this will maintain a stable and predictable system of regulation.

Type and level

- 6.4. The NSTA has the following sanctions at its disposal: licence revocation; operator removal; financial penalty; enforcement notice. Alternatively, the NSTA may decide that an agreed action *in lieu* of enforcement is a more appropriate outcome of the investigation. The NSTA sets out its consideration of each in turn.

¹¹ These failures occurred in 2020 when the [MER Strategy](#) was in place. The [OGA Strategy](#) is currently in place.

- 6.5. The NSTA does not consider it would be appropriate in this case to remove the licence or the operator because a sanction of that severity would not be proportionate to the failure to comply.
- 6.6. Equinor has committed to implementing the recommendations from its internal review which intended to address the cause of the failure to comply. As the internal review provided by Equinor addresses the causes of the failure to comply with a petroleum related requirement, there is nothing further that the NSTA would seek by way of an Enforcement Notice.
- 6.7. Compliance with the terms of licences and consents is fundamental to trust and confidence in licensees and operators and goes to the heart of Industry's social licence to operate. A financial penalty is considered the most appropriate way to reinforce the message to Equinor and to Industry that compliance with regulatory commitments and breaches of licence terms are serious matters which will be examined and remedied. A financial penalty should serve as a reminder to the recipient to remain vigilant to commitments given to the NSTA.
- 6.8. As required by section 45 of the Energy Act 2016, the NSTA has published its Financial Penalty Guidance and had regard to it when determining the amount of the penalty here. A Financial Penalty Notice would send out an appropriate message to Industry to encourage improved compliance with consents issued by the NSTA, and be proportionate to the failure.
- 6.9. The NSTA does not consider any further action *in lieu* to be appropriate in this case. The NSTA could monitor compliance by Equinor with its consents for a period. However, this could prove to be time-intensive and may also lead to a culture where Equinor expects to be informed by the NSTA of the risks of breaches rather than pro-actively manage and monitor compliance itself. The NSTA considers that it is more effective for Equinor itself to carry out actions to address the apparent root cause of the failures. The NSTA's operational teams frequently deal with Equinor as part of their stewardship activities. Enforcement action is distinct from the day-to-day business of stewardship.
- 6.10. Having considered the sanctions at its disposal, the NSTA considers a Financial Penalty Notice appropriate in this matter to meet the aims set out at paragraphs 6.1 and 6.2 above.

Financial Penalty Notice

- 6.11. Through this Sanction Notice, the NSTA gives a Financial Penalty Notice in this matter pursuant to sections 42 and 44 of the Energy Act 2016.
- 6.12. 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

- 6.13. The NSTA issues Equinor with a financial penalty. The NSTA has the statutory power to impose a financial penalty up to £1 million.¹² The NSTA gives notice to Equinor that, within 30-days of the date of this Sanction Notice, it is to pay a financial penalty of **£65,000** to the NSTA, which will be paid to HM Treasury. The NSTA considers the financial penalty of **£65,000** to be proportionate to the significance of the failure in the context of the petroleum-related requirement and the impact on Equinor.

Financial Penalty – Relevant Factors

- 6.14. Paragraph 17 of the NSTA’s Financial Penalty Guidance states that the NSTA 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:

- 6.14.1. The extent to which the person(s) may have sought to benefit from the failure to comply.
- 6.14.2. Any gain (financial or otherwise) made by the person(s) or any connected body as a consequence of the failure to comply.
- 6.14.3. The severity of the failure to comply in the context of the relevant petroleum-related requirement.
- 6.14.4. The degree of harm caused, or increased cost incurred, by the failure to comply.
- 6.14.5. The extent to which parties have followed Industry Codes of Practice where these are relevant to the failure to comply.
- 6.14.6. The duration of the contravention.

- 6.15. The Financial Penalty Guidance also states that the NSTA may take into account the following mitigating (clause 17.2) and aggravating (clause 17.3) factors:

Mitigating	Aggravating
Action taken by the person(s) in advance to address the failure to comply	Persistent inaction to address the failure to comply

¹² Section 45(1), [Chapter 5, Energy Act 2016](#).

Previous positive conduct by the person with respect to this and other petroleum related requirements	Previous negative 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 NSTA's investigation	Evidence of senior management involvement in support of the failure to comply

Financial Penalty – Application of Relevant Factors

- 6.16. The NSTA has taken into account the factors set out below when determining the level of financial penalty.

Benefit from the failure to comply

- 6.17. There is no evidence to suggest that Equinor benefited (financially or otherwise) or intended to benefit (financially or otherwise) from the failure.

Gain as a consequence of the failure to comply

- 6.18. There is no evidence that Equinor gained as a consequence of the failure to comply.

Severity of failure to comply

- 6.19. The NSTA has repeatedly signalled to industry that compliance with its regulatory obligations is vitally important to sustaining industry's social licence to operate in the UKCS.¹³ 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 industry to operate within prescribed limits which in turn impacts and/or affects industry's social licence to operate, may undermine the confidence of investors, and potentially undermines the authority of the regulator. In particular, the NSTA notes section 8(1) of the Energy Act 2016, as set out in paragraph 6.1 above, that it must have regard to when exercising its functions. In this case, the potential severity also relates to insufficient attention being given to stewardship of the fields and potentially causing a negative impact on the Strategy.

Degree of harm

- 6.20. Equinor's failure to comply undermines trust and confidence in Equinor's asset management and its oversight of its regulatory obligations.
- 6.21. As a consequence of Equinor's failure to comply, the NSTA has spent its finite resources enquiring into the failure and liaising with Equinor to try to ensure compliance with the flare consents.

¹³ See: [Open letter from the NSTA to licensees and infrastructure owners to outline the next stage of our regulatory approach, 4 June 2019](#); and the NSTA's [Thematic Review into Industry Compliance with Regulatory Obligations, 29 October 2020](#).

Industry Codes of Practice

- 6.22. There are no relevant industry codes of practice governing reporting of flare consents. There is NSTA guidance on flaring and venting (published in June 2021) and Field consents system user guidance how to apply for consents.

Duration of the contravention

- 6.23. Equinor was out of consent for approximately four months; a significant period of time for such a breach.

Mitigating circumstances

- 6.24. Equinor has fully cooperated with the Enquiry and Investigation. Equinor conducted its own internal review to determine any failure and prevent any future failure to comply. It has taken steps to implement changes to prevent recurrence.

Aggravating circumstances

- 6.25. Insufficient management oversight and a lack of adequate procedures and training led to a single point of failure.

Financial Penalty – Decision

- 6.26. 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 NSTA imposes a financial penalty of **£65,000**.

7. REPRESENTATIONS

- 7.1. On 14 July 2022, the Board decided to issue Equinor with a Sanction Warning Notice in relation to the matter set out in this Sanction Notice. On 5 August 2022, the Sanction Warning Notice was sent to Equinor, requesting representations from Equinor within 28 days. On 1 September 2022, Equinor provided substantive representations to the Sanction Warning Notice on the following areas:

Notification of breach of the flare consent

- 7.1.1. Equinor asserts that it took steps to proactively draw this matter to the NSTA's attention as soon as the breach was identified, by asking for a new consent. However, the NSTA does not consider merely requesting a new consent is proactively identifying a past breach to the NSTA. In any event, for this matter whether or not the NSTA was notified proactively of the breach has not impacted on the amount of this financial penalty.

Inclusion of confidential documents and information

- 7.1.2. Equinor made representations that the published Sanction Notice should not include references to (and excerpts from) documents, including from the Information Request Response, that are commercially sensitive and confidential.
- 7.1.3. The basis for including the information detailed in this Sanction Notice is set out in paragraphs 8.1 to 8.3 below.
- 7.1.4. Licences, including Licence P2460, are publicly available documents. Further, the NSTA has provided information in this Sanction Notice to the extent necessary to meet its obligations under section 53 of the Energy Act 2016 and our general requirements in public law.

Use of sensitive information

- 7.1.5. Equinor raised concerns that the Sanction Warning Notice should not contain reference to information which can identify individuals involved in the breach. The NSTA has taken appropriate steps to avoid reference to such identifiable information being included within this Sanction Notice.

Financial penalty

- 7.1.6. Equinor asserted that the factual circumstances outlined in this Sanction Notice are analogous to those outlined in the previous Sanction Notices issued by the NSTA and, therefore, the financial penalty issued in this Sanction Notice should be at a similar level to those previous sanction findings.
- 7.1.7. The reasons for a financial penalty of **£65,000** are set out in this Sanction Notice. The fact that this Sanction Notice relates to a serious matter of non-compliance with a flare consent gives rise to the higher financial penalty when compared to previous Sanction Notices issued by the NSTA.

8. PUBLICATION

- 8.1. Pursuant to section 53 of the Energy Act 2016, the NSTA may publish details of any Sanction Notice given in accordance Chapter 5 of the Energy Act 2016.
- 8.2. The NSTA may not publish anything that, in the NSTA's opinion is (a) commercially sensitive; (b) not in the public interest to publish; or (c) otherwise not appropriate for publication.¹⁴ With respect to this Sanction Notice, the NSTA considers that: it does not contain any commercially sensitive information; it is in the public interest to publish; and it is appropriate for publication.
- 8.3. The Sanction Notice does not contain any commercially sensitive information. Further, it is in the public interest and appropriate to publish it without redaction on the basis that the Sanction Notice: a. sends a message to industry to adhere to licence conditions; b.

¹⁴ Section 53(2), [Chapter 5, Energy Act 2016](#).

demonstrates to industry the possible NSTA actions should licence conditions not be met;
and c. sets out to the general public the regulatory action the NSTA may take.