

**COMMISSION OF INQUIRY
MONTARA WELL HEAD PLATFORM UNCONTROLLED
HYDROCARBON RELEASE**

Submission by Senator Rachel Siewert

Preliminary comments:

As a Western Australian Senator and the Australian Greens' Spokesperson on Marine Issues, I have taken a strong interest in events relating to the uncontrolled release of hydrocarbons at the Montara Wellhead Platform that commenced on 21 August 2009. I would like to raise the following issues for consideration by the Commission of Inquiry.

However, as I expressed at the time of the Inquiry's announcement, I am concerned that the Terms of Reference for this Inquiry do not explicitly address several major issues relating to this spill, including reported impacts on Indonesian fishing communities, the effectiveness of the Australian Government's response and of the coordination between government agencies. I have therefore also addressed these issues in this submission.

I also believe that in order to address the widespread public concern about this spill, it is essential that this Inquiry is conducted in an open and transparent manner and that every effort is made to ensure full public scrutiny of the evidence. Where requests for confidentiality are sought on the basis of commercial sensitivity, the Commissioner should assess these claims carefully against the public's right to know. To shroud parts of this Inquiry in secrecy without good reason would jeopardise perceptions of the integrity of the whole process.

Comments relating to Terms of Reference

1. Investigate and identify the circumstances and likely cause(s) of the uncontrolled release.

I believe that key questions that must be addressed within this Term of Reference include:

- a. Was PTTEP Australasia, or any other company, at fault?
- b. Was the well faulty in some way?
- c. Could the uncontrolled release have been prevented?

- d. Was the drilling design and assurance process adequate?
- e. Did the operators do an offset well review to identify known drilling hazards in the area?
- f. To what extent were lessons learned by other companies available to the operator?

Apparently other companies have had problems drilling in the Timor Sea area – particularly with horizontal wells. For example, Laminaria-8 had wellbore stability problems that required several sidetracks to fix. Problems included drilling through shale at a high angle. Corallina-3 encountered highly permeable fractures in the reservoir that could have led to a well control incident if not noticed and rectified. Neither of the above caused an incident due to good contingency planning and good hazard management/control processes.

Were these issues built into the design of the well?

- g. Did the activities by the West Atlas rig cause or contribute to the leak?
- h. What caused the fire on the West Atlas rig?
- i. It has been suggested that the Montara field is a marginal development that has changed hands several times. Low cost development may have been required to make this project feasible. Did focus on cost create a loss of focus on safety and on technical integrity?

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.

Key questions include:

- a. The regulators should be aware of the drilling problems of other operators (see 1.f, above). Given this, was the scrutiny of Montara Wellhead Platform drilling program sufficient?
- b. Was the regulatory process complied with? If not, why not?
- c. Was the well responsible for the release audited when completed?
- d. Is the NT Government's implementation of the regulatory process adequate?
- e. Is the development of the environmental management plans adequate?
- f. Did the company's environmental management plan adequately cover major oil spills of this nature?

- g. Was the company's environmental management plan implemented and what measures in place to assess this?
- h. Should PTTEP have been compelled to plug the leak in the most timely manner possible (e.g. taking up the offer of a nearby drilling rig from Woodside) rather than choosing to take a cheaper but longer option?
- i. If PTTEP could have prevented additional oil being released by plugging the leak sooner, how does that affect their liability for additional oil release that could have been prevented?
- j. Are the current provisions of the legislating relating to uncontrolled release into international water or the waters of another sovereign national or territory sufficient? Are Australian authorities sufficiently able to monitor environmental impacts and undertake cleanup operations in international or Indonesian waters? Are the obligations for cleanup, monitoring and compensation in international and Indonesian waters sufficient?

3. Assess the performance of relevant persons* in carrying out their obligations under the regulatory regime. (* For the purposes of paragraphs 3 and 4,

'relevant persons' are persons who have engaged at any time in petroleum-related operations at the Montara Wellhead Platform that may have contributed to the cause(s) of the Uncontrolled Release, including but not limited to: the titleholder or a former titleholder of AC/L7 permit, a present or former owner or operator of the Montara Wellhead Platform, a present or former owner or operator of a drilling rig, a drilling contractor or a supplier or installer of plant or equipment.)

Key questions: (see also key questions a-g under Term of Reference (1):

- a. Was the regulatory process complied with? If not, why not?
- b. Did the company's environmental management plan adequately cover major oil spills of this nature?
- c. Was the company's environmental management plan implemented?
- d. Who made the decisions that led to the circumstances that caused the leak?
- e. A spokesperson for the company said on Perth radio that they knew the cause of the incident but they wouldn't explain it – is this acceptable, given the public interest in this matter?
- f. Would the provision of this information to AMSA and other Government agencies have helped decision making by these authorities?
- g. Did the company adequately inform the relevant authorities throughout the period of the leak?
- h. Why did the company not accept Woodside's offer of the rig to drill the relief well? How much earlier might the spill been capped if they had? How much additional oil might have been prevented from being

released if they had taken this quicker but more expensive option?
Should they have been compelled to plug the leak in the most timely manner?

- i. Where the regulations relating to the presence of toxic and radioactive chemicals on the Montara and West Atlas platforms fully adhered to? What toxic and radioactive materials present on the platforms remain unaccounted for after the accident and subsequent fire?
- j. Are the provisions relating to environmental bonds and insurance sufficient or should amendments be considered in these areas?

4. Review the adequacy and effectiveness of monitoring and enforcement by regulators of relevant persons, under the regulatory regime.

Key questions:

- a. Given PTTEP Australasia apparently was aware what caused the uncontrolled release (see 3.e, above), was this information conveyed to the Government? If not, why not? If yes, who in Government knew this information and why was it not made public?
- b. Had the Government been aware of the cause of the incident, would this information have changed the Government's handling of the situation?
- c. Why wasn't there continual monitoring of the environmental impacts of the spill?
- d. How long after the incident did the surveillance planes arrive at the spill site?
- e. How many hours/days after the spill began were dispersants first used?
- f. Who made the decision to use dispersants and on what evidence?
- g. What consideration was given to the highly toxic nature of some of the dispersant products used, in particular ARDROX 6120LT; COREXIT EC9500A; and COREXIT EC9527A? In particular, what consideration was given to the effects of the dispersants on (i) the health of spill recovery workers operating in the area of the leaking rig; (ii) other people in the area, including fishing boat crews, who were nearby when the uncontrolled release occurred and (iii) the environment?
- h. Of the roughly 150,000 litres of dispersants used in the recovery operation, how many litres *each* of ARDROX 6120LT; COREXIT EC9500A; and COREXIT EC9527A were used?
- i. Given the national plan for oil spill response plan advises that dispersants should not be used unless the oil slick is close to the

- coast – and that authorities denied the spill came close to the coast – why were dispersants used so extensively?
- j. Why weren't booms used immediately, given the calm conditions?
 - k. Why weren't booms used more quickly than 4 September?
 - l. From what facility were these booms sourced?
 - m. Why did the Government play down the size of the spill until forced to acknowledge it was much larger than both the company and the Government had stated?
 - n. Why wasn't on-going environmental monitoring undertaken?
 - o. Why was only a single short survey undertaken over the 10 weeks of the spill?
 - p. What has been the impact on the marine environment?
 - q. Why was there a lack of co-ordination across Government agencies despite daily phone linkups and meetings? – for example, the Commonwealth Department of Environment said (in a briefing given to my office in September) that monitoring was the Australian Maritime Safety Authority's responsibility, whereas AMSA had insisted (in an earlier briefing) that it was the Department of Environment's role.
Why was no single body responsible for overall co-ordination?
 - r. Who had day-to-day decision-making responsibility on the response operation?
 - s. Who had overall decision-making authority?
 - t. Was sufficient monitoring undertaken of the presence and impacts of the oil spill in or near Indonesian waters?

5. Assess the adequacy of the response to the Uncontrolled Release by the current title-holder of AC/L7, the owner and/or operator of the Montara Wellhead Platform and the owner and/or operator of the West Atlas drilling rig.

Key questions:

- a. Did the company's environmental management plan adequately cover major oil spills of this nature?
- b. Was the company's environmental management plan implemented?
- c. Why did the company not accept Woodside's offer of the rig to drill the relief well?
- d. What delay if any did this mean to capping the well?
- e. Who had day-to-day decision-making responsibility on the response operation?
- f. Who had overall decision-making authority?

- g. Should there have been an independent review of the capping operation earlier to assess whether the company's response was the most effective response and if it was progressing adequately?

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.

Key questions:

- a. Why wasn't on-going environmental monitoring undertaken?
- b. Why was only a single short survey undertaken over the 10 weeks of the spill?
- c. Why was this survey only announced after an independent survey by an NGO was organised?
- d. What has been the impact on the marine environment?
- e. What impact has the leaked oil and use of dispersants had on fish stocks in Australian waters?
- f. What is the likely longer term impact, and is the proposed monitoring program sufficient to track this?
- g. What impact has the leaked oil and use of dispersants had on corals in Australian waters?
- h. What impact has the leaked oil and use of dispersants had on large marine life (e.g. whale sharks) and mammals (e.g. whales and dolphins, sea turtles and seabirds)?
- i. Was the decision to use dispersants the correct one?
- j. Why isn't the long-term environmental study being conducted independently by Government rather than by PTTEP?
- k. Both Government and company claim that the spill spread largely to north and east of the well, however I personally observed oil extending to the west of the well. What was the total area impacted by the spill?
- l. How much oil has leaked into the marine environment?
- m. How did the company estimate how much oil was leaking?
- n. How do these estimates relate to the projected production capacity of the well?
- o. Can the company provide the figures on which their estimates are based?
- p. Are there other means for estimating the amount of oil released?
- q. Was the same amount of oil leaking for the whole of the incident?
- r. Considering the satellite imagery available from the NASA MODIS satellites, what conclusions can be drawn from the size and persistence

of the slick? What limitations are there on the use of satellite imagery? While AMSA have insisted that what shows up on the satellite imagery (when the sun glint is in the right position) is a thin film of oil, it is also true that such a thin film would fairly rapidly evaporate or disperse if it were not being replenished by thicker 'stringers' of oil.

- s. What were the environmental impacts of the oil in Indonesian waters? Given the multiple sources of evidence of the presence of oil in Indonesian waters (including satellite imagery, samples, videos and photos, testimonies, the official warnings issued by the Kupang harbour master ...etc) are the assertions of no oil impacts in Indonesian waters by AMSA and the Minister reliable? What monitoring of the presence of oil and its environmental impacts in or near Indonesian waters was undertaken and was it sufficient? What information can be gleaned from the official investigation being undertaken by Indonesian authorities?

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

Key questions:

- a. Why did it take weeks for the Government to announce the rate of the spill (in terms of barrels or litres leaking per day) – and then on announcing a figure (300-400 barrels) a day, why did it then dismiss higher estimates which were based on company documents without giving an explanation?
- b. Why didn't the Government release the information the Department of Energy, Resources and Tourism had provided to them on the possible number of barrels leaking, that is up to 2000 barrels per day?
- c. Did the Government attempt to independently verify the company's claims of 300-400 barrels?
- d. Why did it take a trip by an environmental NGO (WWF) to visit the spill site to investigate environmental impacts before the Federal Government announced that it would investigate this issue?
- e. Why did the Federal Government and the company fail to acknowledge the extent of the spill until others had viewed the spill and realised it was much larger than previously acknowledged?
- f. Why (until at least the time of writing) do questions about the amount of each dispersant product used remain unanswered?
- g. Why was PTTEP Australia able to announce on Perth radio that it was aware of what caused of the spill and yet this information was not made public?

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.

- a. Why is there no one agency that is responsible for the overall coordination of a response to a spill of this nature?

11. Consider, assess and make recommendations in relation to any other matter the Commission of Inquiry considers relevant to or arising from the Uncontrolled Release and the prevention of similar events occurring in the future.

Key questions not covered under other Terms of Reference:

- a. Has the spill spread into Indonesian waters?
- b. Has oil spread into the zone of agreement between Indonesia and Australia?
- c. If so, is the oil found in the agreement zone from Montara well?
- d. How has it impacted on Indonesian fishers?
- e. Is PTTEP responsible for compensation to Indonesian fishers?
- f. If not, how should legislation be changed to ensure compensation is payable in future?
- g. Is the Australian Government responsible for compensation to Indonesian fishers?