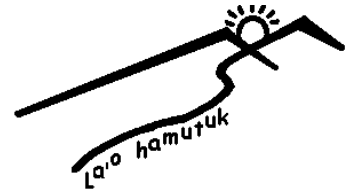


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**Submission to the
National Directorate for Environment
Democratic Republic of Timor-Leste**

**From
La'o Hamutuk**

**regarding the
Environmental Impact Assessment**

**for the
Proposed Exploratory Drilling Campaign
in Block K, offshore Timor-Leste**

**to be conducted by
Reliance Exploration & Production DMCC**

30 June 2010

Introduction

As a civil society organization which has worked for ten years to help ensure that petroleum development in Timor-Leste is conducted for the benefit of our people, La'o Hamutuk appreciates the opportunity to participate in this public consultation. Drilling for oil, especially in ultra-deep offshore waters, is one of the most challenging and risky activities which has ever been undertaken in Timor-Leste, and we hope that our submission helps the National Directorate for Environment (DNMA) and the National Petroleum Authority (ANP) make wise decisions which represent and protect the wishes, needs and rights of the people of Timor-Leste. This is critical not only to safeguard our environment for future generations, but to ensure that Timor-Leste's nonrenewable resources are exploited for the maximum benefit of our citizens.

For all EIA consultations, DNMA and Reliance should make it possible to involve more local and international expertise. Stakeholders should be defined broadly, beyond DNMA's current list or the brief list of stakeholders in part 4.8.7 of this EIA. They should include multilateral projects like the Coral Triangle Initiative; international NGO groups involved in Timor-Leste such as the CTSP consortium; agencies like UNEP, UNDP, the World Bank, NAPA; local leaders and civil society groups in potentially affected local communities, fisherpeople, and others. Any consultation should allow stakeholders at least one month to analyze the EIA, which should be provided in Tetum as well as English, and in electronic form as well as paper.

This submission will focus primarily on the following topics:

DNMA should not approve this document.....	1
Reliance misunderstands DNMA's role.	2
Reliance has created a conflict of interest in Timor-Leste regulation.	3
This EIA is not specific, and Reliance should rewrite it.....	4
This EIA includes much outdated, vague or inaccurate information	5
The danger of huge oil spills and other accidents must be seriously considered. ...	6
Disposal of toxic and solid waste should be specified and planned.	8
Other observations	8

DNMA should not approve this document.

According to the law¹ under which this consultation is being conducted, an Environmental Impact Assessment (EIA) must include plans to manage and mitigate both normal and unintended environmental consequences of the activity under discussion. For reason which we explain below, we believe that this document does not demonstrate the capacity, the intention or the specific actions which are necessary to ensure that this test drilling, 2,800 meters deep under a 1,246 meters of seawater, will be managed in a way which does not unduly endanger Timor-Leste.

The EIA must include more than a general discussion of environmental risks or industry practices, but must spell out Reliance's specific plans for this project (including mitigation of environmental damage), express the company's commitment to implement them, and provide enough information for the plans to be evaluated. The "Environmental Monitoring Plan" in Chapter 8 is full of descriptions of

¹ Indonesian Environmental Impact Assessment (AMDAL) Law No. 27/1999.

what a generic EMP is, but without specific commitments of what Reliance will do during this project. Much of it relates to a seismic or mobile operation, rather than a vessel at a fixed location.

La'o Hamutuk does not believe that this EIA demonstrates that Reliance understands the risks, takes the responsibility, and has the capacity to conduct this exploration for the benefit of Timor-Leste's people. Therefore, we urge DNMA to reject this plan, and to order Reliance to rewrite it, correcting the deficiencies and filling in the gaps which are identified below. When Reliance submits a new EIA, DNMA should hold another public consultation before allowing this project to proceed.

When Reliance Industries Ltd. (doing business here as REPD MCC – Reliance Exploration and Production Dubai Multi Commodity Centre) proposed to conduct a 2D/3D seismic survey in Block K in 2008, La'o Hamutuk made a submission² which observed that “The proposed Emergency Response Plan contains contradictions and downplays significant dangers. It postulates an emergency response capability that does not exist in Timor-Leste and prevents timely public information.” We pointed out that “The proposed Environmental Plan contains internal contradictions and dismisses many risks as negligible rather than seriously trying to reduce them.” Sadly, Reliance seems to have learned little from this process, and the same flaws exist in the current document. However, because the potential negative impacts of drilling are infinitely worse than from a seismic survey, we urge DNMA to enforce a higher regulatory standard and reject the document in its current form.

Reliance misunderstands DNMA's role.

La'o Hamutuk is concerned that Reliance neither understands nor respects the role of DNMA to protect the environment, and underscores that DNMA has the moral and legal responsibility not to approve a project which creates excessive environmental risk. DNMA is a regulatory authority, not a rubber stamp or a mere box to be checked.

Section 2.4 (p2.6) of the EIA misrepresents the law³ and states that the DNMA “must issue a *permit* to carry out exploratory drilling within 75 days of receiving the proposed EIA, the proposal is deemed otherwise to be environmentally acceptable” [if no permit is issued]. However, the actual law requires DNMA to issue a *decision*, not a *permit*, within 75 days. DNMA could decide to accept the EIA, to reject it, or to send it back to the proposer with instructions for revision. If the EIA is not adequate, DNMA has the obligation not to approve it. If Reliance resubmits a revised plan, the 75-day cycle starts again.

However, DNMA itself is not clear about its role. Appendix I to the EIA is a November 2009 letter from the Director of Environment approving Reliance's proposed Terms of Reference for this EIA. DNMA has been unable to provide this document to La'o Hamutuk (and EIA author Ecoral has refused to),

² Available at <http://www.laohamutuk.org/Oil/Project/LHSubmissionRelianceSeismicEn.pdf>

³ Peraturan Pemerintah No. 27 Tahun 1999. Tentang : Analisis Mengenai Dampak Lingkungan Hidup (Indonesian Reg. 27/1999, Article 20), states: **Pasal 20**

(1) Instansi yang bertanggung jawab menerbitkan keputusan kelayakan lingkungan hidup suatu usaha dan/atau kegiatan sebagaimana dimaksud dalam Pasal 19 ayat (2), dalam jangka waktu selambat-lambatnya 75 hari kerja terhitung sejak tanggal diterimanya dokumen analisis dampak lingkungan hidup, rencana pengelolaan lingkungan hidup, dan rencana pemantauan lingkungan hidup sebagaimana dimaksud dalam Pasal 18 ayat (2).

(2) Apabila instansi yang bertanggung jawab tidak menerbitkan keputusan dalam jangka waktu sebagaimana dimaksud pada ayat (1), maka rencana usaha dan/atau kegiatan yang bersangkutan dianggap layak lingkungan.

Translated “The responsible government agency will issue a *decision* on environmental worthiness of a business and/or activity as described in Article 19.2 within 75 working days after receiving the environmental impact analysis, the environmental management plan and the environmental monitoring plan as described in Article 18.2.”

making it impossible for us to know if some of the deficiencies in Reliance's EIA were authorized in advance by DNMA. In the future, the TOR should be distributed to stakeholders along with any proposed EIA, so that suggestions can be made to DNMA as well as to the company.

Reliance has created a conflict of interest in Timor-Leste regulation.

We believe that, through its activities in Timor-Leste, the Reliance company and one of its (former?) staff has demonstrated a disregard of ethical business practices which makes it impossible for ANP to effectively regulate Reliance activities in Timor-Leste until that conflict of interest is removed. Reliance hired the brother of a former Reliance employee, currently ANP Manager for Environment, to prepare this EIA. We do not think that a person whose immediate family is receiving remuneration from Reliance can impartially perform his regulatory responsibilities.

The following sequence of events gives the appearance that Reliance, together with Awinash Dulip, may be unethically attempting to influence the regulatory process in Timor-Leste. This conflict of interest must be removed before ANP can do its work objectively, and before any regulatory approval is given to Reliance to proceed with this project. Here are the facts:

1. Awinash Dulip, an Indian citizen, has represented Reliance in Timor-Leste since 2006 or 2007. In mid-2009 began working for ANP as manager for the Environment. Although ANP was prioritizing hiring Timorese staff, the Authority hired a foreign national for that position. At that time, Awinash Dulip told La'o Hamutuk that he was no longer connected with Reliance.
2. Awinash Dulip's younger brother Ravindra came to Timor-Leste in 2008 or 2009 to look for possible work for his Texas (USA)-based company E/Coral (or Ecoral) Technologies in the energy sector. On 27 August 2009, using the name Ravindra Motiram, he registered Ecoral Technologies Lic, Lda as an engineering consultancy based in Delta Comoro. The company declared capital assets of \$10,000 and zero national or foreign employees.⁴
3. In November or December 2009, Reliance Industries Limited "engaged M/s Ecoral Technologies, a local consultant registered in Timor-Leste for preparing the EIA consultation and documentation."⁵

According to the ANP,⁶ "Based on the current portfolio of the Secretary of State for Environment, it has been decided that the ANP will not be the responsible entity for reviewing and approving environment related documents for oil & gas activities within TLEA and onshore Timor-Leste." However, ANP has primary responsibility for supervising and regulating petroleum-related activities in Block K,⁷ and we are concerned that one of their key staff members seems oblivious to this conflict of interest.

In our 2008 submission⁸ on the proposed decree-law to establish ANP, La'o Hamutuk wrote "There would be no need for laws if everybody was well-intentioned and performed their tasks flawlessly – the purpose of conflict-of-interest legislation is to help ensure that human greed or fallibility do not

⁴ Timor-Leste Business Registry.

⁵ Letter from Arvind Kumar, Reliance, to Cristovão da Costa Pereira Martins, Chief of EIA in DNMA, 11 June 2010.

⁶ ANP Annual Report for 2009, page 45.

⁷ According to the preamble of ANP Decree-Law No. 20/2008, the ANP is created "to establish and supervise compliance with the enacted rules and regulations covering the exploration, development, production, transportation and distribution of petroleum and natural gas resources."

⁸ Submission to the RDTL State Secretariat for Natural Resources from La'o Hamutuk regarding the draft decree-law to establish a National Petroleum Authority, 10 June 2008, available at <http://www.laohamutuk.org/Oil/PetRegime/NPALaw/LHSubNPAJun08.pdf>.

cause serious consequences for the people and the State. Article 7.9 takes a small step toward preventing conflicts of interest, but a much deeper, more comprehensive approach is needed. Timor-Leste should have a government-wide conflict of interest code... In addition to prohibiting involvement with businesses whose interests overlap their regulatory duties..."

Unfortunately, our recommendations were not adopted and the ANP Decree-Law only says "The members of the Board of Directors shall not have any financial interests or holdings in undertakings in the regulated sector while they are in office and for the period of one year after they cease to be board members." We believe that action must be taken to avoid conflicts of interest by ANP staff members who receive benefits from regulated companies, and this is a case in point.

This EIA is not specific, and Reliance should rewrite it.

It is impossible to assess the environmental impact of a project or to make response plans without specific information about the subcontractors, vessels and technologies to be used. These documents don't even designate the type of vessel (floating drillship, "usually" with a double-hulled design, or semi-submersible)⁹ to be used, let alone the name of the drilling contractor or the specific ship. This information is essential to a meaningful EIA, and the document should not be approved without it. In fact, these documents read more like a collection of "cut-and-paste" sections from a general introduction to offshore drilling than a description of this specific project.

This document is intended to include *plans* for minimizing and managing environmental impacts (page I.1 and the titles of several chapters), and not only an assessment. A plan must include the specific actions and commitments Reliance will take for this particular project; it is not a general treatise of the environmental aspects of offshore drilling.

Phrases like "in a typical scenario, wells are drilled..."¹⁰ or "the significance of flaring depends on the quantities of gas"¹¹ are not specific and cannot be measured. Sentences like "drilling will be conducted to restrict the flaring operation to the amount necessary to characterize the well potential" are unenforceable.

Much of the EIA appears to be recommendations to Reliance, rather than commitments from them, using phrases like "it is important that ..." instead of "Reliance will ensure that ...".

Drilling is far more dangerous than seismic surveys, and requires a higher level of regulatory certainty because its environmental footprint and risks are much greater. This well is particularly risky because it will extend more than 4,000 meters below the surface of the sea. It is comparable to the Deepwater Horizon test well in the Gulf of Mexico, and far deeper than any wells drilled so far in the JPDA or in Timor-Leste's exclusive area. We are concerned that Reliance is unable or unwilling to name the drilling contractor and rig, given that they contract with Transocean (owners/operator of the Deepwater Horizon) for all their other Asian operations.

The drilling contractor will have major responsibility to control and respond to environmental issues. In the Environmental Management Plan, Table 7.3 assigns many critical responsibilities to the OM or OIM (Offshore Installations Manager), who is not a Reliance employee. Section 7.2 of the EIA says that "The drilling contractor will have their own environmental management procedures," but DNMA and

⁹ These examples from sections 3.1 and 3.3.1 of the draft EIA illustrate the lack of detail which pervades every page.

¹⁰ EIA, section 3.3.1.

¹¹ EIA, Table 3.4, Atmospheric Emissions row.

others cannot evaluate Reliance's EMP without knowing who the contractor will be and what their plans are.

The EIA also declines to state whether Water-Based Mud or Synthetic-Based Mud will be used, even though Section 5.2.2.1 includes a tutorial about these options. It is difficult to assess environmental impact or management plans without fundamental information.

This EIA includes much outdated, vague or inaccurate information

The EIA's pervasive lack of accuracy and inattention to detail raise questions about whether they should be entrusted with the risks of conducting a drilling project. Here are a few examples:

- Sometimes this well is considered inside the JPDA (section 11.8.1) and other parts of Chapter 11.
- There are repeated references to "draft" legislation without specifying what it is (p.2.4-2.6)
- Timor-Leste's struggle for independence, is misrepresented, showing a disrespect for the country's sovereign rights: "East Timor ... continues to suffer the aftereffects of a decades-long independence struggle against Indonesia, which damaged infrastructure and displaced thousands of civilians." (section 4.1.1). This denies both the illegal invasion and occupation and hundreds of thousands of Timorese people who Indonesia killed.
- The "Timor Gap" is not the former name for the Timor Sea (4.8.6), but a space in a seabed boundary line.
- The seabed ecosystem at Bayu-Undan, less than 140 meters deep, is considered relevant to the current well which is in water more than 1,100 meters deeper.
- The map of crocodile sightings (4.6.8(b)) contains no time period and shows only four locations, implying that these animals are rare.
- The map of seaports in Figure 4.23 is attributed to La'o Hamutuk, but we never made such a map.
- The budget information from early 2008 attributed to La'o Hamutuk (page R.10) is actually from UNDP, as stated on our website. It is several years old, in which time the State Budget has increased five-fold.

Much of the socio-economic data is from before the restoration of independence eight years ago or other dubious sources, and not accurate. The socio-economic impact assessment is meaningless without a credible baseline which applies to the situation at the time the project is started. For example:

- Sections 4.8.1-4.8.2, 4.8.6(a-b) cite the 2002 National Development Plan, but much better information about health and education is now available.
- There is no daily Silkair flight from Singapore, as stated in 4.8.4(b).
- The port at Com has no cargo handling capability (4.8.4(c)).
- Timor-Leste is not 83% Catholic (as stated in figure 4.24, but 96% according to the 2004 Census).
- The nine "inheritances" listed in 4.8.5(d) are a small sampling of the places of historical or spiritual value.
- Coffee exports, which totaled only \$8 million in 2009, are not "the main source of Timor-Leste economy" (4.8.6).
- The \$1.8 billion in the Petroleum Fund in 2007 (4.8.6) is irrelevant to today's balance of nearly \$6 billion.
- We share the dream of 4.8.6(f) that "Timor-Leste is now eradicating the poverty of its people by providing and stimulating earning opportunities" but don't think it reflects today's reality, with poverty markedly increasing between 2001 and 2007.

The report also downplays known environmental impacts. For example, Table 5.1 says that "CO₂ is believed to contribute to climate change" and CH₄ "indirectly" contributes to climate change. It also asserts that Flaring for well testing "would be relatively short-lived" (5.1), implying that it is negligible.

On the other hand, it overstates the "direct boost to jobs and the economy from the drilling campaign" (6.7), which is likely to be extremely small.

The danger of huge oil spills and other accidents must be seriously considered.

During the past nine months, two major blow outs have occurred, a consequence of the increasing amount of deepwater offshore oil drilling, and the complacency which has afflicted much of the petroleum industry. We hope that Montara and Deepwater Horizon are a wake-up call to other petroleum and drilling companies, but this document indicates that Reliance is still asleep.

For example, table 5.3 lists major oil spills only in the Timor Sea, while section 5.2.3.1 states that "the probability of this happening is extremely small. Reliance states (6.3.5, p.6.20) that "fish can generally avoid the polluted area," but spills can spread hundreds of kilometers from the well, more than far enough to pollute Timor-Leste's coast.

The discussion of blowouts in 11.2.2 seems designed to persuade the reader that they won't happen, rather than prescribing measures to prevent and control them. It cites outdated statistics from 1973-1993, before ultra deepwater drilling was common, and assumes that Montara is the worst possible outcome. Deepwater Horizon, an exploration well like this one, is far worse.

The discussion of the possibility of a major spill in 6.3.5 downplays the danger, such as citing ">10,000 liters" as a large spill, when actual recent accidents such as Montara spilled more than ten thousand times as much oil, and affected areas further from the well than the 112 km from the proposed Reliance well to Timor-Leste's coast. The Deepwater Horizon spill, still not under control, has travelled more than 1,000 km and spilled at least 150 million liters – it is currently leaking eight million liters every single day, 800 times the "large" spill described in the EIA.

In the modeling described in section 11.7, the worst-case blowout is assumed to be 7,000 m³ "considering the type of Gulf of Mexico blow out in May 2010." But that accident has released about 1,000,000 m³ already and is still out of control, dumping 6,000 m³ more *every day*.

The paper discusses spills caused by war (11.2) and on land (11.6) (irrelevant to the current project) and tanker accidents, perhaps to show that "it could be worse."

Section 11.4.1 on "oil movement" ignores the recent discovery of mid-sea "plumes" which are complicating mitigation of the Deepwater Horizon spill. Such plumes would probably occur if this well experienced a similar event, since the proposed test well location in TLEA Block K and the Macondo Prospect are similar in depth and temperature.

The prevailing currents from Block K during most of the year are toward Australia, and therefore appropriate Australian authorities may be concerned about accident mitigation, even though Block K is outside of their jurisdiction. Have Reliance or DNMA consulted with them?

According to section 11.3, "there are no other (environmentally) sensitive locations along the southern coast of Timor-Leste" than those which are "yet to be declared," Nino Konis Santana National Park, and all "the coastal waters surrounding Timor-Leste" which are included in the Coral Triangle. In other words, the entire coastline is environmentally sensitive, yet this "Plan" does little to protect it.

We assume that the "Oil Spill Contingency Plan" referred to in 5.2.3.1 is the same as the "Oil Spill Response Plan" in chapter 11. However, it is far from adequate. In addition, the "mitigation of impacts from spills" section 6.3.4 (p 6.23-24) is very general and not likely to be effective.

Many sections (such as the last entry on page 7.21) mention reporting to ANP and DNMA when there is an accident. As we know, these agencies do not have the capacity to respond effectively, and we hope Reliance and its drilling contractor will not rely on them. Section 11.8.5 states that "Since there is no National Oil Spill Contingency Plan in Timor Leste, ANP may take a lead and work with REPDACC to combat the oil spill." This raises the question of when ANP, DNMA or other Timor-Leste authorities will develop such a plan, which should be in place before new oil operations are approved. We also wonder about the capacity of ANP and other state agencies to respond in the event of a spill, given the severe lack of procedures, experience, equipment and supplies.

Several parts of the EMP, including section 11.8.6, indicate that support from Oil Spill Response Limited (OSRL) will help prevent serious consequences from a major accident. However, OSRL was involved since the first day of both the Montara and Deepwater Horizon accidents. Montara took ten weeks to bring under control, and Deepwater Horizon continues to spew toxic oil more than two months after it started. Although OSRL may have helped limit them from being even worse, it was not able to prevent vast areas of sea and shoreline from being contaminated.

Other points of the Management plans are so general or poorly-thought-out that they will be impossible to implement or enforce:

- Blowout preventer installation and operations are so undefined and left to the unnamed subcontractor as to provide little assurance that this well will be well-protected. ("Loss of Well Control and blow out" in table in section 7.4, page 7.18)
- The computer models which "can be used to predict the probable movement of spilled oil" (11.4.1 and 11.7) need to be revised in light of recent experience.
- The "combat techniques" described in section 11.5 are generic, rather than specific to this location and project. As such, they cannot be considered a "plan."
- Will enough booms, skimmers and dispersants discussed in 11.5.2 and 11.5.3 be kept on site? If more are needed, where can they be quickly brought from?
- The response operations discussed in 11.8.7 assume that the ships and personnel are intact. However in recent major accidents, drilling rigs have been evacuated and/or personnel have been killed. Plans should be prepared to deal with this unfortunate possibility.
- The "Emergency Response Plan" (10.4, page 10.7) is a list of emergency scenarios, personnel and notifications, accompanied by a statement that Reliance "will prepare a project specific Emergency Response action plan ... prior to commencement of the exploratory drilling campaign." This plan should be part of the EIA/EMP prior to its approval, and not be delayed until a later phase of the project for Reliance to do by itself.
- The "Oil Spill Response Plan" in Chapter 11 omits essential details, acknowledging that its general comments "are only a proposed plan and prior to start of the drilling operations, project specific oil contingency plan should be prepared" (section 11.1, page 11.2). DNMA should not allow Reliance to proceed with the project until such plans have been prepared and approved, following public and stakeholder consultation.
 - For example, section 11.8.3 says "it is advised that REPDACC utilize a tier 1 package which includes ..." and 11.8.4 says "It is recommended that the supply vessel and standby vessel should have minimum of 2 drums..." A plan is not advice, it is a commitment to take specific action.
 - The "Spill Response Kit" in Appendix D of Chapter 11 mentions "a typical offshore supply vessel" with a kit which "normally contains" certain items for containing a Tier 1 accident.

This needs to be a requirement and commitment, not a description of what sometimes is done by others.

Disposal of toxic and solid waste should be specified and planned.

The report correctly notes that Timor-Leste has no satisfactory waste disposal infrastructure (section 9.3, page 9.6 and 9.9). However, it is unclear about what will be done with oily residues (5.2.1) and other streams of toxic or non-biodegradable waste.

Section 11.8.6 points out that recovery from a major spill will produce waste which “may be taken to Darwin” with Australian government approval and suggests that ANP/DNMA “request the Australian government for the same.” We believe that Reliance (with support from Timor-Leste authorities if necessary) should arrange for such approval before this EIA/EMP is accepted by DNMA, and before any drilling operations are allowed to proceed. If not, we risk being involved in a scenario like the *Trafigura* disaster in Côte D’Ivoire.

LH raised this concern in our 2008 report on Sunrise LNG: “A Pollution Control Law ... needs to be detailed on requirements for waste disposal and treatment of various types of waste, so that regulatory and monitoring bodies can enforce it, and public and private waste disposal and treatment facilities can be developed.”¹² Unfortunately, little progress has been made on implementing the legal framework or infrastructure to manage toxic materials safely, which will become an even greater problem when heavy oil power stations begin operation.

Other observations

Foreign workers on the rig should be required to clear Timor-Leste immigration procedures at the airport before being deployed (“Influx of foreign worker at the logistic support points” table in section 7.4, page 7.17).

Employment opportunities in the same table should be more than simply to “train local workers” but should include hiring, apprenticeships and internships for Timorese workers. Reliance could begin these activities at projects in India and elsewhere, with an eye to having a more experienced Timorese workforce when their projects like Block K continue and expand.

¹² Recommendation 12 in La'o Hamutuk (2008): *Sunrise LNG in Timor-Leste: Dreams, Realities and Challenges*