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Mr David Borthwick AO PSM
Montara Commission of Inquiry
GPO Box 890
CANBERRA ACT 2601

22nd December 2009

Dear Mr Borthwick,

COMMISSION OF INQUIRY - MONTARA WELL HEAD PLATFORM UNCONTROLLED HYDROCARBON RELEASE

The Australian Marine Conservation Society (AMCS) is a leading Australian NGO working towards the conservation of Australia's unique and diverse marine environment.

AMCS welcomed the announcement of an inquiry into the Montara well head incident and we are grateful for the opportunity to submit to the Commission of Inquiry. Our submission follows.

Please contact me if we can provide any further information in relation to this submission.

Yours sincerely

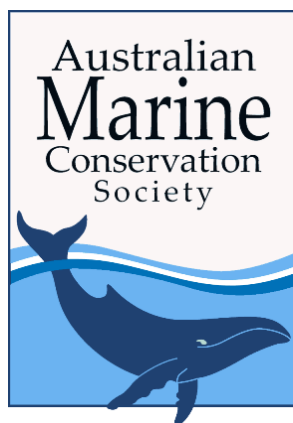
Darren Kindleysides
Director, Australian Marine Conservation Society

COMMISSION OF INQUIRY:

**MONTARA WELL HEAD PLATFORM
UNCONTROLLED HYDROCARBON RELEASE**

**SUBMISSION BY THE AUSTRALIAN MARINE
CONSERVATION SOCIETY**

DECEMBER 2009



1. Introduction

The Australian Marine Conservation Society (AMCS) is an Australian NGO working towards the conservation of Australia's oceans. The protection of the marine environment is central to our work and of great interest to our 20,000 supporters across the country. The Montara well head incident and subsequent release of oil into the marine environment of the Timor Sea was of significant concern to AMCS and our supporters. Consequently, AMCS welcomed the announcement of an inquiry into the incident and makes this submission to the Commission of Inquiry.

In this submission we do not address all aspects of the Terms of Reference for the inquiry, but restrict our comments to issues of i) the environmental assessment of the Montara development and offshore oil and gas developments as a whole, ii) the adequacy of the *Monitoring Plan for Montara Well Release*, iii) the availability of information about the incident, and iv) the implications of this incident for the Marine Bioregional Planning Process.

2. AMCS submissions against individual Terms of Reference

Terms of Reference 2: Review the adequacy and effectiveness of the regulatory regime applicable to operations at or in connection with the Montara oil field, including under the Offshore Petroleum and Greenhouse Gas Storage Act 2006, and including the adequacy and effectiveness of all safety, environment, operations and resource management plans, and other arrangements approved by a regulator and in force at relevant times.

The hydrocarbon release from the Montara incident developed into an environmental disaster for the Timor Sea and damaged both Australia's environmental reputation and the environmental record of the oil and gas industry.

The Commonwealth and State/Territory Governments must learn from this incident and improve the performance of the regulatory regime to i) minimise the risk of this sort of incident occurring in the future, and ii) ensure Australia's marine environment is better protected from future incidents.

In particular, AMCS seeks the improvement of the environmental assessment process for both exploration and production of new offshore oil and gas reserves through this inquiry.

Once the incident began, there was a clear lack of information available about the marine environment at immediate risk. This suggests the environmental impact assessment undertaken as part of the approval process for this development was inadequate. As a minimum such an assessment would have been expected to have identified the range of species and marine habitats in the vicinity of the development and detailed the potential for these to be affected by the routine operation of the development. It should also have identified the likely impacts of accidents, including uncontrolled releases of oil.

That information was not available, which calls into question the standard of the assessment for the Montara development. By extension, it suggests assessments for other developments in offshore environments may also be of poor quality. This would be a serious conclusion given environmental assessment is, under the currently regulatory regime, a central mechanism for minimising the risk to the marine environment from hydrocarbon developments.

Consequently, AMCS requests the inquiry recommends an independent review of the standard of environmental impact assessments for offshore oil and gas developments to identify shortcomings and instigate necessary improvements.

In addition to questions about the quality and thoroughness of individual assessments, with oil and gas development expanding into relatively pristine areas like the sea North West of Australia there is a need for the cumulative impacts of development to be considered as part of the process of assessing individual developments.

AMCS therefore requests the inquiry recommend the introduction of a strategic environmental assessment process for oil and gas developments that moves from the current process of assessing proposed developments project by project, to a process of considering the combined and cumulative impacts of developments. The combined risk from and potential cumulative impact of developments should be central to government decision making for future offshore oil and gas developments.

Terms of Reference 7: *Assess and report on the environmental impacts following the Uncontrolled Release using available data and evidence including the outcomes from monitoring activities already underway, review any proposed environmental monitoring plans, and make recommendations on whether any further measures are warranted to protect the environment from the consequences of the Uncontrolled Release.*

The ocean North West of Australia is globally important for its marine wildlife and the Timor Sea itself is regarded as one of the last intact marine ecosystems on the planet. The uncontrolled release of oil from the Montara well head occurred adjacent to, and subsequently affected, an area important for the migration of a range of marine species including whales, turtles and seabirds. It occurred close to important reef systems and coral atolls.

AMCS welcomed the agreement during October 2009 of the *Monitoring Plan for the Montara Well Release Timor Sea* between PTTEP Australasia and the Department of the Environment, Water, Heritage and the Arts. The Monitoring Plan is intended to provide a longer term understanding of the impacts of the spill on the marine environment of the Timor Sea. Whilst different elements of the marine environment will have differing monitoring requirements, the Plan is not clear what ‘long term’ will mean in practice. A minimum duration for the monitoring program for biodiversity and fisheries aspects needs to be set to reflect:

- The importance of this area for marine biodiversity.
- The significant quantity of oil that entered the marine environment.
- Uncertainty about the total amount of oil released.
- The significant quantity of dispersants used.
- The long-term data series requirements to accurately establish i) a clear picture of the extent of environmental damage, including damage to marine wildlife, habitats and fisheries, and ii) the recovery of the marine environment from the damage.
- Experience of major oil spills elsewhere in the world that indicates the environmental consequences of significant releases of oil into the marine environment persist for many years. The impacts of the Exxon Valdez oil spill in Alaska on wildlife and fisheries, for example, are still being felt two decades after the tanker ran aground in 1989.

AMCS requests, therefore, the inquiry recommend the scientific monitoring program run a minimum of five years, and preferably ten years.

AMCS notes PTTEP appears to have only committed funding for two years¹. This is wholly inadequate given the long-term nature of monitoring required. Under the Polluter Pays principle, PTTEP should be meeting the long-term costs of the monitoring required.

AMCS requests the inquiry recommend PTTEP Australasia commit to funding the scientific monitoring program for its full duration.

Terms of Reference 9: *Consider and comment on the provision and accessibility of relevant information regarding the Uncontrolled Release to affected stakeholders and the public.*

¹ Media Release by Minister for the Environment, Heritage and the Arts *Government Locks In Long Term Environmental Agreement With Oil Spill Company*, 15/10/09.

During the Montara incident there was extremely limited public information released about the extent and impacts of the oil spill. Environmental monitoring in the Timor Sea during the uncontrolled release was inadequate. The public reporting of the findings of such limited monitoring as was occurring was also inadequate.

In response, a long-term and comprehensive monitoring program to attempt to describe the impacts from this incident, to document recovery and to identify any further ameliorative action is required. Importantly, this program must be publicly transparent and its findings readily available in the public domain.

Consequently, given the extent of the public interest in this incident, AMCS requests the inquiry recommend the results of the scientific monitoring program are made publicly available on a formal and regular basis. A formal timetable for reporting should be established, detailing the frequency of reporting and what the reporting will cover.

As an extension of the need for improved transparency surrounding this incident, AMCS asks that Public Hearings be convened as part of the Inquiry.

Terms of Reference 10: Make recommendations to the Minister for Resources and Energy, and through the Minister for Resources and Energy, other relevant Commonwealth Ministers, regulators and industry, as appropriate, on any measures that might help to prevent similar incidents occurring in the future and any measures that might mitigate the safety, environmental, and resource impacts arising from such an incident. Measures may include improvements to industry practices or applicable regulatory regimes and their administration.

The Montara incident occurred in a part of Australia's Exclusive Economic Zone that is currently woefully under-protected in terms of the lack of a comprehensive, adequate and representative system of Marine Protected Areas (MPAs). Less than 1% of the oceans to the North and West of Australia are protected within MPAs. In other words, 99% remain open for development. The Montara incident underlines the need to ensure Australia's marine biodiversity is afforded better protection.

The extent of this incident, its uncontrolled nature and the long time lag in stopping the release of hydrocarbons from the well head underlines that there is inherent risk in the extraction of oil and gas reserves in the marine environment. The incident undermines the oil and gas industry's environmental record and casts doubt on its ability to operate safely and without damaging Australia's marine environment. Furthermore, the seas off North and West Australia are a major frontier for oil and gas development. As development continues to expand, there is risk of this sort of incident occurring again.

Consequently, further safeguards are required to ensure the most important parts of Australia's marine environment are protected. AMCS sees the establishment of a National Representative System of Marine Protected Areas through the Government's current Marine Bioregional Planning process as a critical step in ensuring oil and gas development is better balanced with the Government's own commitments and requirements to safeguard the marine environment.

AMCS therefore urges the inquiry to recommend the Government immediately introduce a moratorium over further oil and gas exploration and new production until the current marine bioregional planning process is complete.

The Montara incident underlines the critical importance of establishing large MPAs that exclude and buffer key areas of the marine environment from oil and gas production.

AMCS also requests the inquiry recommend the Government identify large 'sanctuary zones' through the current marine bioregional planning process that exclude oil and gas exploration and production from the most important and sensitive parts of Australia's marine jurisdiction.

3. Summary of AMCS recommendations to the Commission of Inquiry

AMCS requests the Commission of Inquiry into the Montara well head platform uncontrolled hydrocarbon release recommends:

- a) An independent review of the standard of environmental impact assessments for offshore oil and gas developments to identify shortcomings and instigate necessary improvements.
- b) The introduction of a strategic environmental assessment process for oil and gas developments that moves from the current process of assessing proposed developments project by project, to a process of considering the combined and cumulative impacts of developments.
- c) The post incident scientific monitoring programme runs a minimum of five to ten years.
- d) PTTEP Australasia commit to funding the scientific monitoring program for its full duration.
- e) The results of the scientific monitoring program are made publicly available on a formal and regular basis.
- f) Government immediately introduce a moratorium over further oil and gas exploration and new production until the current marine bioregional planning process is complete.
- g) Government identify large 'sanctuary zones' through the current marine bioregional planning process that fully exclude oil and gas exploration and production from the most important and sensitive parts of Australia's marine jurisdiction

AMCS also asks that Public Hearings be convened as part of the Inquiry.