

Compendium on proposed licensing for gas exploration in Cardigan Bay

A report by Save Our Sea on the threat to the bay and the campaign to stop it

December 2006



CONTENTS

DOLPHIN'S THREATENED BY 'BIG OIL'	3
SAVE OUR SEA.....	6
OVER-VIEW OF LEGAL SITUATION	8
CAMPAIGN SO FAR	9
CURRENT SITUATION.....	10
APPENDIX 1 – SOS RESPONSE TO THE DRAFT APPROPRIATE ASSESSMENT	11
APPENDIX 2 – COUNTRYSIDE COUNCIL FOR WALES RESPONSE TO THE DRAFT APPROPRIATE ASSESSMENT	12

To contact S.O.S

Friends of Cardigan Bay: Lorraine Hill – 01970 820130, loli@beeb.net

Ceredigion Green Party: Leila Kiersch – 01974 261340, leila@atac.fsnet.ac.uk

Correspondence should be sent to:

S.O.S
Brynhyfryd,
Llanfihangel –y– Creuddyn,
Aberystwyth, SY23 4EH

Dolphin's threatened by 'Big Oil'

Article published in ElfLine – the journal of the Environmental Law Foundation, September / October 2006

Cardigan Bay is a beautiful and wildlife rich bay that stretches along most of the west coast of Wales. The bay is home to bottlenose dolphins, harbour porpoises, Atlantic grey seals, sea and river lamprey and has many other species and features of both national and international importance. Seasonal visitors to the Irish Sea include leatherback turtles, basking sharks, and migrating whales. The bay attracts many thousands of visitors each year due to both its scenic beauty and wildlife.

Cardigan Bay is partly designated as a Special Area of Conservation (SAC) following protests about exploratory surveying for oil and gas in the Irish Sea some 10 years ago. The threat of oil and gas exploration has returned again with the Department of Trade and Industry's announcement of the 24th round of offshore oil and gas licensing. The entire bay has been included in Strategic Environmental Assessment 6 (SEA 6), which considered the implications of exploratory licences being sold by the DTI over a massive area of the coast around west Britain.

Ceredigion Green Party and Friends of Cardigan Bay joined forces and formed a group called S.O.S (Save Our Sea) in response to this renewed threat. The consultation about the licensing round has so far not ruled out licences being granted in the SAC, although the areas are in theory protected by the Habitats Directive. Any proposed project's impacts have to be assessed by following the recommendations in Article 6 of the Habitats Directive and Regulations 48 and 49 of the Conservation 1994 Regulations. Licences have been applied for which infringe on the SAC but the details of these will not be announced by the DTI until Autumn 2006 following the completion of Appropriate Assessments (AA). Appropriate Assessments may detail certain requirements that companies will have to comply with whilst working in an area.

Statutory agencies, whose role it is to safeguard SACs, consider AAs to be sufficient protection from the potential impacts of allowing licences to be granted. The statutory agencies have therefore not recommended that the SAC should be excluded on conservation grounds, although non-governmental organisations such as the Whale and Dolphin Conservation Society and the RSPB have recommended their exclusion. The potential for the disturbance of marine wildlife, for disastrous

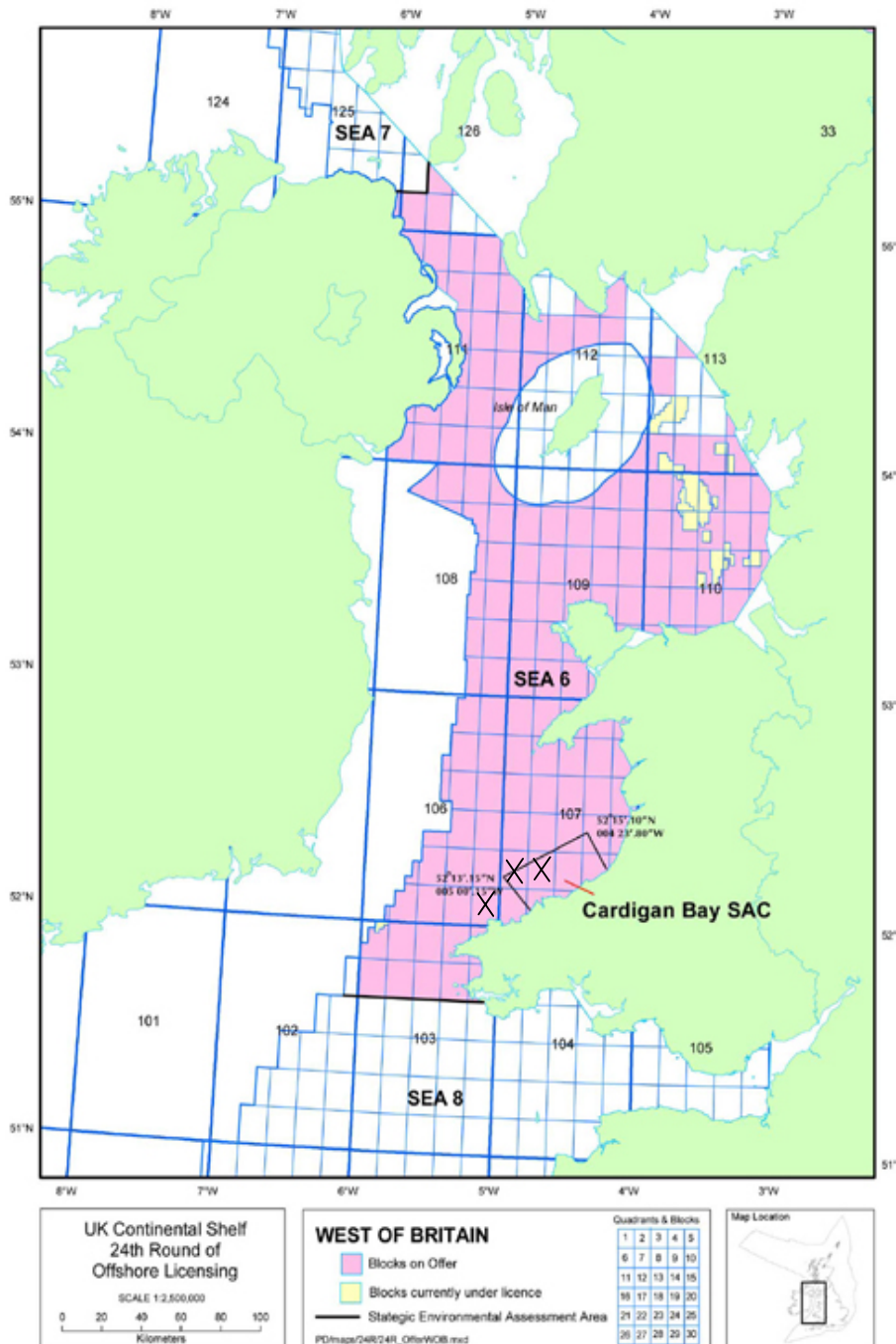
spills and leakages, and a marked increase in boat traffic will undoubtedly have a negative impact not only on the SAC but also on the local tourist-based economy. The DTI's response to NGO's concerns has been to summarily dismiss them by saying that AAs will act as sufficient safeguards. Interestingly, we understand that they have allowed companies to apply and purchase licences before the AAs have been carried out, suggesting that there is an assumption that licences will be granted before the environmental impact of the proposals had been assessed. Following the news in June 2006 that Cardigan Bay had not been excluded by the SEA process, ELF was approached by one of the members of SOS who happened to have a book written by ELF that had been left behind at a Green Party conference. Their referral service quickly found a suitable lawyer. Following a consultation SOS is currently considering the best course of action. If the group choose to take the battle to the courts the financial implications are huge. Like many ELF clients those involved in the campaign have nothing to gain financially themselves, only being concerned with stopping the despoiling of a special ecosystem.

One of the many objections put before the DTI is that the granting of licences for oil and gas exploration does not fit with the government's own Climate Change objectives. There is a political consensus that the UK should be moving away from dependence on fossil fuels, due to their finite nature and contributions to climate change. The opening up of offshore areas to encourage increased production of the UK's own fossil fuel reserves shows scant regard by the government for the need to develop alternatives. Searching questions now have to be asked as to why the government is investing money into developing marginal reserves of oil and gas and not investing more into promoting viable alternatives, including seriously researching the possibility of decentralising energy supply, extensive work on reducing consumption, and moving away from the corporate control.

The concerns about how difficult it is to have an area excluded from licensing are well surmised by the following submission by WWF to the SEA: [It is] *"Difficult to find an instance in the SEA process where NGO concerns have actually prompted an area to be deemed 'off-limits' to development. The ... consultation process seems to lack opportunities to truly influence decision making."*

(SEA6 Post-public consultation Report, DTI, March 2006)

The wider implications of the DTI's refusal to exclude SACs from the licensing round would seem to suggest that nowhere is safe from the hunt for fossil fuels. Energy Minister Malcolm Wicks has written to members of SOS saying that licences can be granted where this is in the public interest. If halting climate change is not an over-riding public interest – then what is?



Map of SEA 6: Area on offer (pink shading) and position of SAC. X marks blocks where applications for licences have been made.

Save Our Sea

Save our Sea - S.O.S formed after an open forum was initiated by Ceredigion Green Party who were concerned about the potential for renewed exploration for oil and gas in Cardigan Bay. At the open forum the SAC officer, Annalisa Bianchessi explained about the richness of wildlife within the bay and the rare habitats included within it. Not one person within the forum was in favour of licences being granted, so it was decided to set up a group to lobby against licensing and to investigate if there was a legal means of preventing licences being granted within or close to the SAC.

S.O.S is currently comprised of two local groups, however, at the most recent meeting it was decided that for a matter which was of such major concern it would be essential to engage nationally recognised NGO's.

Current S.O.S participants:

1. Friends of Cardigan Bay – are a local conservation and research group, who formed in 1989 to safeguard Cardigan Bay from any threat.
2. Ceredigion Green Party – initiated the forum that began S.O.S. They first became aware of the proposed licences when a local town council member, Cllr. Marilyn Elson was informed at a New Quay Town Council Meeting.

S.O.S supporters:

1. Cardigan Bay Marine Wildlife Centre – inform, educate and conduct monitoring research on the species found in Cardigan Bay. They are hugely concerned about the proposals for the bay and are therefore happy to inform and help SOS in any appropriate way. They have a public information centre and outreach office based in New Quay.
2. Ceredigion Liberal Democrats – have been campaigning on the issue and are keeping in touch with the group. Ceredigion MP Mark Williams is a Liberal Democrat; he has raised the issue in the House of Commons.
3. We are in contact with Friends of the Earth Cymru, WDCS, and WWF, all of whom support our campaign.

The potential impacts on wildlife have been well documented in the DTI's Strategic Environmental Assessment 6, including the submissions made by various NGO's. The following serious concerns are from a local Whale and Dolphin Conservation society member:

“Exploration for oil and gas can affect wildlife in many ways. The sequence of activities, from evaluation of the resource potential, through exploration, development, production to refining of oil and gas from offshore regions and their potential effects are as follows:

Evaluation:

- Seismic activity causing disturbance / injury to fish and mammals. (This is the major initial concern)

Exploration:

- Rig emplacement leading to seabed disturbance.
- Drilling, leading to noise and discharge of drilling muds.
- Routine rig operations involve deck drainage and sanitary discharges.
- Rig servicing involves disturbance from boat traffic and associated discharges from vessels.

Development and Production:

- Rig emplacement leading to seabed disturbance.
- Drilling, leading to noise and discharge of drilling muds heavier than in exploration phase, and risk of blowouts.
- Routine rig operations involve deck drainage and sanitary discharges.
- Rig servicing involves disturbance from boat traffic and associated discharges from vessels.
- Separation of oil from water leading to chronic discharges of pollutants.
- Transfer to tankers with associated risk of spills.
- Pipeline operations lead to seabed habitat damage and possibility of leaks and spills

Finally, decommissioning works can have serious impacts on the environment if not carefully planned and executed.”

S.O.S are concerned about any licences being granted within Cardigan Bay, and not only just within the SAC. Wildlife doesn't recognise boundaries, climate change is affected by wherever oil and gas are extracted, and tourists to West Wales are going to have the visual disturbance of any future rigs from huge distances plus the quality of wildlife related activities would be impacted. However, S.O.S will be confining the majority of their efforts to preventing activity within or adjoining the SAC because this part of the bay has the most legal protection.

Over-view of Legal situation

The *Environmental Law Foundation* (ELF) has referred S.O.S to Neil Stockdale, a lawyer with Hugh James Solicitors. After some correspondence, in which he examined the publicly available information and documents on the Strategic Environmental Assessment process, he suggested that there would be grounds for taking DTI to Judicial Review.

The grounds for review would be based around whether the DTI had broken Articles 48 or 49 of the Habitats Directive (European) - incorporated into British law as the Wildlife and Countryside Act. These articles specify certain procedures that must be adhered to for any development to be carried out within an SAC. So any Judicial Review will be based on procedural matters, regarding the process of consultation that the DTI has used in determining if it is appropriate to grant licences.

There are two scenarios:

- We can take DTI to court before they grant the licences, but they might tighten up their own procedure, or decide not to grant them to avoid the publicity;
- Or we can wait until they grant licences and then take them, but then we have lost the opportunity of stopping licences beforehand.

The costs of taking the DTI to a Judicial Review are incremental but increasing at every stage. The following are approximate figures:

- Initial letter informing of intention of taking DTI to Judicial review - £500.
- Applying for Judicial Review - £5,000.
- Judicial Review - £20,000 + for our costs, but we could be liable for the DTI's costs (£20,000 – £40,000). We could request that the judge waives the DTI's costs if we were to lose, as we have no financial interest in the outcome of the case.

Clearly, if any court action were to be taken significant sums of money would need to be raised from various sources, and a lot of time would have to be dedicated for it to proceed.

S.O.S wondered if there were any grounds for challenging any decision made 'in the public interest'. Neil Stockdale had explained that Public Interest was a hard point to fight the DTI on – as in whether the public interest is better served by further exploration for fossil fuels than by protecting the wildlife and tourist industry. S.O.S have discussed this and feel that there have been other cases, which we will ask Neil to investigate.

Campaign so far

The local area is on the whole sympathetic to stopping licences being granted. There has been a favourable response to meetings, letters in the local press, and street petitions. So far, SOS has achieved the following.

1. Local coverage - Since the local newspaper, the Cambrian News, first blew the whistle that the DTI was again preparing to grant licences, it has been easy to get in-depth, regular stories. There have been around 10 articles over the last 6 months in the Cambrian News. The Carmarthen Journal has also covered the story.
2. MP lobbying - Mark Williams MP has been lobbied by various members of SOS before it formed. He has corresponded with Malcolm Wicks (Energy Minister) expressing local concern, and asked questions in the House of Commons. Mark has gone on to arrange a meeting with Malcolm Wicks and some local conservation groups.
3. Petition – A petition, calling on the DTI not to grant licences within the SAC has been collected at two street stalls. Copies have also been distributed to local shops. So far at least 1000 signatures have been collected.
4. Rally – SOS are aiming to organise a rally and flotilla in mid – October to raise the profile of the campaign and gain national press coverage.

We are in contact with the local SAC officer, and SOS members will be attending the next Liaison Group (LG) meeting of the Cardigan Bay Special Area of Conservation (SAC), which is to be held on the 28th of September 2006. The liaison group is organised by the SAC officers, employed by Ceredigion County Council. We are asking that national NGO's attend the meeting and meet with us to discuss the role they can play alongside SOS in the campaign.

Current situation

The DTI announced it would be carrying out an Appropriate Assessment on the entire 24th round. It released its draft AA in November, but left little time to respond. A submission to the draft AA (Appendix 1) was made by SOS and it included a petition of over 1000 signatures against the drilling.

The DTI has, reportedly (Western Mail 25/22/06), delayed the AA process since then – possibly due to the mounting pressure against the proposals. CCW have been included in the SOS lobbying effort and made a strong response to the AA (Appendix 2), accusing the DTI of essentially giving a green light to oil and gas companies for future operations.

SOS is still investigating legal action and has raised enough funds for the first step in the process. The number of supporters for the campaign has grown every week and SOS continues to receive positive publicity in local press.

Appendix 1 – SOS response to the draft Appropriate Assessment

Monday 6th November 2006-12-07

Reference: SOS/06/11/06/1

Response: Appropriate Assessment with regard to the 24th offshore oil and gas licensing round.

Dear Sir / Madam,

Please find enclosed part of an ongoing petition showing 1162 signatories against licences being granted during the 24th round of off-shore gas and oil licensing, in Cardigan Bay (Blocks 10/30, 107/21, 107/22).

Cardigan Bay is a site of national importance and SOS feels that the assurances and mitigations offered by the Appropriate Assessment are not sufficient to ensure that the integrity of Cardigan Bay Special Area of Conservation will not be adversely affected.

There were four areas of particular concern regarding the Appropriate Assessment:

1. The consideration of impacts on marine mammals from acoustic disturbance did not fully assess the cumulative affects of both a prolonged increase in traffic and general offshore activities, combined with infrequent acoustic surveys: these could be considered to be foreseeable consequences of offshore petroleum related activities being consented.
2. The long-term combination of oil spills, acknowledged within the Appropriate Assessment as ‘almost inevitable that some spills will occur’ (page 13), alongside acoustic disturbance on marine mammals.
3. The likely impact of offshore activities on non-mammal species and breeding was not explored within the Appropriate Assessment, although a number of the SACs and SPAs are designated due to the presence of breeding birds and fish breeding areas.
4. There are no mechanisms in place to ensure petroleum activities *in situ* do not cause adverse effects; none of the regulations mentioned are routinely monitored and enforced by bodies outside of the petroleum industry.

We feel that the final Appropriate Assessment should consider in more depth the potential impacts on migrating birds and on bird and fish breeding grounds; the Appropriate Assessment does not fully apply the precautionary principle in areas where a number of risk factors are identified, namely the combined effects of acoustic disturbance with oil spills on the viability of marine mammal populations.

Given the number of risk factors posed by petroleum related activities and the self-regulation of the industry; the vulnerable nature of the Cardigan Bay SAC; and the number of Annex ii (Primary and Qualifying species), SOS recommends that the DTI withholds consent through the Appropriate Assessment for any petroleum related activities within or near to Cardigan Bay SAC.

SOS would welcome any further opportunities to discuss their concerns.

Appendix 2 – Countryside Council for Wales response to the draft Appropriate Assessment

10 November 2006

APPROPRIATE ASSESSMENT OF THE 24TH OIL AND GAS LICENSING ROUND

The Countryside Council for Wales champions the environment and landscapes of Wales and its coastal waters as sources of natural and cultural riches, as a foundation for economic and social activity, and as a place for leisure and learning opportunities. We aim to make the environment a valued part of everyone's life in Wales.

Thank you for consulting CCW on this appropriate assessment (AA) of the 24th Oil and Gas Licensing Round, which we refer to hereafter as the plan. We received the above document on the 25th October 2006. CCW recognises that 'plan-level' AA is a relatively new concept and is not supported by the kind of guidance that is available for project-specific AA. We also recognise that for the time being, assessment of plans of this nature in accordance with Article 6(3) of the Habitats Directive is not required by any UK legislation, either in place or in preparation. Bearing that in mind, we warmly commend the DTI for undertaking this assessment, as we believe that doing so is in accordance with the intent of Article 6(3). Furthermore the AA appears to us to have been carried out in a logical and systematic manner, and for the most part, provides comprehensive coverage of the issues.

Our response deals initially with comments we have on the conclusions of the AA. We then offer some general remarks that we consider to be of importance but that do not relate specifically to our position on the conclusions of the AA.

Comments on the conclusions of the AA

Although CCW agrees with many of the individual findings of the AA we do not agree that the AA has established with sufficient robustness or certainty that the plan will not have an adverse effect on the integrity of any European Site or potential European Sites. In summary our main concerns relate to:

1. An apparent presumption created by the plan in favour of subsequent oil and gas project activities, and the influence of the plan on consenting of subsequent projects.
2. The current absence of any consenting mechanism for seismic survey works in territorial and internal waters.
3. Important omissions from the AA.

We have expanded upon each of these concerns in the paragraphs that follow.

1. Apparent presumption in favour of subsequent activities

The conclusion in the AA that the plan will have no adverse effect on the integrity of any European site to a large extent relies upon the existence of a legal framework that is intended to ensure assessment of individual project activities prior to determining consents. However, it appears to us that the plan represents a form of 'approval in principle' of a number of activities that the AA acknowledges may take place and may have adverse effect on European sites. For example, a 'firm drilling commitment' which can form part of an application for a licence is defined in section 4.2 as 'a commitment to the Secretary of State to drill a well'. Surely this should be 'a commitment to the SoS to apply for a consent to drill a well', otherwise granting a

licence at this stage prejudices future ability to withhold project consent, and thus undermines the main argument in the AA that this plan can be adopted, and licences issued, because all potential adverse impacts can be eliminated at the consenting stage. Similarly there are several places in the AA where assurance is given that the application of regulatory controls can achieve necessary mitigation, but the possibility that application of those controls might result in refusal of consents is generally not mentioned.

Are the DTI able to confirm that the granting of licences at this stage creates no presumption in favour of granting subsequent consents for activities and that potential licence holders will be made aware of this fact? Otherwise it would appear that the issue of licences as a result of this plan could unduly influence project-specific decisions. We are mindful in this context of the judgement of the European Court of Justice in case C-6/04 (especially paragraph 55) and of the opinion of the Advocate-General in that case (especially paragraphs 44-50).

2. Consenting mechanisms for seismic survey work in inshore waters

The AA states (page 15) that in relation to acoustic effects 'it is conceivable that in very specific circumstances seismic surveys could give rise to deterioration of breeding and resting areas for marine mammals'. The AA then goes on to say 'For a project to be permitted in such circumstances, the environmental impact assessment would have to demonstrate that deterioration would not occur'.

CCW agrees that legal frameworks are in place to ensure that most of the potential impacts oil and gas activity might have upon European sites are assessed at the project specific stage, but this does not appear to be the case for any seismic survey work that licence holders might want to carry out within territorial and internal waters. Under the Offshore Petroleum (Conservation of Habitats) Regulations 2001 it is necessary for the oil and gas operators to apply for a PON 14 consent from the DTI to undertake seismic surveys on the UKCS. However, in this context the definition for UKCS does not include the waters inside the Territorial Limits so these consenting arrangements do not currently apply to survey work wholly within territorial or internal waters.

As a result there appears to be no mechanism whereby impacts caused by seismic activity might be assessed or consent for such activity withheld if it could not be established that such activity would not adversely affect the integrity of European sites. We are therefore unable to agree with the conclusions that there would be no foreseeable risk to the integrity of the coastal SAC's.

We are aware that the DTI is seeking to amend the relevant legislation to ensure a consenting mechanism for seismic survey work is in place for inshore waters and, dependent on timing of its implementation, this may resolve the issue. However we do not believe it is appropriate to rely at this stage on the possibility of legislation being introduced in the future.

3. Omissions

There appear to us to be a number of omissions from the AA that are key to the consideration of adverse impact and hence to the conclusions about adverse effect; these omissions relate to:

3.1 Sites or site features that are missing or have been excluded

There appear to be a number of European sites and individual site features that have been omitted from the assessment that in our view should be considered in relation to the potential sources of impact.

We understand that this AA considers European Sites 'that are in any stage of designation or recommendation' (section 2.2, paragraph 6) including 'designated,

candidate, possible, and draft coastal, marine and offshore SAC's and SPA's' (section 3.2) however we note that the Dee Estuary pSAC has not been included in the assessment at all (for example it is not shown in figures 3.2 or A.5 or in the tables in Annex A) and neither has the Liverpool Bay pSPA (with the exception of its inclusion in figure A.2). Without this we can only consider the evaluations undertaken in this AA to be incomplete.

3.2 Oil spill risk analysis

The document presents detailed information about the general risk and regulatory frameworks that relate to oil spills, and the potentially sensitive and vulnerable features and possible effects upon them. However, neither Appendix B, nor section 5.2 explains the reasoning behind the conclusion that there will be no adverse effects from oil spills. Without understanding the basis of that conclusion, we are unable to agree with it. We appreciate that a high level screening of sites and features has been applied to the consideration of sites and potential effects from oil spills based on vulnerability and sensitivity of features. However, this has led to some serious omissions from the oil spill risk evaluation that, in our view, limit the reliability of the conclusions drawn about the potential impacts of oil spills. These omissions include, but are not limited to, seal breeding sites as a feature of Pembrokeshire Marine and Cardigan Bay SACs (page 66, B13), coastal otter sites as a feature of Pembrokeshire Marine SAC (page 67, B14) and, as described above, consideration of the Dee Estuary pSAC and Liverpool Bay pSPA has also been excluded.

The assessment (last paragraph of section B2) acknowledges the vulnerability of marine mammals to oil spills. It may be that seal breeding sites have been excluded because the recoverable resource in the Cardigan Bay area is gas. It is not clear whether or not this is the case. In our view the possibility of oil pollution should not be eliminated altogether as support vessels servicing oil and gas infrastructure may also represent a source of a potential oil spill.

The assumption made in Appendix B that sea caves and submerged reefs and sandbanks can be excluded from assessment when considering the potential effects from oil spills appears to be in contrast with what is indicated in the Regulation 33 advice documents for the Pembrokeshire Marine and Cardigan Bay SAC's where, for example, 'accidents: fuel oil and, or petrochemical discharges' as well as 'oil spill response at sea' are indicated as having a potential impact on many of the features of the SAC including sea caves, submerged sandbanks and reefs. Annex 1 reef features may also occur intertidally or in the shallow subtidal as is the case in the Pembrokeshire Marine and Cardigan Bay SAC's and are therefore likely to be more vulnerable and sensitive to spilled oil than this assessment assumes.

Project specific assessment, and subsequent oil spill contingency planning, will need to consider the risks to sites and features more comprehensively. We feel that the AA should have highlighted this more clearly.

3.3 Consideration of physical and other effects

Section C1 refers to the list of 'prime' sources of effect and section C2 refers to the 'main' sources of physical disturbance to the seabed. An AA should consider all impact pathways likely to affect European sites not just the main sources of impact.

Appendix C sets out to consider the potential physical and other effects on European sites, however, the introduction in section C1 specifically limits this to the effects on seabed features. It appears to us that the assessment should be broader to include the wider effects of oil and gas related activities, for example, the effect of flaring and possible disturbance from support vessel movements on SPA bird features.

3.4 Cumulative effects assessment

This assessment draws conclusions about the effects of acoustic disturbance in-combination with other acoustic sources however we feel that there is no overall assessment of the risk that the licensing round will result in cumulative and in-combination interactions between other impact categories. Whilst we agree with the AA assertion that cumulative and in-combination effects assessment can be adequately assessed at the project stage we believe this plan-level AA should have addressed wider cumulative effects as they relate to the plan.

Section C2 characterises the impacts of oilfield activities on the shallow seabed as insignificant compared to fishing and natural events such as storm waves. Whilst we do not disagree with this point the fact that benthic trawling might be more damaging than oilfield activities does not itself warrant a conclusion that oilfield activities are benign. Indeed, given that the ECJ has established (in case C-127/02) that certain types of fishing operations are themselves plans/projects, it could be argued that this paragraph points to a need to consider the potential effect of oilfield activities ‘in combination’ with fisheries, which could be seen to undermine the conclusion in that there are no in-combination effects in relation to acoustic disturbance (section 5.5).

Notably, the last sentence of section D3 states that ‘there is little doubt that successive seismic surveys could have a cumulative effect on animal distribution and movements as a result of repetitive behavioural disturbance’. A change in behaviour as a consequence of anthropogenic noise may have a number of undesirable consequences for marine mammals, such as a decrease in the efficiency of finding food, reliance on sub-optimal habitats, and the disruption of mating, caring for young and predator avoidance. We know Cardigan Bay to be an important area for marine mammals and so it is essential that any possible effects, and especially the cumulative effects of multiple noise sources, be assessed to avoid effects on

European site integrity where marine mammals are a feature of the sites, as is the case for the Pembrokeshire Marine and Cardigan Bay SAC’s. This reinforces the need for an effective consenting mechanism in inshore waters, see comments above (2), to ensure the proper assessment of the effects of seismic survey work in-combination with other activities.

General Remarks

CCW has prepared Regulation 33 advice documents for all designated SAC’s in Welsh territorial waters. In finalising this assessment reference to these documents may be helpful in determining the potential risks posed by oil and gas activities to the features of European sites.

The AA emphasises throughout that a legal framework exists for consenting individual project activities and that conditions can be applied at the consenting stage to ensure that the risks of possible effects do not compromise the requirements of the Habitats Directive. These references (e.g. page 1, paragraph 4) should also state that consents for projects arising from the plan might also be refused outright if it cannot be demonstrated that the projects will not adversely affect site integrity.

Regulation 48(3) of the Conservation (Natural Habitats, &c.) Regulations 1994 states that ‘The competent authority shall for the purposes of the assessment consult the appropriate nature conservation body and have regard to any representations made by that body within such reasonable time as the authority may specify’. Clearly it is for the competent authority to specify the consultation period, however, CCW considers that the time allowed for consultation on this and an earlier draft of the AA has not been reasonable. Given the importance placed by this plan level AA on the framework for project specific assessment, it will be essential that adequate time be allowed for consultation on specific project proposals.

Finally, we would like to make clear that any comments made in our response to this plan-level AA should not prejudice any conclusions we may draw about subsequent project specific appropriate assessment. It would be helpful if the AA more clearly reflected this fact.

If you require any clarification of the points we have made please do not hesitate to contact me.

Yours faithfully

Keith Davies

Acting Director of Policy

CC Kevin O'Carroll, DTI
Quentin Huggett, Geotek
Diana Reynolds, Wendy Twell, WAG
Zoë Crutchfield, JNCC
Steve Benn, NE
John Baxter, SNH