

## SANCTION NOTICE

To: **Spirit Energy North Sea Limited**  
**Company Number: 04594558**

Addresses: **Spirit Energy North Sea Limited**  
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**20 Kingston Road**  
**Staines-Upon-Thames**  
**TW18 4LG**

Date: **25 November 2022**

### 1. SANCTION

- 1.1. For the reasons given in this Sanction Notice, the North Sea Transition Authority (“**NSTA**”)<sup>1</sup> gives a Financial Penalty Notice which imposes on Spirit Energy North Sea Limited (“**Spirit**”) a financial penalty of **£50,000** (fifty 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.<sup>2</sup> A petroleum-related requirement includes a duty to comply with a term or condition of an offshore licence.<sup>3</sup> Production consents are given under the model clauses to which the licence refers. A production consent is a term or condition of an offshore licence.
- 2.2. The Rhyl field is situated in the East Irish Sea on block 113/27b, licence P1483. Spirit is the sole licensee and operator of the Rhyl field.

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<sup>1</sup> 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.

<sup>2</sup> [Chapter 5, Energy Act 2016](#).

<sup>3</sup> Section 42(3), [Chapter 5, Energy Act 2016](#).

- 2.3. The Ceres field is situated in the Southern North Sea on blocks 47/9b and 47/9c, licences P302 and P1241. However, only the licensees of P1241 have a beneficial interest in the Ceres field. The licensees of P1241 are Spirit (90% and operator), Egdon Resources Europe Limited (5%) and Egdon Resources UK Limited (5%), (together, “**Egdon**”).
- 2.4. The maximum consented production volume for the Rhyl field was exceeded in 2018, 2019 and 2020. The maximum consented production volume for the Ceres field was exceeded in 2019 and 2020, as set out below:

Production table: Rhyl field – dry gas

Year	Consent (KSM <sup>3</sup> )	Maximum	Rhyl Production (KSM <sup>3</sup> ) (obtained from PPRS data)
2018	137,338.55		184,225
2019	169,940.35		289,041
2020	188,830.38		242,267

Production Table: Ceres field – dry gas

Year	Consent (KSM <sup>3</sup> )	Maximum	Ceres Production (KSM <sup>3</sup> ) (obtained from PPRS data)
2019	54,750		65,165
2020	36,600		41,568

### 3. BACKGROUND

#### Rhyl Field

- 3.1. In **March 2018**, Spirit was granted long term production consent for gas from the Rhyl field for the years 2018 – 2022 inclusive. As set out above, Petroleum Production Reporting System (“**PPRS**”) data reported by Spirit for the Rhyl field demonstrates that the maximum consented production was exceeded in 2018, 2019 and 2020.
- 3.2. By letter dated **19 August 2021**, Spirit acknowledged that the maximum consented volume for the Rhyl field was exceeded in 2018, 2019 and 2020. Specifically, Spirit stated: “... *Spirit realises that regretfully the Production Consent for the [...] RHYL gas field was [...] exceeded in the years 2018, 2019 and 2020, in breach of the applicable model clauses of the licences.*”

#### Ceres Field

- 3.3. In **December 2017**, Spirit was granted long term production consent for gas from the Ceres field for the years 2017 – 2022 inclusive. As set out above, PPRS data reported by Spirit for the Ceres field demonstrates that the maximum consented production was exceeded for 2019 and 2020.
- 3.4. By letter dated **19 August 2021**, Spirit acknowledged that the maximum consented volume for the Ceres field was exceeded in 2019 and 2020. Specifically, Spirit stated: “... *Spirit*

*realises that regretfully the Production Consent for the CERES gas field was exceeded in the years 2019 and 2020 [...] in breach of the applicable model clauses of the licences."*

#### Purpose of a Production Consent

- 3.5. Production consents typically define a range that production levels should lie within, normally varying annually. The top of the range is consistent with that allowed by a relevant environmental statement or direction (issued by BEIS OPRED) and the bottom of the range is intended to ensure that licensees either take action to bring forward further activity in a field or decommission the field in a timely manner.
- 3.6. The NSTA considers the effective management of production consents is an indicator of good stewardship of fields by operators and licensees. The management of production consents is an important component of a stable well-regulated environment in which industry, investors and the public can have confidence.

#### **4. LICENSEES**

- 4.1. Spirit is the sole licensee of the Rhyl field.
- 4.2. Egdon are the co-licensees with Spirit in the Ceres field. Clause 1(2) of licence P1241 states 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"*. Consequently, the NSTA considered whether both Spirit and Egdon 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 the action applies solely to one licensee, such as the operator, or to all licensees.
- 4.3. The NSTA has determined that enforcement should only be pursued against Spirit given that: (i) Spirit was in day-to-day control of the Ceres field; (ii) Spirit has not suggested that budgetary or other joint venture approval issues have contributed to the failures that occurred; and, (iii) co-licensees do not normally get involved in the management and monitoring of consents, and there is no evidence that Egdon has done so. Therefore, any action is taken solely against Spirit.

#### **5. FAILURE TO COMPLY**

- 5.1. Under section 42 of the Energy Act 2016, the NSTA has a duty to 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].”<sup>4</sup>*

5.2. Spirit has failed to comply with a production consent.

5.3. Production consents are given under the model clauses to which the licence refer. The relevant model clause for licences P1483 and P1241 is the same (Clause 13(1)), titled *“Development and production programmes.”*

5.4. Clause 13(1) of licences P1483 and P1241 sets out 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 Minister or in accordance with a programme which the Minister has approved or served on the Licensee in pursuance of the following provisions of this clause.”*

5.5. Clause 13(2)(c) of licences P1483 and P1241 allows the licensee to submit to the NSTA a programme specifying:

*“the maximum and minimum quantities of Petroleum in the form of gas and the maximum and minimum quantities of Petroleum in other forms which:*

- (i) in each calendar year; or*
- (ii) in each such period of more or less than one calendar as may be specified by the Minister*

*the licensee proposes to get as mentioned in sub-paragraph (1)(b) of this clause.”*

5.6. Clause 13(3) sets out that if the NSTA approves the programme, *“the Licensee shall comply with the direction.”*

5.7. The maximum consented production volume for the Rhyl field was exceeded in 2018, 2019 and 2020. The maximum consented production volume for the Ceres field was exceeded in 2019 and 2020, as set out in paragraph 2.4 above. Failure to comply with the condition of a production consent is a failure to comply with the term or condition of a licence. Failure to comply with the term or condition of a licence is a failure to comply with a petroleum-related requirement.

5.8. A Sanction warning Notice was sent to Spirit and they were provided the opportunity to provide representations on the matters contained therein. In response, Spirit confirmed they do not object to the proposed financial penalty of £50,000. Further Spirit stated that it continues to take this matter seriously and having conducted a thorough investigation of the breaches and addressed the findings, it is keen that lessons have been learned and that Spirit is compliant going forward.

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<sup>4</sup> Section 42(3), [Chapter 5, Energy Act 2016](#).

## 6. SANCTION

### Whether a sanction is appropriate

- 6.1. In deciding whether to impose 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, 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 production 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 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 NSTA considers it appropriate 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 will now consider each in turn.
- 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. Spirit has committed to implementing the recommendations from its '5 whys' investigation report which are intended to address the cause of the failure to comply with production consents. As the investigation report provided by Spirit 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. A financial penalty would be a way of reinforcing the message to Spirit and to industry that compliance with regulatory commitments and a breach of a licence term are serious matters

which will be examined and remedied. A financial penalty should serve as a reminder to the recipient and industry to remain vigilant to such regulatory 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 Spirit with its consents for a period. However, this could prove to be time-intensive and may also lead to a culture where Spirit expects to be informed by the NSTA of the risks of breaches rather than pro-actively manage and monitor compliance itself.
- 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 Spirit with a financial penalty. The NSTA has the statutory power to impose a financial penalty up to £1 million.<sup>5</sup> The NSTA gives notice to Spirit that, within 30-days of the date of this Sanction Notice, it is to pay a financial penalty of **£50,000** to the NSTA, which will be paid to HM Treasury. The NSTA 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 Spirit.

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<sup>5</sup> Section 45(1), [Chapter 5, Energy Act 2016](#).

#### 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:

<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 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 Spirit 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 Spirit 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.<sup>6</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 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. Spirit's failure to comply undermines trust and confidence in Spirit's asset management and its oversight of its regulatory obligations.
- 6.21. As a consequence of Spirit's failure to comply, the NSTA has spent its finite resources enquiring into the failure and liaising with Spirit to try to ensure compliance with the production consents.

### **Industry Codes of Practice**

- 6.22. There are no relevant industry codes of practice governing effective production monitoring and/or reporting of production consents.

### **Duration of the contravention**

- 6.23. Spirit had not monitored its production consent performance for up to three years over two fields. Spirit appears to act promptly once the issue was highlighted. Spirit followed this up by presenting the steps taken to track and verify production consent compliance for future years.

### **Mitigating circumstances**

- 6.24. Spirit have fully cooperated with the Enquiry and Investigation. Spirit conducted its own internal review to determine the cause of the failure and prevent any future failure to comply. From the evidence provided, the NSTA is satisfied that Spirit have implemented

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<sup>6</sup> 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](#).



changes to address the underlying causes of this breach and therefore mitigate the likelihood of reoccurrence.

#### **Aggravating circumstances**

- 6.25. Over a period of several years, Spirit did not have effective mechanisms and management oversight in place to prevent the failure to comply.

#### Financial Penalty – Decision

- 6.26. Having taken into account all the circumstances of the case, including the factors set out in the Sanction Procedure and Financial Penalty Guidance, the NSTA imposes a financial penalty of **£50,000**.

### **7. PUBLICATION**

- 7.1. 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.
- 7.2. 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.<sup>7</sup> 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.
- 7.3. 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. 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.

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<sup>7</sup> [Energy Act 2016](#), section 53(2).