

SANCTION NOTICE

To: **EnQuest Heather Limited**
Company Number: 02748866

Addresses: **Cunard House**
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15 Regent Street
London
SW1Y 4LR

Date: **25 November 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 EnQuest Heather Limited (“**EnQuest**”) a financial penalty of **£150,000** (one hundred and 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 2016.² 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 P193 covers the Magnus field and production facilities (“**Magnus**”). Following a controlled shut-down on **27 November 2021**, EnQuest restarted production, and therefore

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](#).

flaring, at Magnus outwith consent at **approximately 00:00 hours on 30 November 2021** until **19.34 on 1 December 2021**. EnQuest had informed the NSTA that it had exceeded its 2021 annual consent on **23 November 2021**. EnQuest had submitted an application for a revised consent on **26 November 2021** and was aware that it needed consent in order to flare.

3. BACKGROUND

Tuesday 23 November 2021

- 3.1. On **23 November 2021**, EnQuest informed the NSTA that Magnus may have exceeded its flare consent for 2021 and stated that it was still investigating.

Thursday 25 November 2021

- 3.2. At **13:29 on 25 November 2021**, EnQuest confirmed to the NSTA that on **23 November 2021**, Magnus had exceeded its flare consent for 2021.

- 3.3. At **16:47 on 25 November 2021**, the NSTA responded to EnQuest, setting out that:

“... you have knowingly breached your annual FCON and are still producing, expecting to contribute 40T/day on average through normal operations.

[We] would ask you to consider this situation and whether you feel it is appropriate to produce, knowing you are in breach.

The OGA will work with you to consider ways of potentially bringing you back into consent, however, there is a process to run in reaching this point.

Again, [we] would advise Enquest to consider if operating ‘out of consent’ is representative of an RPO (Reasonable and Prudent Operator) and make a decision on continued production, accordingly.

The Flaring and Venting Guidance and Stewardship Expectations (especially SE11), should help you reach a decision.”

Friday 26 November 2021

- 3.4. On **26 November 2021**, at the Magnus Flare Consent Stewardship meeting, EnQuest advised the NSTA that “... the Magnus field had exceeded its Flare consent on **23 November 2021** [...] and that the field is still producing. It was confirmed that EnQuest are approx. 50te over consent as of **26 November 2021**.”

- 3.5. During this meeting EnQuest stated that it “...plan[ned] to shutdown [Magnus] on **27 November 2021** Magnus production in a controlled manner as a result of exceeding the flare consent and to complete some maintenance. [EnQuest’s] plan is then to come back online on the **29 November 2021**.” At the same meeting, the NSTA instructed EnQuest to submit a new short term flare consent application for the period **26 November to 31 December 2021** by 3pm on **26 November 2021**. The NSTA further explained that it:

“... cannot issue a proposed increase for a Flare Consent without the supporting information required by OPRED BEIS EMT in respect to the EIA Regulations. For an increase in Flare, EnQuest should ensure the following two questions are answered in the additional information section of the application:

(a) Why is a change in quantity required?

(b) How is the change in flare volume being enabled (i.e., is there a physical change to the installation/flare stack to enable the change)?”

EnQuest submitted the application by the 3pm deadline on **26 November 2021**.

Saturday 27 November 2021

3.6. Production on Magnus was shut in on **27 November 2021**.

Monday 29 November 2021

3.7. At **17:19 on 29 November 2021**, EnQuest set out by email to the NSTA the following:

- **“Current situation** - the Magnus platform undertook a controlled and planned shutdown on Saturday 27 November 2021. At present the team are completing the final checks in relation to the line-up of the plant. The current plan is to undertake a controlled restart of the plant the evening of Monday **29 November 2021** (tonight) as outlined at the discussion with the Consents Team on Friday **26 November 2021**. The internal investigation has commenced and immediate learnings are being put in place.
- **Short term flare consent progress** – the short term flare consent was submitted on Friday **26 November 2021** with the requested justification. We note that it has been received within the portal and we are prepared to support any questions from the OGA/ BEIS.”

Tuesday 30 November 2021

3.8. At **approximately 00:00 hours on 30 November 2021**, EnQuest restarted production on Magnus. However, a replacement short-term production consent for the remainder of 2021 was not in place until **3 December 2021**.

3.9. At **17:28 hours on 30 November 2021**, the NSTA Manager, Consents and Authorisations, advised EnQuest by email that “... if you restart production you are out with your current legal consent which you exceeded earlier”.

Wednesday 1 December 2021

3.10. On **1 December 2021**, EnQuest advised the NSTA that Magnus production had been shut in. EnQuest explained that it shut in Magnus following a conversation with the NSTA:

“... it was the OGA expectation that Magnus should be shut in until the Short Term [Flare Consent] was approved. This contradicted EnQuest’s prior understanding of the OGA’s position. Immediately thereafter, an internal meeting was arranged with senior management personnel for 17:30 and the immediate decision was taken to shut-in Magnus based on this communication. Magnus entered a controlled shut down which completed at 19:34.”

Friday 3 December 2021

- 3.11. On **3 December 2021**, the NSTA issued a new short term flare consent for the period **3 December 2021 to 31 December 2021**. EnQuest restarted production on Magnus on **3 December 2021**.

Flare Consents

The purpose of a flare consent

- 3.12. 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.”⁴

- 3.13. 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 may be 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 Magnus Field had been issued with an annual flare consent.
- 3.14. 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 industry, investors and the public can have confidence.

EnQuest Management of Flare Consents

- 3.15. EnQuest has explained that:

“... the exceedance occurred due to a data corruption and spreadsheet errors within the emissions tracking spreadsheet for Magnus. The data corruption led to erroneous internal reporting and therefore EnQuest had been operating on the false belief it was within the 2021 [Flare Consent] for Magnus and would continue to be so for the remainder of the year.”

⁴ [NSTA's Flare and Vent Guidance, June 2021](#), p. 3.

3.16. EnQuest has explained that from **1 January 2021** until **11 September 2021**, the Magnus CO₂ Emissions Tracking Spreadsheet had been working correctly. However, on **12 September 2021**, “*due to a power card⁵ being down,*” a mismeasurement occurred, meaning that incorrect data was being used.

3.17. On 25 November 2021, in its review of the exceedance, EnQuest implemented changes to its processes aimed at addressing the underlying cause of the breach and therefore mitigate the likelihood of recurrence.

3.18. Following its internal review of the exceedance, EnQuest assured the NSTA that:

- *“All data corruption has been removed.*
- *Spreadsheet has been reviewed and independently verified to ensure all calculations and entries are correct.*
- *All data has been verified against other plant monitoring systems to confirm correct.*
- *Spreadsheet is operating correctly; and Data is correct.”*

3.19. EnQuest has explained that it:

“... has taken assurance steps to ensure that a similar issue will not arise in future and that any other data corruption errors in the tracking system will be quickly identified and remedied, with significant cross-checks introduced to ensure confidence in the data tracked. EnQuest continues to explore options for continuous improvement in the reporting systems.”

Extent of actual harm from Magnus Flare Consent breach

3.20. The Flare Limit for 2021, as issued on **8 December 2020**, gave an average daily rate of 39.79 tonnes. This works out to an annual consent of 14,523.35 tonnes.

Date	Amount Flared to date during 2021	Cumulative Exceedance
23 November 2021	14,537.09 tonnes	13.74 tonnes
27 November 2021	14,650.83 tonnes	127.48 tonnes
1 December 2021	14,912.91 tonnes	389.56 tonnes

Using the above figures, EnQuest flared without consent 262.08 tonnes when it restarted production without consent at **approximately 00:00 hours on 30 November 2021** before shutting-in production again on **1 December 2021** at 19.34.

3.21. All the gas flared in excess of the consent constitutes unconsented excess flared gas. The actual harm can be calculated by the tonnes of unconsented excess flared gas.

⁵ Understood to mean the metering for Purge and Pilot gas failed leading to the flat-line observed on the data.

4. LICENSEES

- 4.1. Licence P193 covers Magnus. EnQuest is the operator and has a 100% equity in Magnus. Consequently, only EnQuest has been the subject of this investigation and this Sanction Notice.

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].”*

- 5.2. EnQuest has failed to comply with a flare consent.

Failure to comply with a term or condition of an offshore licence

- 5.3. The model clauses for licence P193 are [The Petroleum \(Current Model Clauses\) Order 1999 \(legislation.gov.uk\)](https://www.legislation.gov.uk). Clause 21(3) sets out:

“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,*
- except with the consent in writing of the Minister and in accordance with the conditions, if any, of the consent.”*

- 5.4. Further, clause 21(7) sets out:

“Consent in pursuance of paragraph (3) of this clause shall not be required for any flaring which, in consequence of an event which the Licensee did not foresee in time to deal with it otherwise than by flaring, is necessary in order —

- (a) to remove or reduce the risk of injury, to persons in the vicinity of the well in question; or*
- (b) to maintain a flow of petroleum from that or any other well;*

but when the Licensee does any flaring which is necessary as aforesaid he shall forthwith inform the Minister that he has done it and shall, in the case of flaring

to maintain a flow of petroleum, stop the flaring upon being directed by the Minister to stop it.”

Exceedance

5.5. EnQuest suspected that it exceeded the annual 2021 flare consent on Magnus on **23 November 2021** and this was confirmed on **25 November 2021**. The exceedance was caused by corrupt data, which occurred on or about 12 September 2021 but was not noticed until late November 2021.

5.6. EnQuest has explained that it continued production, and therefore flaring, until **27 November 2021** in order to discuss internally and with the NSTA what needed to be done and *“to safely shut-down the platform in a controlled manner.”* However, at **16:47 on 25 November 2021**, the NSTA responded to EnQuest, setting out that it *“knowingly breached”* and requesting that EnQuest consider whether:

“... if operating ‘out of consent’ is representative of an RPO (Reasonable and Prudent Operator) and make a decision on continued production, accordingly.

The Flaring and Venting Guidance and Stewardship Expectations (especially SE11), should help you reach a decision.”

5.7. Production was shut down on **27 November 2021**.

5.8. EnQuest has explained that it restarted production at approximately 00:00 hours on **30 November 2021** as it had *“genuine belief that the OGA was content for it to take this step.”* Further, EnQuest set out that it:

*“... informed the OGA of the intention to restart late on **29 November** and made the offer to provide daily reporting in that context. There was no further communication from the OGA following that communication of intent and on **30 November**, EnQuest later confirmed the restart had been achieved and its current operational status. It was on that understanding that having kept the OGA informed at all stages EnQuest continued to progress to, and achieve start up, on/about 00:00 on **30 November 2021**.”*

5.9. EnQuest restarted production, and therefore flaring, without consent, at **approximately 00:00 hours on 30 November 2021**. EnQuest was aware that it needed consent in order to flare given that it was aware it had exceeded its 2021 annual consent and had informed the NSTA of this just days before. EnQuest was also told by the NSTA that *“... if you restart production you are out with your current legal consent which you exceeded earlier”*. EnQuest was aware that it had to apply for consent and had done so. EnQuest was made aware that, following its application, there was a process to follow and the NSTA *“... cannot issue a proposed increase for a Flare Consent without the supporting information required by OPRED BEIS EMT in respect to the EIA Regulations,”* implying that time was required to liaise with a number of stakeholders.

5.10. At no point, prior to the restart at **approximately 00:00 hours on 30 November 2021** had the NSTA provided consent to EnQuest for further flaring on Magnus. EnQuest has set out

that it informed the NSTA of its future actions – that it intended to restart production, and therefore flaring, at **approximately 00:00 hours on 30 November 2021**, and the NSTA remained silent. EnQuest took this silence to mean that the NSTA had no objections to EnQuest’s actions. The model clauses are clear that flaring is only permitted “*with the consent in writing of the Minister and in accordance with the conditions, if any, of the consent.*”⁶ Therefore, and contrary to EnQuest’s belief, consent cannot be implied under the model clause, it must be in writing.

5.11. The NSTA considers that EnQuest was in breach of its consent, as set out by clause 21(3) of the model clauses, from **approximately 00:00 hours on 30 November 2021 to 19.34 on 1 December 2021**.

5.12. Failure to comply with the flare consents is a failure to comply with the terms 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.

Failure to comply with the Strategy

5.13. The central obligation of the [Strategy](#) requires that a relevant person, which in this case is EnQuest, must:

“... take appropriate steps to assist the Secretary of State in meeting the net zero target, including by reducing as far as reasonable in the circumstances greenhouse gas emissions from sources such as flaring and venting and power generation, and supporting carbon capture and storage projects.”

EnQuest knew that it did not have consent to flare when it restarted production and flaring on 30 November 2021. By doing so, it acted contrary to the central obligation of the [Strategy](#).

5.14. A Sanction Warning Notice was sent to EnQuest, giving EnQuest an opportunity to provide representations about the matters contained therein. EnQuest confirmed in response that they do not intend to make any representations with regards to the proposed decision of the NSTA to impose a financial penalty.

6. SANCTION

Whether a sanction is appropriate

6.1. In deciding 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,⁷ 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 [The Petroleum \(Current Model Clauses\) Order 1999 \(legislation.gov.uk\)](#), clause 21(3) (Emphasis added).

⁷ These failures occurred in 2020 when the [MER Strategy](#) was in place. The [OGA Strategy](#) is currently in place.

- 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 a sanction in this case will be dissuasive of future failure to comply by EnQuest and/or other persons in similar circumstances. Any sanction should be proportionate to the significance of the failure and this should help to maintain a stable and predictable system of regulation.
- 6.4. Therefore, the NSTA considers it appropriate to sanction EnQuest for the breach of consent which occurred between **approximately 00:00 hours on 30 November 2021 and 19.34 on 1 December 2021**.

Type and level

- 6.5. 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.
- 6.6. The NSTA does not consider that it would be appropriate in this case to remove the licence or the operator; a sanction of that severity would not be proportionate to the failure to comply.
- 6.7. EnQuest has set out that it has already implemented the recommendations from its internal review which will deal with the immediate causes of the failure to comply with flaring consents. As the internal review conducted by EnQuest 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.
- 6.8. Compliance with the terms of licences and consents, and adherence to the [Strategy](#), 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 EnQuest 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.
- 6.9. 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.

6.10. The NSTA does not consider any further action *in lieu* to be appropriate in this case. The NSTA could monitor compliance by EnQuest with its consents for a period. However, this could prove to be time-intensive and may also lead to a culture where EnQuest expects to be informed by the NSTA of the risks of breaches rather than pro-actively manage and monitor compliance itself. It will be difficult to draft a series of actions, whether contained in an enforcement notice or agreed with EnQuest *in lieu* of enforcement, that will address the underlying causes. The NSTA considers that it is more effective for EnQuest itself to carry out actions to address the apparent root cause of the failures. The NSTA's operations team frequently deal with EnQuest as part of their stewardship activities and enforcement action is distinct from the day-to-day business of stewardship.

6.11. 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

6.12. 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.

6.13. 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

6.14. The NSTA issues EnQuest with a financial penalty. The NSTA has the statutory power to impose a financial penalty up to £1 million.⁸ The NSTA gives notice to EnQuest that, within 30-days of the date of this Sanction Notice, it is to pay a financial penalty of **£150,000** to the NSTA, which will be paid to HM Treasury. The NSTA considers the financial penalty of **£150,000** to be proportionate to the significance of the failure in the context of the petroleum-related requirement and the impact on EnQuest.

⁸ Section 45(1), [Chapter 5, Energy Act 2016](#).

Financial Penalty – Relevant Factors

6.15. 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:

6.15.1. The extent to which the person(s) may have sought to benefit from the failure to comply.

6.15.2. Any gain (financial or otherwise) made by the person(s) or any connected body as a consequence of the failure to comply.

6.15.3. The severity of the failure to comply in the context of the relevant petroleum-related requirement.

6.15.4. The degree of harm caused, or increased cost incurred, by the failure to comply.

6.15.5. The extent to which parties have followed industry Codes of Practice where these are relevant to the failure to comply.

6.15.6. The duration of the contravention.

6.16. 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
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

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

Benefit from the failure to comply

6.18. Production between **approximately 00:00 hours on 30 November 2021** and **19.34 on 1 December 2021** – outwith consent – would have resulted in additional revenue.

Gain as a consequence of the failure to comply

- 6.19. EnQuest had the benefit of resumed production between **approximately 00:00 hours on 30 November 2021** and **19.34 on 1 December 2021**.

Severity of failure to comply

- 6.20. EnQuest was fully aware that it did not have consent to flare, and yet restarted production, and therefore flaring on **30 November 2021**. The NSTA has repeatedly signalled to the UK upstream oil and gas industry that compliance with its regulatory obligations is vitally important to sustaining the Industry's social licence to operate in the UKCS.⁹ A failure to comply with the terms and conditions of a licence or consent, and a failure to adhere to the [Strategy](#), has the potential to undermine public confidence in the ability of the Industry to operate within prescribed 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 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 failing to take appropriate steps to assist the Secretary of State in meeting the net zero target through recommencing production/flaring without consent.

Degree of harm

- 6.21. There has been actual harm by way of 262.08 tonnes of unconsented excess flared gas. Further, EnQuest's failure to comply undermines trust and confidence in EnQuest's asset management and its oversight of its regulatory obligations. It raises questions as to EnQuest's attention and investment in regulatory compliance. As a consequence of EnQuest's failure to comply, the NSTA has spent its finite resources enquiring into the failure and liaising with EnQuest to try to ensure compliance with the flare consents.

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. **Two days** between **30 November 2021** and **1 December 2021** from the first re-start to the second shut down when EnQuest flared without consent.

⁹ 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](#).

Mitigating circumstances

- 6.24. EnQuest contacted the NSTA soon after it realised that there was a problem and maintained a constructive dialogue with the NSTA over the course of the following 10 days. EnQuest restarted production on **30 November 2021**. When it realised that the NSTA's silence did not constitute consent, EnQuest immediately took steps to shut down on **1 December 2021** until a revised consent (in writing) was issued on **3 December 2021**.
- 6.25. EnQuest has fully cooperated with the Enquiry and Investigation. EnQuest conducted its own internal review to determine the cause of the failure and prevent any future failure to comply. It has taken steps to implement changes to prevent reoccurrence.

Aggravating circumstances

- 6.26. EnQuest did not have express consent to flare and yet restarted production and, therefore, flaring on **30 November 2021** before a revised consent was issued. EnQuest was clearly told by the NSTA that it was outwith consent and that a new consent was required. After submitting an application for a revised consent, EnQuest re-started production before the revised consent had been given. EnQuest has sought to explain its reasoning for re-starting production on **30 November 2021** outwith consent by stating it thought it had implied consent to do so. Consent cannot be implied. In this way, EnQuest disregarded its regulatory obligations by acting in the knowledge that it did not have the appropriate consent to produce and flare.
- 6.27. EnQuest's internal review indicated that corrupted data was being relied on from **12 September 2021**. However, it appears only to have realised the data had been corrupted on **23 November 2021**. This indicates that EnQuest was not monitoring its flaring data sufficient to enable it to monitor forward projections and volumes to avoid flare breaches.

Financial Penalty – Decision

- 6.28. 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 **£150,000**.

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.¹⁰ 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.

¹⁰ [Energy Act 2016](#), section 53(2).

- 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.