

18 May 2010

Ms Joanna Blair

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By email: joanna.blair@montarainquiry.gov.au

Dear Ms Blair

MONTARA INQUIRY DRAFT REPORT – CIRCUMSTANCES AND CAUSES

I refer to your letter dated 7 May 2010, received via email and containing the draft findings of the Montara Inquiry. I would like to make the following submissions and/or comments in relation to the draft findings pursuant to clause 2 of the Inquiry's Practice Note 3.

General Conduct of the Inquiry

I wish to register my complaint at the blatantly unfair and unbalanced nature of much of the questioning that I was subjected to during the course of the Inquiry. In my submission much of the questioning was not directed to objectively trying to elicit information from me but was more in the nature of a witch hunt intent on establishing the pre-conceived views of Counsel Assisting. I will say something more of this later. Giving evidence to this Inquiry was certainly the worst experience of my life.

Significant adverse findings against me personally are included in the draft report based on selective misleading and ambiguous use of evidence and/or the consequences of the unfair approach of Counsel Assisting. Examples of what appears to be blatant bias towards my evidence can be found in respect of the treatment of my evidence concerning contact with Mr Duncan and evidence concerning my experience. In the draft findings I am criticised on the one hand for not expanding on details of the contact I had with Mr Duncan, although I was not asked specific questions about the contact. On the other hand in the

draft findings I am criticised for lack of expertise and experience although I was constantly cut off during questioning when I wanted to expand on very specific questions from Counsel Assisting. I will expand in more detail on these issues later in my submissions.

Significant time of the Inquiry was spent trying to infer some form of collusion between myself and PTTEPAA representatives in respect of the evidence I would give. This is and was without any foundation. At all times I have attempted to cooperate with the Inquiry to the best of my ability. This included agreeing to attend the hearings in Canberra when medical advice I had received was that I was not fit to do so.

I accept that my evidence at times was less than satisfactory and that I became easily confused and at times could not recall as a matter of fact or reconstruction whether particular events or conversations had actually occurred. This was not a deliberate ploy by me but the result of genuine confusion not in the least assisted by the aggressive and unfair questioning to which I was subjected by Mr Howe.

I had received conflicting legal advice as to how I should proceed, including advice not to be represented by PTTEPAA, when early on being invited to do so. When I eventually queried that advice and where it was leading, I sought at a late stage to be represented by the legal team representing all the other PTTEPAA personnel. Because of this I seemingly became a target of Counsel Assisting, who seemed to assume some nefarious conspiracy and departed from the terms of reference to peripheral areas that has no basis and certainly has nothing to do with the circumstances of the likely cause of the uncontrolled release.

In considering your final comments and finding, I respectfully urge you to take into account these matters. I endeavoured to tell you the truth at every stage.

Specific comments on the draft findings

In respect of the further comments I will adopt the same headings as appear in the draft findings.

Mr Treasure's evidence concerning pumping back after float failure

There are some significant issues concerning the evidentiary basis underlying the draft sections commencing from the heading at paragraph 1.82 until the end of paragraph 1.104. The material cited as the basis for the draft conclusions in this section is in my submission unsatisfactory and only available if one ignores all evidence inconsistent with them. In my submission they are based on ambiguous and unclear evidence and in my submission are inconsistent and confusing.

During the taking of evidence it is apparent there was some confusion and ambiguity surrounding the phone records – resulting in two versions being produced. (Exhibit 0005.0001.0003 and EXH 0007 0002 0001)

The Inquiry seems to have accepted that the revised document is correct without any real evidence from anyone as to which records and times are in fact correct. This document was presented at the very last minute of the Inquiry and Counsel Assisting even commenting that there “may”, as opposed to “was”, a 30min time difference to be taken into account.

My concerns with the revised document are –

- The source Telstra information had never been provided to me for an opportunity to verify or comment on the information, even though – by virtue of the adverse findings proposed against me, it has a direct and significant impact on me. Procedural fairness dictates that I should have access to the source information in order to verify the information. It appears from the transcript that the source information has been provided to PTTEPAA and possibly other parties.
- There are clearly some errors in the revised document. Counsel Assisting indicated at T2415 -

That additional information from Telstra was to the effect that, in March 2009, the rig used Darwin time and so may have been half an hour ahead of Perth time, in which case, in effect, half an hour

should have been added to the time recorded for those calls listed as originating from the telephone number (08) 6311-2400. (my emphasis)

The revised document (EXH 0007 0002 0001) then proceeds to add half an hour to all the phone calls whether from the rig or otherwise.

- There are no details as to what the phone number (08) 6311 2400 actually relates to, or whose phone number this is or was. Even the documents in question are uncertain as to what the number is in respect of, only noting the number as “possibly rig phone”. I have never previously encountered this telephone number.

- The Drilling Supervisor’s Office phone number, as noted on the documents was (08) 6263 5742. Details of calls from this number should also have been provided and detailed. At the time all numbers to the rig phones used the prefix “(08) 6263”, which is a Perth prefix and therefore it is reasonable to assume call references are to actual Perth time.

- The rig operated on Darwin time, yet the phone system operated through a voice over the internet protocol (VOIP), which was direct to Perth through a computer system. Details as to the timing of calls operating through a VOIP system should be included.

- There is no evidence as to how time is recorded on the Halliburton Cementing Report apart from the graphs which are automatically generated by a computer. Is the time on the graphs CDT or Perth time? How accurate were the clock settings? Is it reasonable to directly compare these timings to the Telstra records without any comment as to these matters?

All up there is significant, if not total confusion as to when the calls were made. Yet the draft findings draw heavily on this clearly flawed evidence in its conclusions.

The draft findings rely totally on the flawed phone records without looking at the other evidence. The other evidence does not support the revised phone records. The sequence of phone calls described in the first document is supported by the evidence at T1550 to T1554. The sequence described by the

second document just does not make sense with the other objective evidence.

In the evidence presented by Mr Wilson at T970, he confirmed that there were phone calls to the effect that the casing had been tested and all was fine (makes sense for a 2.31pm timing of call; makes no sense at all for a 3.01pm timing) and advising that the floats had failed (makes sense of the 2.41pm timing; makes no sense at all for a 3.11pm timing.)

Given these obvious issues with the phone records, paragraph 1.96 of the draft findings, and indeed the whole section of the draft findings in respect of the telephone calls in my submission are based on an inaccurate understanding of the objective facts and are not available on the evidence.

In my submission, significant weight has been placed on this incorrect reading of the telephone records as the draft findings state (at 1.97):—

On the basis of telephone records produced to the Inquiry under summons, the Inquiry finds that Mr Treasure decided to pump back the whole of the 16.5 barrels without any input from Mr Wilson. When allowance is made for time differences between rig-time and Perth-time, the telephone records show the first telephone call from the rig to Mr Wilson's mobile phone occurred at 15.01 on 7 March 2009. Significantly, this call occurred after the 16.5 barrels of fluid were pumped back beneath the float collar (emphasis added)

In fact this call was in my submission made 30 minutes earlier at 2:31, consistent with my evidence of having spoken with Mr Wilson before the valve failure and Mr Wilson's evidence to the same effect. This error leads the Commissioner to propose significant adverse findings against me including going as far as alleging that I perjured myself in respect of giving false evidence to NOPSA. **That finding in my submission is neither fair nor open in light of the erroneous interpretation of the telephone records.**

Footnote 13

Footnote (number 13) to paragraph 1.97, makes a further significant adverse finding as to my credit. This finding, besides being entirely perjorative and unnecessary, is also in my view biased, unfair and the product of the one eyed and closed minded approach taken to my examination by Counsel Assisting. The inclusion of this footnote is totally unfounded and certainly not based on

the evidence presented, as the transcripts clearly reveals. This highlight the issue with selective questioning from Counsel Assisting and misusing the evidence presented in a very misleading way in the draft findings.

The questioning I was subjected to regarding my contact with Mr Duncan is set out at T305 through to T312. Mr Duncan's evidence regarding contact is set out from T1227. I was asked a specific question regarding the discussion of my draft statement with someone from PTTEPAA. The transcript at T305 clearly shows this (emphasis added) –

Q. All right. I'd like to ask you some questions **about the draft statement.....**

The draft statement was brought up on the screen and I was asked further at T306 -

Q. Can I just clarify, **after this draft statement was sent to the Commission, did you discuss its content** at all with anyone from PTT?

A. Yes, I did.

And further on the same transcript page -

Q. I see. And who from PTT did you **discuss the draft statement with?**

A. With Craig Duncan.

The questions I was asked only related to discussing my draft statement. The questions were not about whom from PTTEPAA did I have any discussion with regarding any subject matter.

Further at T312 I was asked (again emphasis added)–

Q. Apart from the occasion that you have given evidence about, when you contacted Mr Duncan last week, **have you otherwise discussed your proposed evidence to this Inquiry with him?**

A. No, not that I can recall, no.

The question by Counsel assisting was again specific about discussing my **proposed evidence to the Inquiry**, not any and all discussions of whatever nature I may have had with Mr Duncan.

At no stage was I asked to detail all and every discussion or dealing I had with Mr Duncan. At no stage was I asked a general question about any other telephone or other contact with Mr Duncan.

Mr Duncan's evidence (at T1227 and following) is consistent with my evidence – there was other contact but **not** concerning either my draft statement or my

proposed evidence. Other discussions with Mr Duncan revolved around me seeking to be represented by the PTTEPAA legal team, and regarding travel arrangement for my attendance at the Inquiry. Presumably Counsel Assisting did not seek to ask questions that might clarify this on the basis that my answers would not help his clear (but unfounded) presumption that something untoward and improper had occurred in my discussions with Mr Duncan, To reach a conclusion that I gave deliberate false and misleading evidence is disingenuous and hypocritical.

With respect this is not the only time the draft findings unfairly and improperly descend into perjorative and patronizing language that in my submission should have no place in a so-called objective inquiry. For example at paragraph 1.130 the sentence “*Surprisingly, and disappointingly, this is the exact same approach which was taken by Mr Duncan...*” I submit respectfully that such a statement, referring to the Inquiry’s ‘*disappointment*’ has no place in a report such as this and is symptomatic of the pejorative and preconceived approach that was taken to the examination of witnesses by Counsel Assisting. This footnote if it remains in the report will undoubtedly have significant adverse effects to me and my reputation forever more. Such a comment – in a footnote – which is not properly explained or related to specific questioning or evidence should not be made.

Non-installation of a 13^{3/8}” PCCC on the H1 Well

It is significant that throughout the draft findings, wherever possible, significant adverse comments in respect of myself are made, generally without any or any substantive reference or the evidence upon which they are based. The deferring of the installation of the 13^{3/8}” PCCC is a further example. Paragraph 1.165 contains the comment “*Mr Treasure was significantly involved in this practice*”. The only purpose of this comment is to put me in a bad light. The comment is totally uncalled for and against the evidence presented to the Inquiry. It not even clear what is meant by “practice” which seemingly is a reference of the decision not to install the PCC on the H1 well immediately and to use it as a parking spot for the BOP. There is no

explanation as to where my significant involvement comes from in these decisions.

The clear and accepted evidence was that a decision was made not to install the 13^{3/8}" PCCC. This decision was made onshore and I was not at all involved in this decision. My evidence at T260 is to this effect. This is supported by the evidence of Mr Wilson (at T1080) and Mr Duncan (at T1297). Surprisingly, the draft findings at paragraph 1.166 actually accepts this – "*Mr Wilson accepted that he made the decision to defer installation, with the concurrence of Mr Duncan...Mr Duncan agreed he was aware that installation of the 13^{3/8}" PCCC was deferred..*" Yet still the adverse comment against me somehow remains.

The Inquiry should either detail how it has determined I was *significantly involved in this practice* or the suggestion should be removed.

Paragraph 1.170d and footnote 44

The draft findings here are clearly wrong.

Without going to the extensive detailed evidence I do not believe it will be disputed by anyone that the first sentence of this sub paragraph is wrong. I was **not** rostered off duty on the 21st April 2009 and Mr O'Shea did not take over. I believe the evidence is clear that I took over from Mr O'Shea on the 16th April 2009 with the rig departing on the 21st April 2009.

Similarly the footnote #44 is also plainly wrong. It was Mr O'Shea who handed over to me on the 16th April 2009. In fact it was Mr O'Shea's handover notes to me (refer to Exhibit EXH 0002 0002 0001) that made no reference to the non installation of the PCCC.

Again the tenor of the footnote is to criticise me, when the evidence does not support and is contrary to the conclusion asserted.

General comment on non installation of 13^{3/8}" PCCC

In respect of the evidence obtained as to the non installation of the 13^{3/8}" PCCC, it is in my submission a significant omission on the part of the Inquiry and indeed in the draft findings that no reference **whatsoever** is made to the

role of Mr Robinson. The evidence makes clear that Mr Robinson was the drilling supervisor specifically charged with off line activities which the evidence also clearly suggests was to include the installation of the 13 3/8' PCCC. I appreciate that Mr Robinson did not for whatever reason give evidence to the Inquiry. To suggest no explanation has been forthcoming for this omission needs to be made in the context that nobody seems to have asked Mr Robinson. I would have thought that Mr Robinson's evidence would be of some importance in getting some answers as to the failure to install the 13^{3/8}" PCCC.

Shortfalls of Expertise within PTTEPAA

In respect of the paragraph 1.287, again the draft findings are grossly misleading and unfair. I am specifically referring to the reference "*apart from an earlier 2 week period, Mr Treasure had never previously performed the role of Day Drilling Supervisor on a rig (being the most senior licensee representative on a rig)*".

The intent of this comment is obviously to suggest that I had no idea what I was doing and my employer and perhaps even Atlas had no business in putting me in such a role. That is the suggestion is a total lack of relevant experience. Such a comment is of course, if justified an appropriate matter for comment, however, any such comment, which can have incalculable damage to an individual should be made fairly and in a balanced way.

No reference whatsoever is made to what my actual training and experience on oil rigs was as at March 2009. This is totally unfair unbalanced and seems deliberately calculated to make it sound like I had virtually zero experience in Oil Drilling Operations. As the evidence before the Inquiry makes clear I have held the position of being the Drilling Supervisor in a range of capacities for well over 10 years. My statement to the Inquiry (WIT 1000 0002 0001) indicates in general terms my experience as a drilling supervisor.

Contrary to the inference in paragraph 1.287 I had been working as the day drilling supervisor for PTTEPAA (and its predecessor Coogee Resources) since March 2008. In 2007 I also filled this role with Galoc for a 2 week relief period.

Questioning from Counsel assisting as to my experience was very specific, asking only as to time as “*the senior licensee representative*”. No information was sought of my experience as the contractor’s senior representative and other drilling supervisor experience. Roles which are very similar to being the licensee representative. The draft findings seems to focus only on my answer as to the Galoc work noted above, totally ignoring all other time I spent with Coogee/PTTEPAA – selectively suggesting my experience as being only 2 weeks.

This is unfair and inaccurate. If I or my employer are to be criticized for my lack of experience, that in my submission can only be done fairly if the report actually sets out and examines what that experience actually was. The highly selective approach in the draft findings is analogous to describing Mr Howe’s experience as a barrister as “*apart from a 4 week period, Mr Howe had never previously performed the role of Counsel Assisting an Inquiry on the Uncontrolled Release of Hydrocarbons*”. A perfectly correct statement, but grossly misleading by omission.

Further in respect of my oil field experience the line of questioning by Counsel assisting the Inquiry was such to deny me any opportunity to give details of my experience. For example at T254 Mr Howe specifically stated “*I’m certainly not asking you for your general level of experience, sir....*” Mr Howe only wanted answers to very specific questions – no doubt in order to found a pre-conceived view that I was not qualified to perform the role of Drilling Supervisor on the Montara Rig. For example, again at T254, Counsel assisting was not interested in my experience with float failures – he only wanted details as to my experience with the identical circumstances as existed on the 7th March 2009 ie. during the course of the cementing of a casing shoe at a depth of around 3 and a half kilometres, where the floats had failed in a well bore that was horizontally placed inside a reservoir.

The same can be said of the contents of paragraph 1.291 - a broad brush statement as to lack of knowledge and expertise without any real examination of what my actual knowledge and expertise was. Certainly at no stage was I

given a proper opportunity to present detailed evidence of actual experience. The basic rules of natural justice and procedural fairness seems to have been ignored in Counsel Assisting's quest to obtain evidence consistent with – and only consistent with his pre-existing case theory.

Conclusion

I submit that further and significant consideration needs to be given to these draft findings, particularly given the issues raised as to the errors and the misleading comments made particularly concerning the telephone calls and my experience.

I submit it is would be appropriate for the Commissioner, in light of these matters after considering the responses by me and other interested parties, to issue a further draft of intended findings that are more in line with the objective evidence and procedural fairness.

As it stands, a number of highly unfair, unsubstantiated, unnecessary perjorative and inaccurate adverse findings are proposed against me that have the undoubted capacity to adversely reflect on my credit and my professional standing if publicly released. The simple rules of procedural fairness should afford me, and anyone else adversely affected, the opportunity to comment on an amended draft correcting these errors.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Noel Treasure', written in a cursive style.

Noel Treasure