



PTTEP Australasia (Ashmore Cartier) Pty Ltd

ABN 27 004 210 164

A Company of PTTEP Group

Level 1 162 Colin Street West Perth, WA, 6005, Australia	PO Box 7311 Cloisters Square Perth, WA, 6850, Australia	Tel : (+61 8) 9483 9483 Fax : (+61 8) 9483 9484 www.pttep.com
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21st July 2014

PTTEP AUSTRALASIA

SUBMISSION TO THE JOINT STANDING COMMITTEE ON FOREIGN AFFAIRS, DEFENCE AND TRADE INQUIRY ON THE ROLE OF THE PRIVATE SECTOR IN PROMOTING ECONOMIC GROWTH AND REDUCING POVERTY IN THE INDO-PACIFIC REGION

INTRODUCTION

PTTEP Australasia (**PTTEPAA**) makes this submission to respond to those parts of the submission of the Australian Lawyers Alliance (**ALA**) that are factually incorrect or consist of unsubstantiated claims concerning the damage allegedly caused by the Montara oil spill incident on 21 August 2009.

PTTEPAA has accepted accountability and responsibility for the mistakes that were made leading to the incident, and deeply regrets the incident occurring. The Montara Commission of Inquiry has investigated the incident and a significant monetary penalty has been imposed on the company by the offshore petroleum safety regulator for breaches of our duty of care to personnel. No Australian environmental laws were broken by PTTEPAA. PTTEPAA has not sought and does not seek to 'escape liability' for its actions, as suggested by the ALA.

What is overlooked or ignored by the ALA is the important difference between the occurrence of the incident and proving its consequences. PTTEPAA has always acknowledged that some Montara weathered remnant oil entered Indonesian waters, but the position remains that there is no verifiable evidence that any oil reached the Indonesian shoreline and no verifiable scientific evidence that it impacted any resources or on the extent and effects of any such impact.

The ALA's submission contains a number of speculative and misleading comments about the alleged consequences of the incident and the response by PTTEPAA. These allegations include that PTTEPAA:

- 1 caused significant and severe economic loss in the Indo-Pacific region;
- 2 caused broader social and health implications;
- 3 conducted inadequate oil spill trajectory and failed to undertake further research; and
- 4 has failed to pay compensation for loss and damage sustained in the Indo-Pacific region.

The information that the ALA seeks to rely upon is not evidence of the cause of any of the alleged damage or loss, and the making of adverse comments about PTTEPAA's conduct on the premise that the causative link exists where it does not and in the absence of all the facts is reckless.

PTTEPAA's responses to the specific allegations are set out below.

Significant and severe economic loss in the Indo-Pacific region

The ALA has alleged that following the incident, East Nusa Tenggara in the Indo-Pacific region has suffered losses of AU\$1.5 billion per year due to reduced yields from seaweed farming and fishing industries.

This allegation assumes that Montara oil impacted on the seaweed farms and fishing areas of East Nusa Tenggara and all of the calculated losses in the region resulted from that oil. It appears from the ALA's earlier submission that it relies on a report of Dr Mukhtasor of the Indonesian Centre for Energy and Environmental Studies to support this claim.¹ However, a copy of this report was not provided with the ALA submission and the news article referred to by the ALA does no more than repeat the claim. The claim lacks credibility in the absence of the ability to subject the underlying methodology and evidence to any scientific scrutiny.

No verifiable evidence has been presented to support the claimed reports from Indonesian communities that oil was seen in fishing grounds, waves of milky oil washed up on the coast and the seaweed and fishing industries have been affected.

In contrast, there is a credible body of scientific evidence including surveys and studies that have been carried out by PTTEPAA in conjunction with the Australian Government that critically establish that:

¹ Australian Lawyers Alliance, Submission to Senate Foreign Affairs, Defence and Trade Committee, *Inquiry into Australia's overseas development assistance program*, 3 February 2014.

- 1 no oil reached the Indonesian coast or had any impact on Indonesian shorelines or inshore waters;
- 2 the presence of the strong Indonesian through flow current minimised the chance that any oil reached Indonesia's coastlines;
- 3 the nearest detectable hydrocarbons to the Indonesian coastline were more than 90km from the shore; and
- 4 98% of the areas affected by the oil remained within Australian waters.

In addition there is evidence that large scale damage to seaweed farms in Indonesia was occurring long before the incident and there was no long term adverse effect of exposure on the health of Timor Sea fish following the incident.²

Broader social and health implications

The ALA's claim that the incident has also contributed to a number of broader social and health problems, including a loss of education, respiratory and skin conditions, severe food poisoning requiring hospitalisation and suspicious deaths, relies on an unproven causation link.

No verifiable evidence has been presented to support any such impacts on Indonesian health and society.

Oil spill trajectory and further research

The ALA claim that the research carried out by PTTEPAA regarding the "*projected movement of the oil was not sufficiently comprehensive to be relied on by the Australian government as satisfactory*" and no further efforts to "*follow the oil to Indonesia and Timor Leste and investigate its reach and impact*" have been made since the Montara Commission of Inquiry.

These claims are vague and inaccurate.

The oil spill trajectory studies performed on behalf of PTTEPAA utilised all available information, including aerial surveillance reports and photography, recorded observations from vessels and the media, satellite imagery, tidal, wind and dispersant data sets.

² Gagnon MM, Rawson C (2011). *Montara Well Release, Monitoring Study S4A – Assessment of effects of Timor Sea fish*, Curtin University, Perth Australia, [68].

The ALA did not reference or explain the claim regarding the Australian Government's reliance on the oil spill trajectory research. PTTEPAA notes that the Inquiry did acknowledge the impact of the vast and remote area affected by the spill and the absence of solid reliable baseline data on species and ecosystems on assessing the spread of the oil.

PTTEPAA took steps to obtain additional data from within Indonesian waters. Requests by PTTEPAA after the incident to allow scientific studies and sampling to be undertaken in Indonesian waters alleged to have been impacted were, however, rejected. More recently, PTTEPAA has been endeavouring to agree with the Indonesian Government to undertake further surveys and studies in Indonesian waters; however these proposed arrangements have not been able to be finalised.

The Montara independent long term environmental monitoring program, commissioned by PTTEPAA, began immediately after the incident in November 2009 and will be completed by the end of 2014. It is one of the most extensive environmental monitoring programs of its type ever undertaken in Australia, and includes a series of independent scientific studies by leading marine research institutions. The results of these studies are publically available and published on the Department of the Environment Website.³

No verifiable evidence has been presented by the ALA that challenges the research undertaken by PTTEPAA and the findings on the reach and impact of Montara oil.

Compensation for the alleged loss and damage suffered in the Indo-Pacific region

The ALA's claim that PTTEPAA has not paid compensation to Indonesian communities claiming to be affected by the Montara incident again assumes that it has already been established that Montara oil caused the claimed damage and loss and PTTEPAA is under an obligation to make such payments.

PTTEPAA has appropriately accepted the costs of responding to the incident and has invested substantially in the clean-up recovery and long term environmental monitoring program.

The Macondo oil spill

The ALA seeks to draw a comparison between the responses of PTTEPAA and BP Plc regarding the Macondo oil spill in the Gulf of Mexico in 2010.

³ <http://www.environment.gov.au/coasts/oilspill/scientific-monitoring.html>.

Such a comparison is inappropriate and misleading. The circumstances of the Macondo spill were dramatically more extensive and severe than those of the Montara incident. In addition to regulatory and legal differences, there are numerous factual differences that make any attempted comparison inherently flawed, including:

- the oil leak rate of the Macondo spill was approximately 50,000 barrels per day, compared with the incident rate of approximately 400 barrels per day;
- the amount of oil released in 12 hours following the Macondo spill equalled the entire cumulative volume of the Montara incident over 74 days; and
- 885km of shoreline was impacted by oil as a result of the Macondo spill whereas no oil reached the coastline of either Australia or Indonesia.

Conclusion

PTTEPAA has been open and transparent on the impact of the Montara oil spill. It has cooperated fully with the Australian Government in undertaking the recovery processes and in assessing the immediate and longer term environmental impacts. PTTEPAA disagrees with the assertions made in the ALA submission to the Inquiry for the reasons set out above. The ALA submission relies on unproven causation links and provides no credible evidence to substantiate the alleged damages claims.

Submitted for and on behalf of PTTEP Australasia

Ken Fitzpatrick
Chief Executive Officer

21/7/14

