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3 September 2008

Senator Annette Hurley
Chair
Senate Economics Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Senator Hurley

**Inquiry into the Offshore Petroleum Amendment
(Greenhouse Gas Storage) Bill 2008**

This legislation sets the groundwork for the establishment of a national greenhouse gas storage (GHGS) industry in Australia and, if enacted appropriately, will allow us to lead the world in the implementation and development of carbon capture and storage.

BP has previously sent a submission to the Senate Economics Committee Inquiry. In our submission, we highlighted four areas of concern we identified in the draft Bill; addressing the transfer of long-term liability, protecting petroleum rights, maintaining momentum for GHGS integrated with petroleum projects and facilitating GHGS projects through greater flexibility.

Subsequent to our submission, the House of Representatives Standing Committee on Primary Industry and Resources (SCPIR) has reported and made recommendations. In this supplementary letter to the Senate we consider whether our original recommendations have been addressed by the House of Representatives.

It is important to emphasize that we are making these comments as a result of practical business considerations. We are currently evaluating a GHGS opportunity associated with the Browse LNG project, which may be one of the first integrated GHGS projects in Australia. We are also responding on the basis of our participation in Hydrogen Energy's Kwinana Project. Both of these opportunities have required us to consider the real life practical barriers to GHGS implementation.



In our view, the recommendations of the Inquiry will provide positive refinements to the draft Bill. With the addition of the points raised in this supplemental submission, the legislation will be able to address the transfer of long-term liability, protect petroleum rights, maintain momentum for GHGS integrated with petroleum projects and facilitate GHGS projects through greater flexibility.

We encourage the Senate Economics Committee Inquiry to consider these additional issues and identify recommendations that can adequately respond. We look forward to the Committee's ongoing support as the Bill moves through the Parliamentary process.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Gerry Hueston'.

Gerry Hueston

BP recommendation
Recommendation 1.1: The Bill should be amended to ensure full transfer of liability to the State post-closure
Matching SCPIR recommendation
Recommendation 14: The Committee recommends that a process for the formal transfer of long term liability from a GHG operator to the Government be established within the proposed legislation, such transfer to be conditional upon strict adherence to prescribed site closure criteria.
Comments
The recommendation has been fully supported.

BP recommendation
Recommendation 1.2: Criteria by which the Minister will grant the site closure certificate should be published.
Matching SCPIR recommendation
Recommendation 15: The Committee recommends that general criteria for achieving a site closing certificate be established and published as part of the implementation of the legislation.
Comments
The recommendation has been fully supported.

BP recommendation
Recommendation 1.3: The Bill should be amended to ensure that a developer is aware of his post closure obligations before injection commences so that those costs can be priced into the development.
Matching SCPIR recommendation
None
Comments
Under the proposed draft, the proponent does not find out what monitoring, measurement and verification he will be required to pay for until site closure. This is potentially an open-ended liability, which, coupled with the requirement to provide security of unknown form and amount, will result in significant cost uncertainty for the developer, increasing the costs of storage and/or causing the risk of proceeding on this basis to be unacceptable.

BP recommendation
Recommendation 2.1: Publish a definition of Significant Risk of a Significant Adverse Impact during the parliamentary process so that the impact of the Bill on petroleum rights can be fully considered.
Matching SCPIR recommendation

Recommendation 10: The Committee recommends that the regulations and guidelines attendant upon the legislation are released for stakeholder and public comment as a matter of urgency.

Comments

The definition of SROSAI during the parliamentary process should be highlighted as a priority.

BP recommendation

Recommendation 2.2: Minister to clarify that there is no intention to gazette production license areas until the Significant Risk of a Significant Adverse Impact test is understood e.g. for at least 5 years.

Matching SCPIR recommendation

Recommendation 11: The Committee recommends that incumbent petroleum operators be offered a one-off opportunity to incorporate a GHG assessment permit over their exploration or production licence, with the condition that they must demonstrate utilisation of this permit within five years, or surrender it.

Comments

This recommendation will provide some assurance to incumbent petroleum title holders that they can establish the suitability of their titles for GHGS ahead of competing interests.

BP recommendation

Recommendation 2.3: It should be clarified that the impact of any 'declaration' will not be applied retrospectively to any work that has already been committed to or undertaken.

Matching SCPIR recommendation

None

Comments

As drafted, the Minister has the power to impose conditions, for example, on the standard of wells in petroleum permits that have been 'declared'. This is likely to add costs, risks and time to petroleum activity. Therefore, as much clarity as possible about the prospects for declaration should be provided at the time of gazettal of any permit. There should be no power to retrospectively apply higher standards to activities that were conducted prior to declaration.

BP recommendation

Recommendation 3.1: Parliament to clarify the definition of 'most deserving' is wider than a work program and includes for example, availability of CO2 source and a credible business plan across the GHGS value chain.

Matching SCPIR recommendation

Recommendation 12: The Committee recommends that those proponents who

can demonstrate a readily available CO2 stream for imminent injection receive preferential consideration when assessing bids for GHG acreage allocation.

Recommendation 5: The Committee recommends that the criteria established for assessing work bid applications facilitates the uptake of CCS activities while maintaining transparency and consistency.

Comments

The recommendation has been fully supported.

BP recommendation

Recommendation 3.2.1: There should be no restriction on the source of CO2 so as to encourage the greatest uptake of GHGS

Matching SCPIR recommendation

Recommendation 8: The Committee recommends that the Government review the Offshore Petroleum Act and proposed amendments to provide for the development of integrated petroleum projects, including the injection and storage of GHG from multiple sources into a single storage formation.

Comments

The recommendation has been fully supported.

BP recommendation

Recommendation 3.2.2: Whilst we agree that a production license can be converted to an injection license as a right, we believe that a retention lease should also be able to convert, but not as a right and subject to the Minister being satisfied of certain conditions. These conditions relate to ensuring there is no diminution of practical competition for the acreage.

Matching SCPIR recommendation

Recommendation 11: The Committee recommends that incumbent petroleum operators be offered a one-off opportunity to incorporate a GHG assessment permit over their exploration or production licence, with the condition that they must demonstrate utilisation of this permit within five years, or surrender it.

Comments

In our view this opportunity should not be extended to exploration licence holders as this would result in the exclusion of too many potential GHGS sites. However, it should be extended to include retention, as well as production license holders. Both have demonstrated that commercial, or potentially commercial, petroleum based operations exist.

BP recommendation

Recommendation 3.2.3: In addition to the right to convert a production license to an injection license, we believe that a production license or retention lease holder should be able to convert to an assessment permit, but not as a right and

subject to the Minister being satisfied of certain conditions. These conditions relate to there being a legitimate technical requirement for greater flexibility than is offered by an injection license.

Matching SCPIR recommendation

Recommendation 11: The Committee recommends that incumbent petroleum operators be offered a one-off opportunity to incorporate a GHG assessment permit over their exploration or production licence, with the condition that they must demonstrate utilisation of this permit within five years, or surrender it.

Recommendation 6: The Committee recommends that the legislation be amended to allow for a GHG assessment permit holder to apply for a single right of renewal for a maximum three years duration.

Comments

The recommendation has been supported. However, as detailed above, exploration licence holders should be excluded from this one-off opportunity.

BP recommendation

Recommendation 3.2.4: As an interim measure, special transitional arrangements should be in force to ensure that it is not illegal to continue GHGS activity which lies within existing petroleum license areas and is linked to proposed LNG schemes, but for which there has not yet been a consideration of GHGS permits.

Matching SCPIR recommendation

None

Comments

If there is a gap between the commencement of this Act and our successfully securing a GHGS permit in some form, then our current work to appraise options for storing CO2 from the Browse Basin might need to be suspended. We do not believe that this is the intent of the Bill and a remedy should be made as recommended above.

BP recommendation

Recommendation 3.3: We propose that if a production license holder wishes to inject into a formation that extends outside of the existing production license, and which is not covered by any other permit, lease or license (GHG or petroleum), then the Minister should be able to grant this spatial extension.

Matching SCPIR recommendation

None

Comments

The Bill appears to be drafted so that the GHGS formation and associated licenses which a production license holder can apply for need to be wholly within the production license. In practice, this is unlikely to be the case, because production licenses are typically as small as they can possibly be whereas an

injection license will need to be large enough to cover the entire storage formation and likely migration pathway i.e. almost certainly bigger than a production license. Furthermore, it does not deal with opportunities such as Browse which may inject into e.g. depleted NWSV storage sites, nor enable that site to store GHG sourced from neighbouring industry.

BP recommendation

Recommendation 4.1: The Bill must give greater scope for the Minister to award extensions to permits beyond the rigid timelines currently proposed.

Matching SCPIR recommendation

Recommendation 6: The Committee recommends that the legislation be amended to allow for a GHG assessment permit holder to apply for a single right of renewal for a maximum three years duration.

Comments

The recommendation has been partially supported. We propose that the Minister is also given scope to approve more than 2 holding leases and to allow a period of more than 5 years before injection commences under an injection license, subject to legitimate technical considerations.

BP recommendation

Recommendation 4.2: There should be a Statute of Limitations after which an operating GHGS project is no longer vulnerable to being directed to cease work. Consideration should be given to whether the approval of a site plan is the appropriate time for this Statute to be enforced.

Matching SCPIR recommendation

None

Comments

As drafted, the Minister has power to decide whether or not any accidental hydrocarbon discovery in areas of post-commencement GHGS titles takes precedence over existing GHGS activity i.e. the Minister could stop GHGS activity and subsequently release the area for hydrocarbon exploration and production. This introduces an unreasonable level of uncertainty for the GHGS operator. The GHGS may have been operating for many years and have made a substantial investment (underpinned by an agreed Site Plan), only to be instructed to cease because of the unexpected discovery of hydrocarbons.

BP recommendation

Recommendation 4.3: Third party access provision should be struck from the Bill and dealt with by other general purpose legislation.

Matching SCPIR recommendation

None

Comments

As drafted, the Bill provides for the establishment of a third party access regime, not only to pipelines but also to the storage formation and infrastructure (wells or equipment) for the purpose of effective resource utilization. The commercial risks of undertaking a GHGS project at least in the emerging years of this industry are very high and the prospect that investments could be made available to a third party on terms that have not been clarified could be a significant deterrent to investment. Other Acts already have third party access provision and there is no need to repeat them here.