

# MSC Napoli

The aftermath of the beaching  
off Branscombe, East Devon, 20 January 2007

## **REPORT OF AN INQUIRY**

By Professor Ian Mercer CBE

# CONTENTS

Foreword	3
<b>1</b> Background to the Inquiry.	4
<b>2</b> Brief account of events am Thursday 18th – am Saturday 20th January 2007.	9
<b>3</b> Branscombe Beach: Saturday 20th – Wednesday 24th January.	13
<b>4</b> Wednesday 24th January onwards.	20
<b>5</b> Schedule of Recommendations which arise from our findings.	26

## APPENDICES

List of people and organisations who submitted written evidence.	35
List of significant reports available to the Inquiry before public hearings were complete.	38
Branscombe residents who attended the Inquiry meeting on 13th October 2008.	38
List of witnesses who attended public hearing 3rd – 7th November 2008.	39
Chairman, Inquiry members and officers; expert advisers.	41
Acknowledgements.	42
Acronyms and abbreviations used in this area of public activity.	43

# FOREWORD

The beaching of a fully loaded container ship close inshore on 20th January 2007 was without precedent, as were its consequences. The whole incident has turned out to be the most expensive since Exxon Valdez foundered in 1989. But the ship's name, MSC NAPOLI, will not be remembered for that, neither for the heroism of the helicopter crew who rescued her's on 18th January 2007, nor for the skill of the salvors who towed her to a safer haven, not even for the wisdom of the Secretary of State's Representative for Salvage and Intervention (SoSREP) who made the critical decisions throughout and beyond the time those operations span.

Sadly, 'NAPOLI' will always evoke the scenes and reports of the looting mayhem played out on the beach at Branscombe in East Devon, from the 21st to the 23rd January. They were vividly portrayed to the world by the media whose main players cannot escape their responsibility for promoting its worst excesses. That display of one of the lower states of the human condition was in stark contrast to the bravery and skill shown before it, and at the opposite end of that moral spectrum.

That it happened at all, and for far too long appeared to be beyond the capability of any or all of the landward authorities to control or combat, is the prime subject of most of the work of the Inquiry reported here.

There is no doubt that after the initial disastrous foundering and abandonment of the Napoli, and bar the parting of tows and break-up fears in Lyme Bay, the whole incident was invested in much good fortune. That the weather allowed the removal of almost all of Napoli's fuel oil safely, that the World Heritage Site was a geological one and not based on wildlife or cultural heritage, that the sea-bed offshore from Branscombe was not invertebrate rich, all reduced the huge risk to the coastal environment that pertained from 20th January on. None of that must be allowed to diminish the oiling of thousands of sea birds; the lack of greater coastal protection that might have been in place, and more importantly included in Notices to Mariners; nor the inadequacy and poor management of booms meant to prevent extension of oil pollution. That those things were less significant than they might have been is the basis of the critical lesson-learning process that has begun but must be completed quickly now Napoli has nearly gone. No one can plan for good luck; no one should rehearse a fortunate scenario; a half-decent contingency plan must prepare everyone concerned for the worst. That it will never happen again is not a sensible contemplation. It is very clear that we need to simplify the response process and know that it can swing swiftly into action from Minute One of Day One without any hesitation.

The Inquiry's findings address all these things, with particular emphasis on those pertaining above low water mark. But, as the County Council enjoined us and all those with useful information to impart in February last, we have tried to point up lessons to be learned and put into practice elsewhere, geographically and politically.

**Ian Mercer** December 2008



The stricken Napoli beached and listing off the East Devon coast

# 1 BACKGROUND TO THE INQUIRY

- 1.1 The beaching of the Napoli on the morning of the 20th January 2007 was a pivotal point in an operation that has effectively lasted 22 months so far. The engine room of the ship still lay below the sea surface off Branscombe as the public hearing part of this inquiry was completed – on 7th November 2008 – and will still lie there in the spring of 2009. The beaching is pivotal because it marks the beginning of a dichotomy in management of the operation and a shift of public interest in that management from sea to land. ‘Operation’ because it is the human effort involved that comes under scrutiny and from which lessons may be learned; ‘dichotomy’ because management of critical work at sea went on (until October 2008 so far) while management of affairs on land began when the first container adrift hit the beach.
- 1.2 The latter made for new headlines after rescue and tow, and while that itself had prompted questions they were almost shouted down by the furore prompted by the chaos above low water mark over the four days following the beaching.
- 1.3 The Leader of Devon County Council (DCC) pledged almost immediately that his Council would hold a local public inquiry into the incident if the Government did not mount a national one. The Minister of State for Transport eventually decided that the deployment of the Marine Accident Investigation Branch on the case would suffice for his purposes, and presumably that events on the beach and in Branscombe parish were neither his affair nor of national significance. The County Council clearly thought that lessons learned already should be recorded and those not yet learned should be exposed, and remedies in both cases proposed. It was supported in that by Dorset County Council and East Devon District Council and, almost inevitably, by Branscombe Parish Council. Then the Local Government Association (LGA) representing all local authorities, and which has a Coastal Issues Group, made it clear that all coastal local authorities had an interest in lessons learned from the incident. That Group put in hand a study of the implications of shipping incidents for local authorities with coastlines. It hired a Plymouth firm of solicitors to carry it out, with DCC as lead agent and its Chairman agreed to appear at the Devon Local Inquiry with the report of that study to hand.
- 1.4 The owners and insurers of the Napoli having taken full responsibility very early for the clear up of the coastline and the clearance of the wreck and all its trappings, DCC decided that the Inquiry should begin its work only when the removal of the cargo, fuel oil and indeed the Napoli itself, was well under way if not actually complete. So, in February 2008, when much progress had been made, cargo and oil long removed, the vessel’s forward section towed away and dismantling of the after part, including engine room and accommodation block, proceeding apace, the County Council published its formal announcement of the Local Public Inquiry. It took the form of a 12 page booklet setting out indicative terms of reference as guidance for anyone who might have a contribution to make, inviting such submissions of evidence and telling everyone what the form was, including the fact that their contact details as well as the points they wished to make would form part of the final public record of the investigation.

- 1.5 Since the last ad hoc inquiry which DCC mounted (into the Foot and Mouth epidemic of 2001), guidance for the running of such an exercise had been published by SOLACE, the Society of Local Authority Chief Executives. While confirming that ‘an inquiry is the master of its own procedure’, it also says ‘An inquiry may have a cathartic purpose, seeking to remove or allay public anger or fear, aiming to restore public confidence and, at the same time, making proposals to improve future performance’.
- 1.6 The County Council asked that the Inquiry should examine ‘the circumstances leading to the beaching of MSC Napoli off the East Devon section of the Devon and Dorset World Heritage coastline, and subsequent events, to determine whether any lessons should be learned, and submit any findings and questions of public concern arising to relevant Government departments, local authorities, including the County Council, and to partner agencies’.
- 1.7 The Chairman was appointed at the end of March and the Secretary soon after. Two County Councillors, David Cox and Richard Westlake and Councillor Christopher Gibbings of East Devon District Council joined them, and the Inquiry first met formally on July 29th. It was agreed then that though the main thrust of the investigation was bound to be towards the handling of events and effects onshore, for that is where the learning of most new lessons already appeared to be necessary, some part of the public interest still lay in clarifying the reasons for decisions made during the two days between the foundering and the beaching of the Napoli. Why an English shore and not a French one?; why a Portland target, not one nearer to the crew rescue position?; why abandon a ship that then floated for another two days?; why beach on the World Heritage coast? Despite the variation in their depth these were all questions still nagging those interested, and occurring spontaneously to those suddenly challenged in the pub or by the prospect of an Inquiry.
- 1.8 An ad hoc Local Public Inquiry has no power to compel appearance before it. Thus attendance by potentially helpful witnesses, apart from whimsical absence, may be influenced by many external circumstances, some of which may be legally complex. Thus in this case substantial litigation was proceeding in London as this Inquiry issued invitations and held its public hearing in Exeter. The cargo owners corporately were suing the ship’s owners and other parties involved for the value of their losses, as were those driven to extraordinary expenditure by the incident. While it was made clear to all invitees that apportioning blame was not a motive of this Inquiry and we were simply seeking help in discovering the complete list of lessons to be learned, there had to be a little sympathy for those not wishing to expose themselves inadvertently to further examination elsewhere. The ship’s owners, their agents and insurers clearly come into this category, the salvors and maritime agencies may too, but less clearly.
- 1.9 Submissions arrived throughout the spring and summer of 2008 and by the time October ended 65 had been received and examined. They included the Maritime Accident Investigation Branch (MAIB)’s report and the report to the LGA already mentioned. Evidence was sent from each of six local authorities involved including town and parish councils; from the environmental agencies and voluntary bodies such as the RSPB and the National Trust which was the major landowner involved on shore. The Inquiry was also furnished with the National Marine Pollution Contingency Plan, Devon County Council’s Emergency Plan and eventually the Maritime and Coastguard Agency (MCA)’s ‘response’ to the Incident. The latter is a 103 page document which was published on 5th November in the middle of this Inquiry’s public hearings in Exeter, in lieu of an appearance there. It makes many recommendations which support our own.





The Inquiry in session

1.10 Contributions from all sources have been welcomed, but when only as a paper substitute for a dialogue with the Inquiry they lose value, perhaps more than half of it. An MCA officer, the Secretary of State's Representative for Salvage and Intervention (SoSREP) is a key player in all incidents of this kind at sea. He or she is the invention of Lord Donaldson's report following the Sea Empress incident in Milford Haven in 1993 and has overall command of action responding to the incident at sea, can overrule harbourmasters and ship's captains, and has a direct line to the Secretary of State. The post holder in 2007 was Robin Middleton, the first of them. By the time of the Napoli foundering he had dealt with some 700 incidents, had thus much experience, was well practised and had a good working relationship with, among others, his French counterparts, the *Préfets Maritime* who appear to act within separate coastal Departmental areas. Mr Middleton could have been a key witness and a great help to the Inquiry and the public image of the MCA. He retired at the end of 2007 and under the protection of other MCA personnel and through them, declined to come to the Inquiry's hearings. His successor, who was his deputy in 2007, also declined to come. Nevertheless, the Chairman of the Inquiry had the benefit of seeing an hour long uncut, unedited and unpublished video of the SoSREP responding to questions about the whole incident just before he retired. The questioner was a journalist, Duncan Sleightholme, who had followed the incident from Day One and who agreed to talk to us at the public hearing.

1.11 So the Inquiry's ability to examine the principal actors at sea was limited. The MAIB and the MCA Reports (despite the latter's careful or clumsy timing) were nevertheless very helpful and a number of maritime experts assisted the Inquiry in public hearing and elsewhere. The chairman of the SoSREP's Environmental Advisory Group (EAG) did appear, as did the Falmouth Harbourmaster. As both had direct contact with the SoSREP during the incident their contribution was more than welcome. The EAG is still involved, and will be until the fate of the 4000 tons of metal (including Napoli's engines) still off Branscombe is resolved.

- 1.12 As for the Inquiry's real target: landward matters, the ready appearance of the Assistant Chief Constable who took charge late on 23rd January and a Group Commander from the Devon Fire and Rescue Service, with the Emergency Officers of Devon and Dorset County Councils, was in real contrast to the attitude of the seafarers. While that must strengthen the Inquiry's findings in relation to its main intent, the fact remains that the maritime actors, organisations rather than individuals, come out of the incident and its aftermath with less credit than they might have had for lack of face to face help to the Inquiry. The perception of their reasoning in that matter, not to help an inquiry working only to recommend improvements for the public benefit, is either of professional innocence or it is suspect.
- 1.13 The Inquiry first met publicly in Branscombe Village Hall on October 13th. The motive was to give Branscombe people the opportunity to talk informally and one to one to any member of the Inquiry. This was partly to make sure that people who might find a public hearing, even a journey to Exeter, daunting could get off their chests whatever they wanted to and share their experience with us. A number of elderly folk and others tied closely to their workplace came to meet us there and gave a valuable insight into the detail of the 'horror days' (for them).
- 1.14 The evidence of all the bodies who have offered information, their individual members and officers, as well as experts and people from Branscombe who are listed in the Appendices, whether written or verbal, has been considered long and hard. Through Sections 2, 3 and 4 of our Report, the narrative is in normal type, our observations and/or commentary are in *italics* and our findings are printed **bold**.
- 1.15 Section 5 records all the Inquiry's findings from which Recommendations arise, and those Recommendations, refined from all the evidence put before us, or from what we have gleaned by dint of our own probing elsewhere. The text in 5. follows the same style conventions as the earlier Sections except that it is the **Recommendations** that are then **bold**.



## 2 BRIEF ACCOUNT OF EVENTS THURSDAY 18TH – SATURDAY 20th JANUARY 2007

- 2.1 At 1100 or so on the 18th January 2007 the Napoli broadcast a distress signal and captain and crew abandoned ship soon after. By 1400 they had all been rescued by RN helicopter. Napoli drifted north, then 10 sea miles east before a tow was attached at 1700. Progress eastward (down-wind, the perceived safest direction given the visible vertical split forward of the engine room) was maintained for another 25 miles at an average 2 knots. (For greater detail see the Marine Accident Investigation Branch (MAIB) report of the incident). By now the partially flooded Napoli's draught had increased substantially, ruling out entry to all available inner harbours.
- 2.2 Attention in some detail has been paid to container ship construction, speed and handling at sea by MAIB in its report of its investigation into the foundering of the Napoli, largely confirmed by this Inquiry's advisers, and recommendations made to the International Association of Classification Societies (IACS), International Chamber of Shipping (ICA) and to Zodiac Maritime Agencies (who managed Napoli). We understand that the Classification Societies – who assisted the MAIB – and ICA are pursuing improvement in each of those areas and the few ships identified with the same or similar weaknesses have been attended to. Inevitably we strongly support such moves but:
- 2.3 **WE FIND that we share the continuing concern at the pace of change in the modification of codes, and agree with the SoSREP that regulation update needs to catch and overtake the rate of container ship building and the accompanying rapid increase in their size (5.16.1 refers).**
- 2.4 Meanwhile the SoSREP, who already thought that Napoli was highly likely to sink, discussed matters with his French counterpart (Préfet Maritime) and agreed the unwelcoming nature of the French coastal waters (rocks and tidal currents) up-Channel to beyond Cherbourg. They also agreed that if Napoli sank or wherever she was taken, if further damage or loss of fuel and cargo occurred, the English coast would receive the worst environmental effects. That being the case the SoSREP decided it was best that he kept control of events as long as he was able. He also consulted, among others, his Environmental Advisory Group (EAG) Chairman (at 1230) and the Falmouth Harbourmaster, Capt. Sansom. The former, having seen the ship's manifest, or at least a summary of it, advised that if the Napoli sank in deep water the potential for environmental disaster, and for it being of a longer term, was greater than an alternative in shallows. The latter, concerned about oil pollution particularly, offered Carrick Roads (but pointed out the difficulties and hazards for unloading there), Napoli's draught was already denying her entrance to Falmouth Harbour itself.

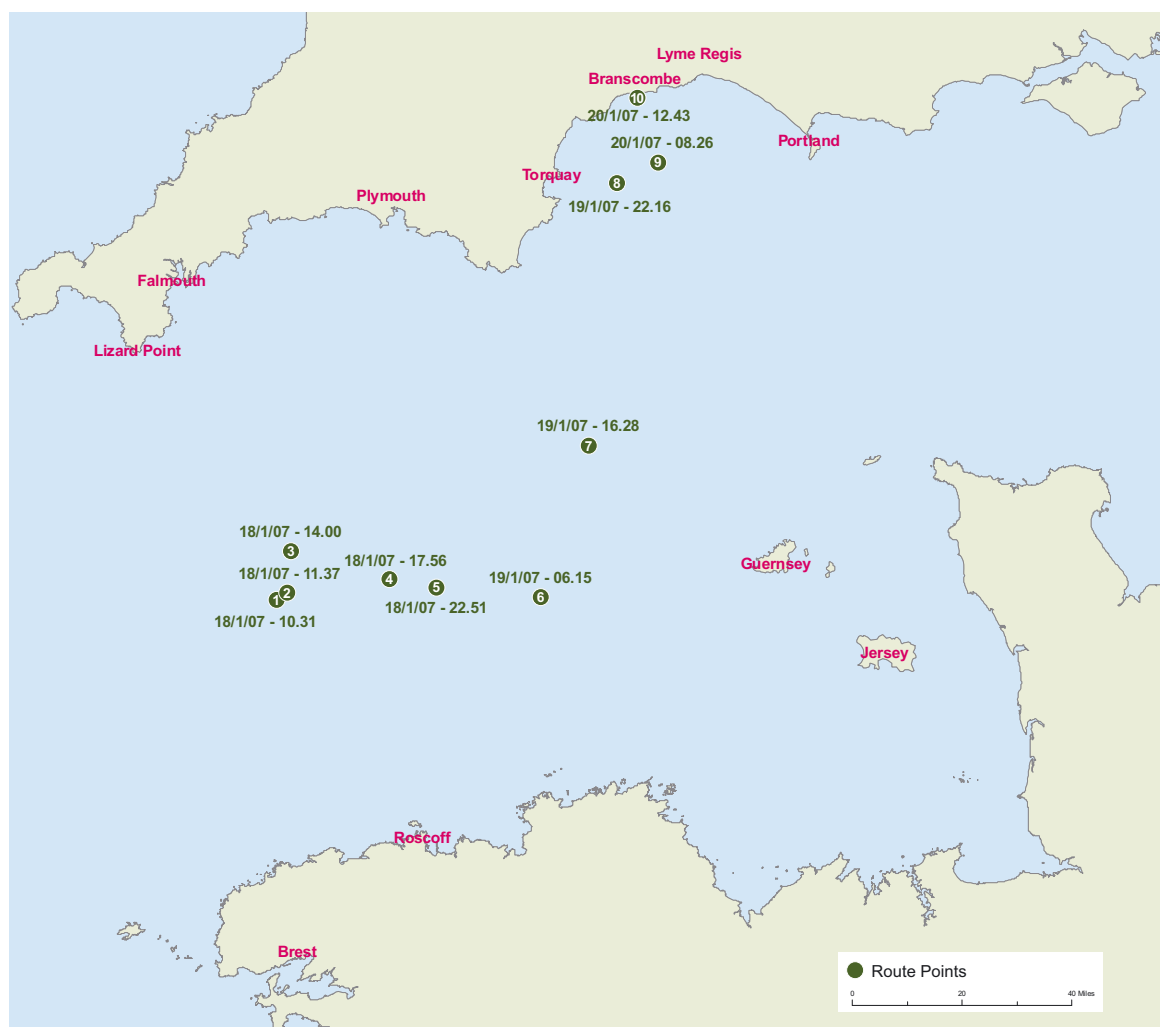
- 2.5 The EAG (whose Chairman, Julian Wardlaw, appeared before us), ascertained that some containers held hazardous substances and that Napoli's composite fuel load was near tankful (3800 tonnes). Captain Sansom explained to us the double jeopardy for a Harbourmaster who can be instructed by the SoSREP, under the National Contingency Plan (NCP), to take a casualty in but then is regarded as having invited it and thus responsible for any consequences. His Commission has to attempt recovery of costs from the ship's insurers. His Milford Haven counterpart had been charged by the Environment Agency (EA) under the Water Resources Act after the Sea Empress's oil polluted the Haven in 1996. Lord Donaldson recommended that that Act should be amended after that incident. So far no such action has been taken.
- 2.6 WE FIND that the NCP and the Water Resources Act should be amended to deal with the perverse position in which harbourmasters find themselves on acceptance of casualties (5.16. 3 refers).**
- 2.7 The decision was taken to attempt the Channel crossing which, under collision regulations, must be as near as possible at right-angles to the two main routes of the traffic separation scheme of this most densely used of waterways. At the same time, and the decisions are inter-linked, Portland emerged as the optimum destination for handling the disposal of fuel oil and cargo. The towed Napoli was turned northwards at 0615 on Friday 19th January.
- 2.8 At that time and in that position (48.45W, 49.20N) there was some 9 nautical miles difference between the distances to Falmouth and Portland respectively, over a potential journey of 90 miles. That to Falmouth would have been heading closely across the weather and waves throughout its time, the northward route before the wind, would gain the shelter of the Start Bay/Torbay coast within 50 odd miles with the wind backing behind it as time went on. It was nevertheless urged upon us that Falmouth would have been a better target, even that it was a 'reckless' decision to aim for Portland.
- 2.9 WE FIND that hindsight is a difficult aid in these circumstances and that the advice on which weather and wave direction would create most stress on the Napoli's damaged hull is a matter for even expert conjecture. We have in the end heard no persuasive reason to dispute the decision taken.**
- 2.10 By 2100 or thereabouts on Friday the 19th Napoli was sixteen miles east of Start Point having made some 7 knots throughout the last six hours, or three times her speed over the previous 24, and proceeding northwards sub-parallel with the coastline. About then the decision was taken to remain parallel with the coast in the relative shelter of Lyme Bay. Early on the 20th the salvors observed that Napoli was settling lower in the water and soon reported that she appeared to be sinking. The SoSREP decided that the risk of break-up was increasing (with potentially disastrous environmental consequences), that she would not round Portland Bill safely, and that she should be beached on the soft sea bed off Branscombe to reduce all risks as far as possible. That is where she ended up, somewhat less than a nautical mile offshore at 1148 (EAG) or 1243 (MCA), even 0900 (Multi Agency Debrief).
- 2.11 On that Saturday morning the choices for beaching were clearly limited and while the target – in the lee of Portland Bill and harbour – would have been well sheltered from prevailing winter weather, the same cannot be said of Branscombe. Witnesses have pointed out since that SW and SSW gales typified the late winter of 2008 there, when work on the hull was suspended.

**2.12 WE FIND that the planned optimum target location for unloading and dismantling was in the end missed because the condition of the vessel suddenly worsened on the last leg, but the best of a bad job was then made and very luckily untypically calm weather followed for most of February, 2007 allowing critical work at sea to be completed.**

**2.13 WE ALSO FIND that, despite hearing two views to the contrary about the target, the outcome of the exercise thus far was achieved with maximum effectiveness and was as environmentally friendly as it could have been under the circumstances.**

2.14 The list imparted by the end of the beaching caused the shedding of a number of containers and ten had arrived on the beach before ten o'clock that evening, nearly all in the dark, but located and recorded by the voluntary coastguard team in attendance (one of whom appeared before us).

2.15 Thus was the scene set for the drama to be played out on Branscombe beach which is probably the real cause for this Inquiry, and its handling our main consideration.



Route of MSC Napoli under tow

Produced from original data provided by the Maritime & Coastguard Agency (MCA)

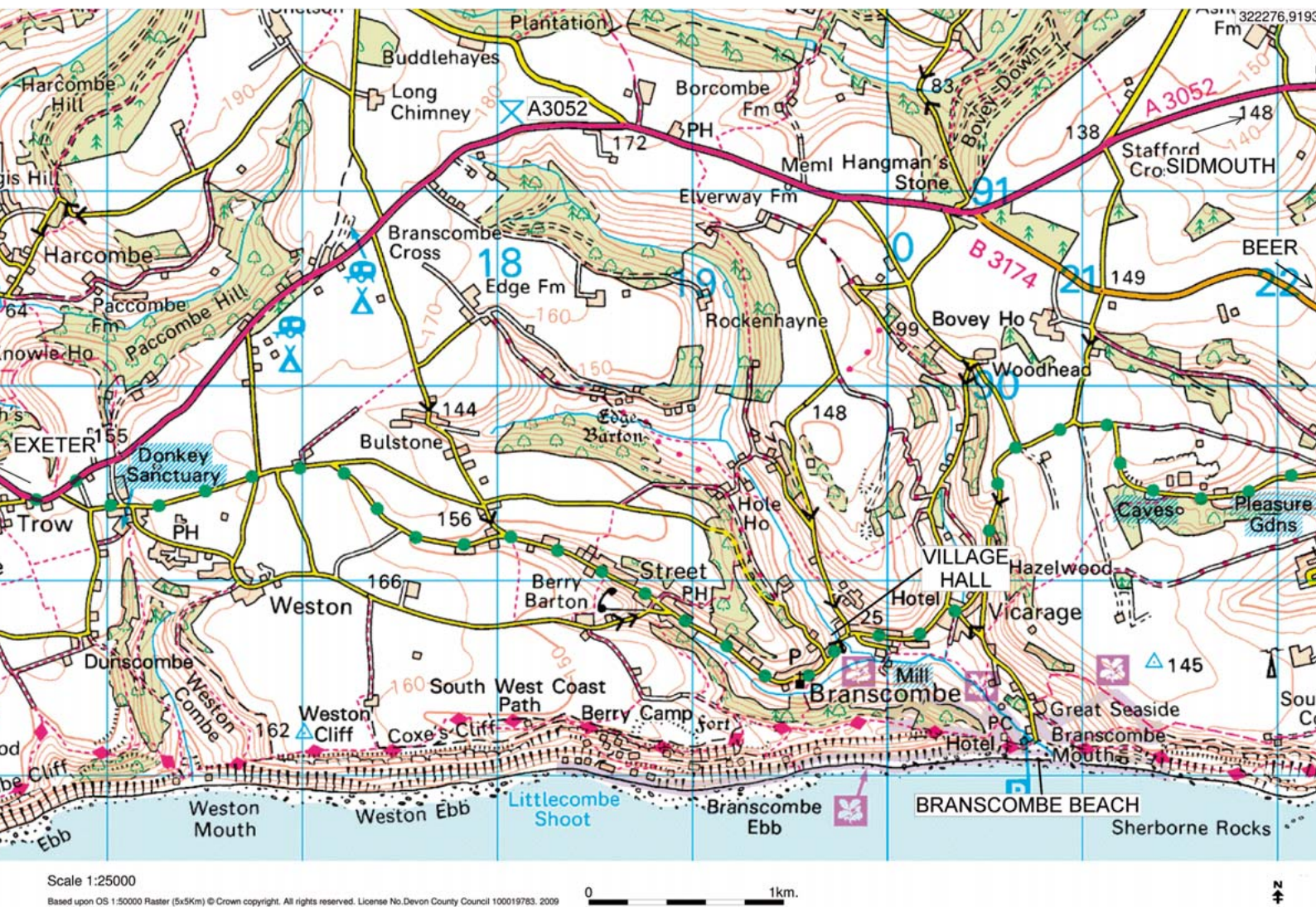


Photograph by Richard Austin courtesy of Western Morning News



### 3 BRANSCOMBE BEACH, SATURDAY 20TH – WEDNESDAY 24th JANUARY

- 3.1 It became clear to us that the MCA or the SoSREP himself had communicated the potential beaching of the Napoli to local authorities before it actually happened. The County Councillor for the area and a representative of Devon County Council (DCC) press office (both of whom appeared before us) were in Sidmouth by 1130 on the 20th January, and a putative press centre was set up in the Sailing Club at that time. The police set up a 'Gold' control in the afternoon, and by then the beach had been 'taped off' by local police personnel and the boundary thus created manned by volunteer coastguards. As we have seen, containers were unshipped during and just after the grounding of the vessel, but only came ashore after dark that evening. The implication is that on the beach then, all was under control.
- 3.2 Media reports of the beaching were made during the latter half of Saturday. Overnight Napoli was rocked by strong winds and 50 containers fell overboard. On the morning of the 21st local interest in the beached vessel by sightseers and in the material washed ashore by amateur salvors began and increased during the day exponentially. The Receiver of Wreck (another MCA officer) had been summoned and arrived late on Sunday morning. She advised people on the beach and eventually the police about the legal position, particularly that salvors had 28 days in which to declare their salvage to her. There was also a perceived need, by police and Highway Authority, to carry out traffic management but it proved ineffective until the 24th. By Sunday evening a jolly 'Whisky Galore!' story was the theme of further reporting of local salvaging, but it was that reporting that triggered a much more mendacious, national, and ultimately frightening interest in the prospect of illegal profit from the incident by Monday. Even the BBC reported a 'new' kind of beachcombing. Exactly when someone first broke into a closed container is not clear, but that is obviously when the beach became a 'crime scene', 28 day rule or not.
- 3.3 *The National Contingency Plan (NCP) nowhere obliges the SoSREP to communicate with the police or local authorities – and is strangely silent about any role or function for the police. They are not even listed as members of the Shoreline Response Centre (SRC). This clearly confirms that the Napoli incident was unprecedented, that the SRC or a form of it is needed, oil pollution (and clear up) or not, and the NCP now needs major revision.*
- 3.4 *The reference to 'salvors' in 3.2 above is because that is how the Receiver of Wreck (RoW) is bound to regard them until they fail to report to him or her their 'salvage' within 28 days of removing it. They are regarded as making items washed ashore safe (for their owners) until the RoW rules otherwise or the owner is identified. It appears to us that the literal legal advice of the RoW caused confusion in the minds of senior police officers, who at that time felt suddenly powerless to intervene just as, most unfortunately, the media stories drew plunderers from as far away as Manchester and Birmingham. Their arrival in Branscombe Parish, coupled with the sightseeing public, caused traffic management problems on the 22nd of enormous proportions, relative to those normally encountered on a Monday in the narrow twisting lanes of a coastal*



Branscombe area location plan



*parish and its main village. They continued through the 23rd and into Wednesday the 24th. More importantly the personnel involved in the 'white van' invasion were such as to strike fear into the hearts of many of the residents (the elderly among them told us so) and even caused concern for the few professionals working there such as the headteacher of the primary school (who appeared before us). She had difficulty getting advice about potential vaporous hazard in the Napoli's containers and the likely problem of getting children to school. Although the Highway Authority has an operations centre staffed 24/7 and contractors on stand-by for emergencies, the implementation of an early traffic management scheme was hampered by the fact that at the weekend in question neither the Highway Authority team on rota nor the Police traffic officer, who was based in Plymouth, had particular local knowledge of the Branscombe road network. The unlucky weekend timing, its effect on staff availability, and cost implications for managers was probably not confined to one agency or another.*

- 3.5 *We make our major recommendations about communications, command and control ashore in Section 5, but:*
- 3.6 **WE FIND that the NCP needs a major overhaul as a result of the 'Napoli experience' to make it inter alia capable of guiding the handover from sea to land, and thus from MCA to the landward authorities. (5.A refers).**
- 3.7 **WE FIND that the definitions involved in the whole shoreline salvage business should be carefully examined and where necessary refined. This is especially so with regard to the scale, or even potential scale, of the material (including vessels, ancillary equipment and cargo lost at sea) coming on to the intertidal zone. Police should be empowered to oversee, manage and intervene in amateur recovery of cargo or looting without waiting for MCA advice. (5.16.5 refers).**
- 3.8 **WE ALSO FIND that the Highway Authority and other relevant agencies should consider the weekend position in any routine planning and ensure that at least one officer with the best available local knowledge is on standby for each of the sectors of the coastal hinterland which may emerge from our proposals about contingency planning in Section 5. (5.10 refers).**
- 3.9 As observed already it is not clear whether the earliest amateur 'recovery' of material was only from the beach or from containers which had broken open during their float ashore, on impact with the shingle or with each other. The first 'breaking and entering' of a container is not recorded, but that would have been the moment at which actual illegal activity, regardless of RoW rules, began. It had almost certainly happened by the end of Sunday, for the Fire and Rescue Service were called to put out fires in containers on Sunday, lit to keep looters warm! The maritime salvors had also by then reported that containers still on board were spilling their contents overboard and many 'lashings' were proving inadequate for holding deck cargo given the vessel's list. The EAG had known since the 18th that some containers had hazardous material inside (e.g. nitric acid, airbag inflators) and at least two of them were among those that were unshipped overnight on 20/21st January.



Photograph by Mark Passmore/apexnewspix.com





By Sunday evening a jolly 'Whisky Galore!' story was the theme of further reporting of local salving, but it was that reporting that triggered a much more mendacious, national, and ultimately frightening interest in the prospect of illegal profit from the incident by Monday. Even the BBC reported a 'new' kind of beachcombing. Exactly when someone first broke into a closed container is not clear, but that is obviously when the beach became a 'crime scene', 28 day rule or not.





Photograph by Mark Passmore/apexnewspx.com

*3.10 All this suggests that, had communication between all parties been tight and comprehensive, the beach could have been properly closed to the public from late on Saturday for reasons of public safety and the prevention of crime had the evidence for that been shared widely enough. It also seems to us that there are too many ‘parties’ (authorities, agencies, organisations, units, groups, centres, teams and now cells) with an apparent ‘need to know’, which bedevils communication if only in scale and risk of missing out one or more who may under present circumstances be critical (local authorities and land owners were certainly out of the loop on more than one occasion). Their scattered bases from Weymouth to Exeter (perhaps Southampton to Plymouth) exacerbated the problem. We shall return to the ‘too many cooks’ syndrome but for now:*

**3.11 WE FIND** that communication of every detail of vessel condition and cargo, as it is revealed and whether its relevance is yet clear, should be sent from the MCA to the landward authorities and logged by them in the same spirit. (5.4.3 refers).

3.12 As it was, looting went on throughout the 22nd and the 23rd by which time worldwide TV had broadcast scenes of it in sufficient detail to allow distant individual viewers to recognise their own property in someone else's hands. Numbers of scavengers had increased overnight of the 22/23rd. Road closure barriers were unmanned and thus swept aside easily. Police presence was minimal, the Chairman of the Parish Council told us. A congested Branscombe was made worse by vehicles left on roadsides and in residents' driveways, with some not daring to challenge the drivers. Respect for property was negligible and not immune from the looting frenzy. Wheelbarrows and wheelie bins were appropriated for transporting beach loot; by the end of the incident garden ornaments and chain saws were among that loot. The onshore salvors (DRS) arrived and set up their compound at the top of the beach early on Tuesday, and that presaged a different 'ownership' of the salvage. Police command changed late on Tuesday, attitudes to 'salvaging' changed and decisions were promptly taken to close the beach, and police and coastguards were joined by private security men. The footpaths into Branscombe, especially from Beer were closed, as were some roads and a one way system was put in place

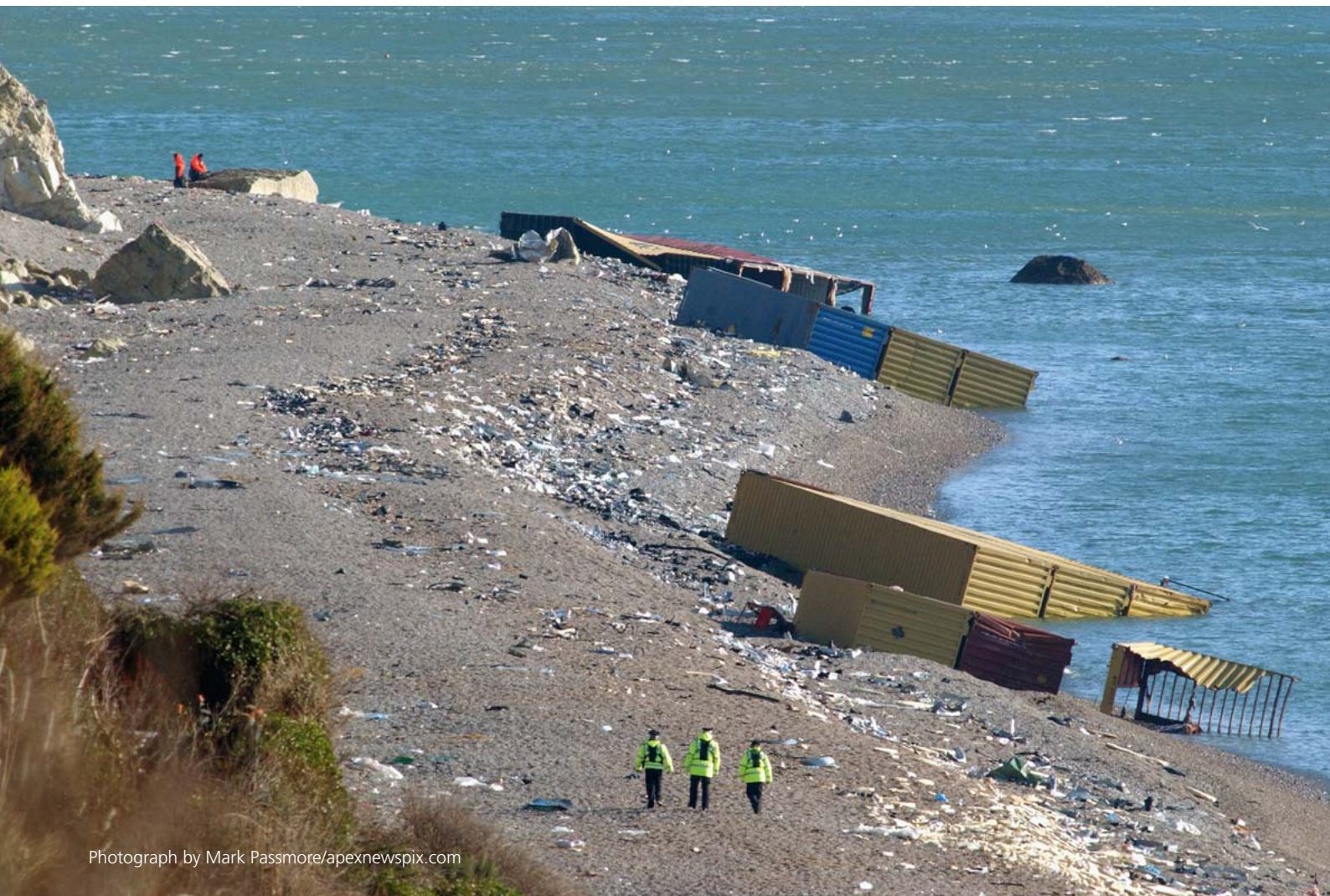
3.13 *The maelstrom that invested Branscombe from Sunday to Tuesday night, with its traffic chaos, trespass and terrified elderly residents only points up the calm which returned on Wednesday 24th when someone got a grip on the landward situation. More than one witness wondered how much the fact that the onshore incident itself began at the beginning of a weekend, with consequent implications for manpower availability and cost, coloured decision making. Whatever, it is clear that had the decisions of late Tuesday and early Wednesday been taken on the previous Saturday or even on Sunday, Branscombe village would have been spared, much media attention might have advised of the beaching of the wreck but not the wreckage, and much public resource might have been saved.*

3.14 **WE FIND that the most important overall lessons to be learned from the whole Napoli landward experience involve:**

- a) **having a single individual in total command, (5.A)**
- b) **creating a much simplified incident/emergency organisational system, (5.A)**
- c) **implementation of a) and b) above should involve providing a communication protocol that is readily understood and foolproof, (5.B)**
- d) **planning for confronting the development of the worst case scenario, and ensuring that all contingency plans cascade down to, include and are understood by parish councils (5.C)**
- e) **acting immediately even if much then done can be stood down quite soon after (5.A).**

**(WE CONSIDER THAT OVER-REACTION MUST NEVER BE A VALID CRITICISM IN THE FUTURE)**





Photograph by Mark Passmore/apexnewspix.com



## 4 WEDNESDAY 24TH JANUARY ONWARDS

- 4.1 At Branscombe, DRS, the onshore salvors, swung into action on Wednesday morning, and from then on managed to balance the removal of containers and larger items of cargo with patrolling beaches from Exmouth eastwards and clearing more widely scattered debris on a daily basis. The former demanded dismantling and cutting up to enable outward transit by road (narrow lane) and a landing craft where they could be removed by sea. DRS were contracted by the maritime salvors and were present on the beach at Branscombe 24/7 until October 2008. Their personnel became local heroes and were feted by the community before they finally left.
- 4.2 On Friday 26th January a Strategic Coordinating Group (SCG) was set up 'to support the MCA and coordinate shore based activity' to quote the MCA. At the same time it was decided that two 'multi-agency teams, one in Devon and one in Dorset were needed. On the Saturday morning a public meeting was held in Branscombe to inform the locals about what was to happen now; they presumably knew better than most what had happened so far. The SCG met for the first time on that Saturday and included the National Trust (NT) who had had to gatecrash a meeting in Dorchester on the Wednesday to get in on the act, although they were the landowner of the Branscombe upper beach. It met to agree its own terms of reference.
- 4.3 *It is clear that from Wednesday 24th DRS got on with their work quietly and efficiently and their manager on site (in the end a special local hero) and his compound became a reference point for locals and local authorities as well as a repository for salvage. In contrast, officialdom was still inventing more machinery and meetings on the 26th, a week after the beaching of Napoli. In the context of the contemporary planning the SCG setting up was perhaps a week late, as were the 'Silver level' teams set up to be co-ordinated by it at the same time the SCG met on Saturday the 27th to agree its terms of reference! The question looms: 'was this still necessary by then?' In a throwaway line the MCA's report claims that 'the MCA and SoSREP regarded the model as supportive', as though setting themselves a little apart. There appear to have been at least fourteen different permanent official organisations involved in these operations and ten temporary ones which seem to be needed under present contingency planning once an incident has happened. It should not be beyond us (and the powers that be) to simplify that and cut down the numbers of personnel, groups and meetings (even virtual ones), involved. While all protest that competition does not exist, jealousy is absent and no one patronises, we sensed that the reality is different. Some witnesses complained of being sidelined, or feeling out of the loop, despite being members of particular groups, others that their obvious local knowledge and availability was ignored. (DCC Environment Directorate, the NT and the Devon Sea Fisheries Committee were cases in point).*
- 4.4 **WE FIND that too many cooks seem to breed more, if only because coordination, and the need for support, becomes more complex as communication falters in the face of overload. The simplification of organisation for on-shore contingency handling into a single hierarchy with minimum overlaps could correct all these things at once. It should be accompanied by a review of the most local of resources and their potential incorporated in relevant plans. (5.6 and 5.16.6 refer).**

- 4.5 Containers continued to come ashore. A month after the beaching 111 containers had been unshipped there, 58 had reached Branscombe Beach and six came ashore further east, 9 were known to be on the sea bed and thus 38 were sunk and unaccounted for. Contents also came ashore continuously, ranging from foodstuffs to shampoo, motor car parts to pharmaceutical kits as well as the items that caught public attention from earlier reporting. Containers were steadily removed from the Napoli and transferred to Portland where they were categorised, and either shipped onwards or emptied and their contents dealt with. The last container with Dangerous Goods was moved off the ship on May 15th, the last of all was taken to Portland on the 17th.
- 4.6 *The removal to Portland and disposal of whole containers and their contents was a long and complex process under the continuing control of the SoSREP, but not examined in detail by this Inquiry. It is necessary nevertheless to highlight questions about containers and container traffic to which our attention was drawn by more than one witness. The ship's owners, agents and captain currently have to rely on the container user and the manifest for information on content and most importantly weight. Other reports of the Napoli incident showed that a large number of containers were considerably above the weight shown in their papers (more than 3,000 tonnes in gross). It is not clear whether other details about content are as inaccurate – but there must be a concern about the identification of hazardous substances and consequent risk assessment in a similar situation to this one.*
- 4.7 **WE FIND that weighing of containers on the dockside, by properly equipped crane or even weighbridge should be standard practice. Stowage on board should be planned and implemented according to a schedule constructed only after accurate weights are to hand. (5.16.2 refers).**
- 4.8 Fuel oil spillage had been feared from the outset and French oil recovery vessels, and the deployment of UK booms including those for offshore use, dispersants and personnel had been requested by the MCA on the 19th January. They were all to hand by Sunday the 21st, booms had been sent to the sensitive sites and dispersants were first used on the 23rd. Daily oil leak surveillance flights were instigated. The most welcome and earliest achievement after beaching was the successful removal of the greater quantity of the oil on board with minimum spillage by 6th February. The removal of oil from tanks and holds was largely complete by the end of March, though some must have remained in the engine room, for there were further small spillages when refloating was attempted and explosives were used to divide the vessel in July. The achievement of that does warrant proper credit being given to the teams involved and especially to the divers who entered the fuel in the tanks to direct hoses into the difficult corners of the tank frames.
- 4.9 Nevertheless, oil had leaked from the Napoli from 18th January onwards (reported by the towing teams at sea) and continued to do so until the end of 2007. Nine tonnes leaked out on the 23rd January, but the rate overall was perhaps one tonne a day until 31 March and at a tenth of that rate until 9th July (MCA figures) and then some 13 tonnes were lost during the 'refloat', second beaching (12 July) and parting of bow and stern sections. The boom around the vessel itself, meant to contain spillage immediately, did not survive the pertaining sea conditions for long. Altogether the MCA estimates that 302 tonnes of oil was lost from the



Photograph by Mark Passmore/apexnewsipix.com

Napoli in 2007. Oil came ashore at Branscombe in July, caused much concern to holidaymakers and was carried by them into the only café on the foreshore, ruining its carpets. On or about the same day oil was washed into the Axe estuary despite booms re-placed there in June. The boats and gear of young people racing on the Axe that day were badly affected and much oil walked into the Axe Yacht Club's premises after the event. Fishermen's boats and gear were contaminated on the same tide.

*4.10 It became clear that the prediction of potential environmental damage from oil pollution, on 18th January, led to a swift and efficient preparation for confronting such a consequence. However, the booms involved in the end were less than totally effective. On the one hand, the boom originally deployed around Napoli was inadequate for the predictable weather conditions in January to March of any year. It is reported to have remained intact for too short a time. On the other hand, a boom was put across the Axe in February without notice to fishermen and had to be opened within days so that they could be about their business. It was replaced in June, for predictable reasons but again with no notice. Yachtsmen were trapped inside it and, worse, outside it. Unable to reach their own moorings the latter had to go elsewhere, often some distance, and then pay for a berth. Some had to cancel planned holidays as a result. It is clear that the boom was in the end inefficient or inefficiently manned, for oil entered the Axe estuary despite it. That appears to have done no environmental damage but inconvenienced many. In local terms little seems to have improved since the Rosebay incident affecting the Erme estuary in 1989. We were told that Axmouth fishermen were compensated swiftly, not so others.*

- 4.11 WE FIND that booms for a variety of locations may still need design attention, but more importantly they clearly need to be manned at all critical times. The present position of a national stock and privately owned supplements should be reviewed with a view to sufficient booms being held locally by appropriate authorities, and deployment for each estuary rehearsed so that each has a tailor-made recipe for action. (5.16.7 refers).**
- 4.12 WE ALSO FIND that compensation for damage done to property by oil transferred ashore and other costs caused by boom emplacement should be available from central funds and claimable in as simple a way as possible. (The small claims court may be a precedent, though the upper limit in this case should be the subject of consultation). (5.9.5 refers).**
- 4.13** The nature conservation bodies (Natural England, Devon and Dorset Wildlife Trusts and the RSPB) were all involved in monitoring the environmental impact of the Napoli incident and its aftermath. Apart from the effect on sea birds, the consensus is that the East Devon coastal environment, the World Heritage Site and sea bed habitats of Lyme Bay got away pretty lightly, by great good fortune, and little if any lasting damage was registered with us. However, some 2,000 birds were recovered oiled, at least a tenth of them as corpses, within the Start Point – Portland Bill arc of coastline – what the Victorians called Great West Bay. The factor to be applied to that after fifty years of mark-and-recapture tests for instance, is of the order of ten times, so 20,000 birds is the likely estimated total affected, and that is a disaster in sea bird terms.
- 4.14** *The coastal and immediate offshore environment had a lucky escape in almost all respects. The sea-bird question is different. The RSPB compared this event with that of the Torrey Canyon 'beaching' in the 1960s when 7000 birds were recovered oiled, and the Braer spill in Sullom Voe when the figure was 1800. The EA assessed, in retrospect, the Branscombe beaching site and concluded that (by chance ?) it had the least environmental damage risk of the alternatives. With NE and the NGOs the EA is clear that the marine environment still lacks a comprehensive and strategically planned protection system. At the detailed end of the same argument, attachment of ATBA (Area to be Avoided) status to the Jurassic Coast – which would then appear in Notices to Mariners (a daily bulletin to navigators) and eventually on charts was urged upon us by DCC's Coastal Issues officer. It could obviously assist the protection of individual sites by helping skippers, and in this case the SoSREP, in decision making.*
- 4.15 WE FIND that despite the comparatively small amount of oil released in the Napoli incident it was not small beer in the context of conservation of the sea bird population in and around British waters which carry a breeding population of global significance.**
- 4.16 WE ALSO find that the protective system applied to the terrestrial environment in Britain, acknowledged to be one of the most comprehensive, should be paralleled offshore, and despite the obvious contrast in administrative and implementation difficulty either side of high-water mark, its achievement should be put in hand**

**forthwith. The Marine Bill, announced in the November 2008 Queen's Speech, should be made as comprehensive as possible before and during its passage through the legislative process. (5.15.8 refers).**

- 4.17 The empty Napoli was re-floated on the 9th July, but examination by divers of the hitherto invisible ship's bottom revealed that the split in the hull was 3 metres wide in places. Towing the whole hull was ruled out, and the SoSREP decided that it should be re-beached in shallower water north of its original position, i.e nearer the shore. An unsuccessful attempt was made on Bastille Day to pull the vessel apart with tugs during which some small quantities of oil were leaked. A unit of the Ministry of Defence (S&MO) carried out the final splitting of the Napoli by explosive between 17th and 20th July, and the bow section was towed away on 9th August.
- 4.18 Communication throughout the more intense period of activity (until the departure of the bow section, say) varied enormously. The daily situation reports provided by DCC communicators at first, and their later weekly successors, were praised by the SW Tourism CEO, the Government Office for the SW and a number of local witnesses who came to rely on them. In contrast dissemination of advance notice of action to be taken by those responsible for it, was not of the best. Boom emplacement and the use of explosives involved less than adequate width of circulation.
- 4.19 *A planned coastal path walk by the primary school was inadvertently arranged on the day and within the 'danger zone' of the explosive exercise to split the Napoli in July 2007. It was due to start the school day and be a walk towards the school, i.e children were to be taken to the start by their parents. The headteacher learnt of the hazard late and then only from a parent with some involved contact.*
- 4.20 **WE FIND that the communication protocol referred to in 3.11 above should, as with contingency plans, cascade down to parish level and include community institutions. (5.4.4 refers).**
- 4.21 Items spilled from containers continued to come ashore at Branscombe and elsewhere until the early winter of 2008. They included hypodermic needles, sheathed and unsheathed, which were reported by more than one witness and still being swept ashore in April this year. The EAG Chairman assured us that they had been dealt with by electro-magnetic sweeps early on and again in the 2008 summer. Fishermen discovered a shoal of motor car gearboxes below spring's low water mark late this year too. Industrial mop-heads like large sea urchins littered the beach in early December 2008. Cargo will probably continue to be located ashore and on the sea bed of Lyme Bay for some years, despite the strenuous efforts of DRS during the whole of twenty months.



## 5 SCHEDULE OF RECOMMENDATIONS WHICH ARISE FROM OUR FINDINGS

### A. COMMAND AND CONTROL

5.1 *It is clear to us that in the case of the Napoli incident (and we have already suggested that it was without precedent) there was doubt and confusion about who was in control of the management of public activity from the morning of Sunday the 21st of January. There also seems to us to be a myriad 'operational' groups, units and committees, centres and cells, that either sit permanently, or arise like Phoenix when an incident occurs. Claimed 'improvement' in some areas since the Napoli incident have spawned yet more groups and meetings. All this belies the simplicity at sea which the existence of the SoSREP implies. In all the reviewing called for, even by the MCA itself, and of the National Contingency Plan especially, there should be a real effort to simplify matters. Interestingly no Shoreline Response Centre (SRC) was set up for Devon, because, it is claimed, the owners and their insurers had already committed themselves to the total 'clear-up', so presumably the Gold Centre did whatever was needed in lieu. Gold SRC might nevertheless be a useful title for the top body (of a one line hierarchy) under a single controller. It also seems to us important to draw central government (beyond its agencies) into the responsibility spectrum on land, if only for local authorities and private persons to be able eventually to tap central funds more easily. We are conscious in all this that there are two kinds of incident that demand very similar treatment: predictable ones such as that involving the Napoli and sudden, unpredicted groundings in storms or for unaccountable reasons.*

#### 5.2 RECOMMENDATIONS (3.6, 3.11 and 3.14 refer)

1. That a landward post should be created absolutely parallel to that of the existing Secretary of State's Representative for Salvage and Intervention (SoSREP), with equivalent powers of command and control above low water mark and as far inland as is appropriate.
2. That unlike the SoSREP this landward post should be filled only when an incident of the Napoli type is threatened, or when an unpredicted incident is suddenly reported (onshore wreck in storm conditions, say).
3. That the generic post should be created by the appropriate Secretaries of State now, and the specific appointment(s) made by them immediately when the threat of an incident is reported or an uncontrolled beaching or grounding occurs.
4. That logic suggests that the relevant Chief Constable should normally be the SoSREP on Shore (SoSREPoS) but he or she should nominate a Deputy forthwith and be entitled to delegate any or all of the appropriate powers to that Deputy.



5. That all emergency services in all guises and the Highway Authority should be under the control of the SoSREPoS from Minute One of his/her appointment.
6. That SoSREPoS should be supported by one group including, as standard, senior officers of the MCA, Fire and Rescue, Highway Authority, EA, NE or Wildlife Trust, RSPB, local authority emergency teams, Clerk or Chairman of the Council of the parish in which the incident has occurred, communications head of the principal local authority involved and significant landowners. (This is similar to the current GOLD procedure but is also a Shoreline Response Unit by any other name and should probably be designated as such).
7. That when a 'casualty' has been brought under control and is being towed sub-parallel with the coastline the SoSREP should be under an obligation to inform each relevant constabulary and county or unitary authority as its coast is approached (as he may have done in this case). The constabulary should then request the appropriate SOSs to appoint the SoSREPoSs (plural SoSs here because different ones oversee local authorities, police and transport, and this power must be allocated to one of them). This finding is also referred to under B. Communication on the next page.
8. That each SoSREPoS should stand to until the casualty has cleared the distant boundary of the next constabulary's area. Thus there could be two SoSREPoSs standing by at any one time, except where the first has no geographical neighbour 'upwind' as in our case. On grounding or mooring of the casualty the appropriate SoSREPoS takes control and the other stands down.
9. That on appointment the SoSREPoS should call an immediate meeting of his/her support group (Gold/SRC) and plan action 'in case', including drawing up the list of all bodies/landowners who may be affected by the incident or offer assistance in dealing with it.
10. That the outcome of recommendations 1 – 9 above should be built in to the new National Contingency Plan (NCP) arising from the review called for by other reportees on the Napoli incident and to whom we add our voice. It should also be built into the emergency planning of all principal coastal authorities whose planning should always include Shoreline Contingency Plans (see Local Contingency Planning).

## B. COMMUNICATION

5.3 *Communication problems were at the heart of the difficulties experienced during the shoreline and landward phase of the Napoli incident. There were at the beginning (and only at the beginning) three distinct problematic areas: 1. Between 'authorities', 2. officially to the public and 3. among the media. Though distinct they are inter-linked: 2. cannot be effected until 1. has been resolved and 3. ought to be sourced from 2., accepting that journalists will probe matters themselves which can be damaging, as at Branscombe, unless general and total control under A is effective from Minute One. Only one parish council on the East Devon coastline did not have e-mail capability.*

### 5.4 RECOMMENDATIONS ARISING FROM OUR FINDINGS (3.11 and 3.14 refer)

1. That the SoSREPoS should be in continuous communication with the SoSREP and control all communication between authorities and agencies, primarily through his/her support group meetings. Copies of all messages between them should be directed to the SoSREPoS. (It is doubtless standard good practice but needs repeating).
2. That after each meeting called by the SoSREPoS a bulletin approved by him/her should be issued by his/her communications supporter (5.2.6.above).
3. That 5.2.7 above is also relevant in this list. The exchanges implied by it and 5.4.1 should include at the earliest possible moment communication of the manifest of the cargo involved, or at least a list of the categories of cargo on board or already lost overboard, and all other relevant certification so that the SoSREPoS is aware of the hazards for which he/she must prepare.
4. That all communications emanating from the SoSREPoS or his/her agents should be directed inter alia to all levels of local government, including appropriate parish councils (that number may include those one step inland from those with a coastline).
5. That to seek to optimise public communication, each county or unitary coastal authority should take steps forthwith to ensure that the clerks of the council (or the chair of the parish meeting where there is no council) of each parish with a coastline, or between the coast and the nearest main highway, have electronic communication facilities available, if only so that bulletins under 5.4.2 above reach parish level promptly.
6. That all coastal parish councils should be under a duty to ensure the best/widest communication with all households, farms and other businesses in the parish but especially those likely to be directly affected in the aftermath of an incident such as the beaching of the Napoli. (Experience suggests that the breadth of that effect is very difficult to predict accurately and that the widest communication in this respect is safest).
7. That, 5.4.2 above apart, daily situation reports should be issued to all levels of recipient regardless of meeting intervals.

## C. LOCAL CONTINGENCY PLANNING

5.5 *Coastal Emergency/Contingency Planning appears to vary from local authority to local authority and agency to agency. Not all coastal authorities have plans specifically addressing their shorelines and the immediate hinterland. Pragmatically that hinterland extends to the first 'main' road (A or possible B) connecting the area of any future incident to other physical communication lines or centres with appropriate facilities, but where such roads are on the coast itself there will be some other sensible inland boundary. We are in no doubt that a general county or unitary area-wide Emergency Plan must be in place, and that a Shoreline Contingency Plan may be attached to it. BUT that Shoreline Plan should not be buried within the general emergency plan, or worse, its separate components scattered through it under apparently appropriate headings. We are aware that planning for managing incidents of oil pollution and its attendant treatment is by now in place on the whole coastline (indeed the NCP concentrates on it having hinted that other 'pollution' is involved). Its implementation is well rehearsed, but as the Napoli incident demonstrated that implementation is not foolproof, needs tightening, and thus planning needs adjustment. (The Axmouth estuarine pollution on 13th July 2007 refers). It may be that coastal cells would be a better basis for planning for contingency than LA boundaries rather as the EA has adopted catchment plans which inevitably straddle administrative boundaries*

### 5.6 RECOMMENDATIONS (3.14 d also refers)

1. That all principal coastal authorities should be required to construct or immediately review a Shoreline Contingency Plan (SCP), and ensure that it covers the immediate hinterland as defined in 5.5, it should be separate from, even if supplemental to, their existing authority wide Emergency plan.
2. That the SCP should cover all forms of physical pollution (as the present NCP hints) not just those involving oil and other liquids, but potential environmental change and damage by inert solids and gaseous movement onshore.
3. That consideration should be given to relating SCPs to natural coastal 'cells' – lengths of coast with a marine factorial unity such as Great West Bay, Lizard to Dodman, Dodman to Prawle etc. rather than using local authority boundaries. (If adopted then all LAs involved should share construction and review of a single SCP).
4. That all SCPs should be reviewed annually (not quinquennially as in the NCP) and updated in the light of any incidents reported in the intervening 12 months.
5. That the LGA Coastal Issues Group should be upgraded to committee level with dedicated officer support, and given the responsibility (even if voluntarily) of overseeing the monitoring of the efficacy of the review of such plans and act as a formal clearing house for communicating incident occurrence and lessons learned from them to all coastal authorities.
6. That Highway Authorities with coastlines should prepare a generic plan for the emergency management of extraordinary traffic on the road, byway and path network of their coastal zones (as defined in 5.5 above).

7. That under that plan specific supplementary plans should be constructed for such sectors of that coastal zone where traffic circulation and or control, in emergencies such as those demonstrated in the Napoli incident, is anticipated to be particularly difficult because of the nature of the network. Plans constructed under 5.6.6 and 7 should be attached to the relevant SCP.
8. That such traffic management plans at both levels should be prepared in conjunction with the 'blue light' services; and the specific area plans should be discussed with the parish council or parish meeting at an early stage in their conception.
9. That all contingency planning should contain adequate arrangements for the possibility that a full incident response may be needed at a weekend.
10. That all plans make reference to the support needed by personnel who may be deployed for long periods in inclement weather, and formulae for providing that support. Third parties who might provide such services should be consulted at the plan making stage.

## D. FINANCE

- 5.7 *The extraordinary costs of dealing with the aftermath of incidents such as that which triggered our Inquiry occur at all levels. They affect all sectors of authority, agency and society which become involved. The larger local authorities, the 'blue light' services and national and local agencies at one end, schools, village hall committees and parish councils at the other, and in between voluntary bodies ranging from the National Trust, as landowner, and the RSPB, with a specialist contribution to tiny sports clubs, all experience strain on their resources. Expenditure as a consequence of accident and subsequent emergency cannot, nor should it be, budgeted for on an annual basis. It is also clear that the limitation of liability indulged by ship owners and their insurers has as significant a negative effect on potential claims by these parties as it does on the huge range of cargo owners who have suffered losses.*
- 5.8 *The insurance situations arising as a result of the Napoli incident are analysed and remedies proposed in the report to the LGA Coastal Issues Group by Ashfords ('Shipping Incidents: implications for local government'). This report therefore, while making some similar recommendations borne out by our findings, refers readers to the whole of the LGA Report and commends its proposals to the European Union (EU), Government, the shipping industry and obviously to coastal local authorities. In like manner the local authorities International Environmental Organisation (KIMO) is pursuing a Convention on Liability and Compensation for damage in connection with the carriage of non-toxic substances, and urging European ministers to honour their own declarations of 1995 and at Bergen on this matter. The 1997 Cita incident on the Scillies shore, for which the Isles of Scilly Council has still not been compensated is cited by KIMO and the Ice Prince's non-toxic cargo ashore in Sussex adds to the evidence. We wish to add our weight to this campaign.*

## 5.9. RECOMMENDATIONS ARISING FROM OUR FINDINGS (4.12 also refers)

1. That national Government should make a general and permanent commitment to reimburse the extraordinary costs of handling the aftermath of an incident such as that involving the Napoli to the whole range of land-based bodies referred to above.
2. That a central fund should be established to back up that commitment on the lines of the 'Bellwin Fund' deployed currently in cases of inland flooding (or modify the function of that Fund accordingly).
3. That Government and the EU should begin negotiations with all parties involved in shipping management, including classification societies and salvage companies and especially the container industry, with the aim of establishing international funds parallel with those already in place to reimburse the costs of dealing with damage caused by oil pollution emanating from tanker casualties. The EU, since 2005 still debating the Erika III package, should speed up its adoption of the KIMO convention on compensation for pollution from non toxic substances.
4. That proper account should be taken of the precedents quoted in both 5.9.2 and 3 above and that the 5.9.2 fund draws on that proposed at 5.9.3.
5. That in any case Government commits itself to, and creates a 'small claims' contingency fund to which access is made easy for voluntary bodies, small local authorities and landowners.

## E. WIDER AND SOMETIMES SINGULAR MATTERS

- 5.10 *During our investigation we had the benefit of a number of documents all of which are listed in 8. Some of them are specific to the Napoli incident such as the report of the Marine Accident Investigation Branch, the MCA's 'Response' (to the MSC Napoli incident on 20 January 2007 but delivered to us only on 5th November 2008) and a Multi Agency Response to the Shoreline aspects of the grounding, their de-brief report. Some were triggered by the Napoli event such as 'Shipping Incidents: Implications for Local Government' referred to in 5.8 above, reports to Natural England on surveys in Lyme Bay in June 2007 and by the BTO, and statements by the EA and RSPB all of which have fed something into this Report. Others were more general and included various plans which existed before the incident. Most reportees propose a review of at least the NCP. Nothing recommended by the reports conflicts with our findings, many of their's coincide with our's and we have felt that the additional weight provided to them, by the only public inquiry to have been mounted, justifies our listing of them here. We have proposed various revisions of some plans and additional planning in some cases.*
- 5.11 *Throughout our exercise a whole range of witnesses referred to the great good fortune which characterised the beaching incident and its consequences, notably the calm weather after that of 19-24th January which allowed the removal of nearly all of the fuel oil and most of the containers still on board. It was, for instance, very different from the same period in 2008 when such work would have been impossible and*

*container loss would have been far greater. That the soft sea bed had less rare invertebrate life to be damaged; that this wasn't a full and holed tanker; that the World Heritage Site was a geological phenomenon not one based on wildlife, are observations of luck which should not mask the tragedy of a calculated 20,000 birds oiled. Nor should it distract from the lack of protection that might have been in place had Bills been enacted earlier, conventions been signed or ancillary designations taken up, especially those which might be included in Notices to Mariners. The Donaldson recommendations about Marine High Risk Environmental Areas for instance still comprise an incomplete list and lack any statutory backing. That some reports quoted above can be as positive as they are in places is only possible because of the general good fortune. Planning and regular rehearsal must encompass the worst possible luck.*

- 5.12 Despite the necessity to make these statements here, in this case East Devon, Dorset and Lyme Bay were environmentally very lucky. That must not cause a complacency that delays implementation of better protection in all its senses for coastlines and coastal communities. Readers of some reports made so far could be forgiven for detecting occasional complacency therein. Inconsistency in small matters arouses suspicion of the uncheckable – times reported for the beaching of the Napoli for instance vary from 0900 to 1145 to 1245 between official bodies.*
- 5.13 We had the benefit, if only to create the context for our investigation, of advice from various maritime experts and the opportunity to talk to a journalist (Duncan Sleightholme) who had befriended the SoSREP and recorded a conversation with him at length before he retired at the end of 2007. The Falmouth Harbourmaster confirmed his particular message about double jeopardy in writing to us after his appearance, as did other witnesses.*
- 5.14 It became clear to us that despite the NCP and local contingency planning some parties had difficulty getting into the right loop. DCC (Environment Directorate) felt only on the fringe of the EAG; NT had to gatecrash a meeting in Dorchester to be listened to. Devon Sea Fisheries felt well out of it and pointed out that they had assets, skills and personnel who might have been useful. Their boats could have been messengers, their radio system could have countered the lack of signal in Branscombe itself, for instance. Communication and control confusion pointed up a grey area about overlapping authority which needs to be eliminated. (The MCA's normal functions inland of low water mark are understood, as is that of the SoSREP in relation to ultimate disposal of intact cargo, but the protection of life and property and public order falls to neither).*
- 5.15 Taken together these matters lead us to make some further recommendations which in some cases simply add the weight already registered to those of others.*



## 5.16 RECOMMENDATIONS

1. That Flag States, Classification Societies and other internationally significant bodies involved in containership construction should speed up their revision of existing guidance and regulation related to container ship construction and handling. (MAIB report and 2.3 refers)
2. That containers should be individually weighed on the dockside under independent supervision. Stowage on board should only be planned and implemented when that independent weight schedule is complete. (4.7 refers)
3. That the NCP and the Water Resources Act should be amended to deal with the perverse position in which Harbour Masters find themselves on acceptance of casualties. (2.6 refers)
4. That revision of the NCP and amendment of the Merchant Shipping Act 1995 should include a much clearer boundary (administrative and geographical), in the immediate aftermath of a shoreline incident, between the MCA position and that of the police and our proposed SoSREPoS.
5. That definitions involved in the whole shoreline salvage business should be carefully examined and where necessary refined, especially with regard to the scale of the wreckage. Police should be empowered to oversee, intervene in, and manage amateur salvage (whatever its perceived purpose) without waiting for MCA (especially Receiver of Wreck) advice. (3.7 refers)
6. That every effort should be made to reduce the number of different bodies (groups, committees, units, centres, teams and cells) which are currently listed as necessary for the handling of incidents such as the one under inquiry). The review of the NCP should provide a medium for this, but that review needs to involve local authorities and police, and NGOs as well as the MCA and other agencies. (3.6, 3 14 and 4.4 refers)
7. That oil containment booms for a variety of locations may need further design attention. They should be manned when in position at all critical times, adequate numbers should be held by the appropriate authority in each coastal 'cell' and deployment recipes for each estuary worked out and rehearsed. (4.11 refers)
8. That serious attempts must be made to bring the protection of the marine environment up to terrestrial standards despite the inherent difficulties of administration and enforcement on the seaward side of high water mark. The Marine Bill appears to start the process and may provide a medium for the total achievement if refined properly during the next few months. (4.16 refers)

# APPENDICES

## LIST OF PEOPLE AND ORGANISATIONS WHO SUBMITTED WRITTEN EVIDENCE

Submissions listed in date order as received

Number	Name	Interest	Written Submission by...	Additional information
1	David Nash	Keen sailor from Wimborne	letter	
2	Alan Jones	Retired Master of deep sea vessel	email	
3	Barry Kempson	Axminster resident	email	
4	Sandra Semple	Mayor Seaton Town Council	email	Also witness
5	Bosun Bill	Devon Seadog (sic)	email	
6	Mrs J Pearson and Mr D A Colvin	Branscombe cottage owners	typed submission (16 pages)	
7	David & Vivienne Postlewaite	Helped with oiled sea birds	email	
8	Andrew Cox	Sidmouth resident	email	
9	D J Blumson	Sidmouth beach litter clearer	handwritten submission	
10	D L Kelf	Member of Axe Valley Runners	handwritten submission	
11	Dennis Hall	Chairman of Axmouth Parish Council	handwritten submission	
12	David Taylor	Seaton resident	handwritten submission	
13	Mr & Mrs D Southam	Seaton residents	hand written submission	
14	Bill Williams	Sidford resident	handwritten submission	
15	A V Herring	Stowford resident	handwritten submission	
16	Tom Cox	Chairman of Sidmouth Town Council	handwritten submission	Also witness
17	Mrs Evelyn McKie	Sidmouth resident	handwritten submission	
18	M D Gates	Sidmouth resident	handwritten submission	
19	Tim Stevens	Member of 'Beer Divers'	typed information	
20	Mike Green	East Devon District Councillor	handwritten submission	
21	Mr John Brookes and Ms S Dyson	Members of Axmouth Yacht Club	handwritten submission	
22	Tim Wisdom	Branscombe resident	handwritten submission	
23	Steve Chalkley	Sidmouth resident	email	
24	Diane Hill	Exmouth resident	email	
25	Ian Flood-Page Emergency Planning Officer	Teignbridge District Council	letter	
26	Hugo Swire MP	Member of Parliament for East Devon	letter	Also witness

Number	Name	Interest	Written Submission by...	Additional information
27	Revd Nicholas Edwards	Vicar of Branscombe	email	
28	A G Yates	Colyford resident	handwritten submission	
29	Robert Wiltshire	Captain from Budleigh Salterton	handwritten submission	
30	Mr A M & Mrs L Revington	Colyton residents	handwritten submission	
31	Barry Hoare	Branscombe resident	handwritten submission	
32	Mrs A L Hughes	Clerk to Branscombe Parish Council	handwritten submission	
33	Nigel Clarke	Lyme Regis Councillor and Auxillary Coastguard	email	
34	Peter M Jones	Branscombe chalet owner	email	
35	Jolly and Cherry Sargent	River Axe boat owners	handwritten submission	
36	John Bass	Chairman of Branscombe Parish Council	handwritten submission	Also witness
37	Wendy Walters	Regular Seaton holidaymaker	email	
38	Brian Lavender	Secretary of Axe Yacht Club	typed submission	Also witness
39	Haydn Chappell	Secretary to the Maritime Volunteer Service	handwritten submission	
40	Paul Wright	Secretary of Nautical Institute SW Branch	handwritten submission and report	Also witness
41	Commodore T R Harris	Expert Adviser	letter	Also witness
42	P J Higginson	Clerk to Seaton Town Council	letter	
43	East Devon District Council	Local Authority	email	Mark Williams, Chief Executive as witness
44	Mark Harold	Regional Director, The National Trust Devon and Cornwall	letter and report	
45	Stephen Meyer	Chief Inspector of Marine Accident Investigation Branch (MAIB)	report	
46	Yvonne Smith	Sidmouth resident	handwritten submission	
47	David Eeles	Interested spectator	handwritten submission	

Number	Name	Interest	Written Submission by...	Additional information
48	Richard Snow	Poole resident	handwritten submission	
49	Margaret Rogers	Devon County Councillor	handwritten submission	Also witness
50	Tim Thomas	Senior Scientific Officer RSPCA	handwritten submission and report	Also witness
51	Richard Horne	Emergency Planning Manager Devon County Council	email and report	Also witness
52	Mark Robins	Regional Policy Officer RSPB	email	Also witness
53	Janette Ward	ELG and Director, South West Branch Natural England	letter and reports	Also witness
54	Giles Bryan	Project Manager Environment Agency	report	Also witness
55	Nicolas Brookes	South West UK (Brussels Office)	email	
56	John Mouat	KIMO (Kommunen International Organisation) Local Authorities International Environmental Organisation	letter and documents	
57	Mark Sansom	Falmouth Harbourmaster	email	Also witness
58	Devon CC	Devon County Council	typed submission	Also witnesses see following section
59	Dorset CC	Dorset County Council	typed submission	Also witnesses see following section
60	Nigel Daniel	Axmouth resident	email	
61	Mrs J Hurford	Seaton resident	handwritten submission	
62	Sam Rose	Team Leader, Jurassic Coast World Heritage Site	email and report	
63	Richard White	Senior Marine Advocacy Officer, Devon Wildlife Trust	email and report	
64	Coastal Special Interest Group	Local Government Association	report (159 pages)	Cllr Roger Thomas as witness
65	Terence Thompson	Private Photographer	email	
66	MCA	The Maritime and Coastguard Agency's Response	report received 06/11/08	



## LIST OF SIGNIFICANT REPORTS AVAILABLE TO INQUIRY BEFORE PUBLIC HEARINGS WERE COMPLETE

1. MAIB - report on investigation of structural failure of MSC Napoli
2. De-brief Multi Agency Response to Shoreline Aspects of the grounding
3. Report to LGA: Shipping Incidents: implications for LAs
4. MCA: MSC Napoli incident. MCA's Response

Also: National Contingency Plan for Marine Pollution from shipping  
Devon CC Coastal Pollution Plan  
Briefing on EU Maritime Safety Policy (2006) – SW Brussels Office  
Marine Emergency Plan, Ilfracombe Harbour – NDDC

## BRANSCOMBE RESIDENTS WHO ATTENDED THE INQUIRY MEETING ON 13TH OCTOBER 2008

Patricia Morgan  
Ralph Cox  
Amanda Statham  
Audrey Maskrey  
Margaret Rogers  
Mary Taylor  
Marie Powell  
Paul Newman

Angela Brennan  
John Marchant  
Chris Buckrell  
Marston Tickell  
Paul Haines  
Elizabeth Bass  
Keith Lewin  
Val Marchant

## LIST OF WITNESSES WHO ATTENDED PUBLIC HEARING 3RD – 7TH NOVEMBER 2008

### MONDAY 3 NOVEMBER 2008

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**Mr Duncan Sleightholme**  
Reporter for ITV

**Mr Julian Wardlaw**  
MCA Environment Group

**Councillor Hilary Cox**  
Cabinet Member for Environment  
Dorset County Council

**Dr Ken Buchan**  
Coastal Policy Officer  
Dorset County Council

**Mr Simon Parker**  
County Emergency Planning Officer  
Dorset County Council

**Mr Mark Williams**  
Chief Executive  
East Devon District Council

### TUESDAY 4 NOVEMBER 2008

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**Commodore Tim Harris**  
Maritime Adviser

**Mr Charles Hattersley**  
Marine Lawyer Ashfords

**Falmouth Harbour Master**  
Mr Mark Sansom

**Mr E Hobson**  
Expert Witness on Maritime Issues

**Mr Paul Wright**  
Nautical Institute

**Mr Paul Willerton**  
Nautical Institute

**Mr Chris Pink**  
Nautical Institute

**Mr Brian Lavender**  
Hon. Secretary of Axe Yacht Club

### WEDNESDAY 5 NOVEMBER 2008

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**Assistant Chief Constable Bob Spencer (Retired)**

**Mr Richard Horne**  
Emergency Planning Manager  
Devon County Council

**Mr Paul Wilson**  
Area Traffic Engineer  
Highways Authority  
Devon County Council

**Mr Mike Bomford**  
Media & PR Officer  
Devon County Council

**Mr Malcolm Bell**  
Chief Executive  
South West Tourism

**Mr Andy Revesz**  
Exeter Group Commander  
Fire and Rescue Service

#### THURSDAY 6 NOVEMBER 2008

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**Councillor Margaret Rogers**

Member for Seaton Coastal Division,  
Devon County Council  
Executive Member for Environment

**Councillor Sandra Semple**

Chairman  
Seaton Town Council

**Mr John Bass**

Chairman  
Branscombe Parish Council

**Mrs Katie Gray**

Headteacher  
Branscombe C of E Primary School

**Councillor Roger Thomas**

Chairman of Coastal Special Interest Group  
Local Government Association

**Councillor Tom Cox**

Chairman  
Sidmouth Town Council

**Mr Aidan Winder**

Coastal Officer  
Devon County Council

#### FRIDAY 7 NOVEMBER 2008

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**Mr Giles Bryan**

Executive Assistant to Regional Director  
Environment Agency

**Mr Alan Burrows**

Regional Incident and Emergency Planning Manager  
Environment Agency

**Ms Janette Ward**

Regional Director  
Natural England

**Mr Richard White**

Senior Marine Advocacy Officer  
Devon Wildlife Trust

**Mr J Longworth-Krafft**

Area Manager  
National Trust

**Mr Stuart Britton**

Warden  
National Trust

**Mr Mark Robins**

Regional Policy Officer  
RSPB

**Mr Tim Thomas**

Senior Scientific Officer  
Wildlife Department  
RSPCA

**Mr Keith Bower**

Chief Fisheries Officer  
Devon Sea Fisheries

**Mr Hugo Swire**

Member of Parliament  
East Devon

## CHAIRMAN, INQUIRY MEMBERS AND OFFICERS; EXPERT ADVISERS



**Professor Ian Mercer CBE**



**Cllr Richard Westlake**  
Devon County Councillor for  
Exeter Newtown & Polsloe  
(Labour)



**Cllr David Cox**  
Devon County Councillor  
for Teign Estuary  
(Liberal Democrat)



**Cllr Chris Gibbings**  
East Devon District Councillor  
for Sidmouth Town  
(Conservative)



**Commodore Tim Harris**  
Expert Adviser for Maritime  
Issues



**Charles Hattersley**  
Expert Adviser  
Marine Lawyer, Ashfords



**Brian Wilkinson**  
Secretary to the Inquiry



**Joan Baker**  
Administrator to the Inquiry

## ACKNOWLEDGMENTS

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I would like to thank all those, individuals and organisations, who made written submissions to the Inquiry – and especially those who came to, or were represented at the public hearings. Others, such as Duncan Sleightholme, made available information I could not have found elsewhere.

I am especially grateful to the people of Branscombe who came to their Village Hall on the 13th of October and helped us to understand their experience in late January 2007. Some have written since to help us further.

The Inquiry had professional help from Tim Harris and Charles Hattersley both before, during and after the public hearings. Brian Wilkinson, as the Secretary, ably assisted by Joan Baker, marshalled the evidence, organised those hearings and ensured that we were in the right place at the right time. We wish to thank them all for their help and support.

‘We’ are David Cox, Christopher Gibbings, Richard Westlake and me. I am immensely grateful for the wise counsel of those three companions, and for their sharing of the cross questioning that helped us sort out the lessons learned and those still to be revealed. However, any errors, omissions or misinterpretations evident in this Report are entirely my own.

**Ian Mercer**, Chairman



## ACRONYMS AND ABBREVIATIONS USED IN THIS AREA OF PUBLIC ACTIVITY

Abbreviations	Explanation
ATBA	Area to be avoided
CIG	Coastal Issues Group
DCC	Devon County Council
DRS	Onshore salvors
EAG	Environmental Advisory Group
EA	Environment Agency
Gold Control	Strategic Management
Gold SRC	Gold Shoreline Response Centre
GOSW	Government Office South West
HA	Highway Authority
IACS	International Association of Classification Societies
ICA	International Chamber of Shipping
KIMO	Kommunenenes Internasjonale Miljøorganisasjon
LGA	Local Government Association
LGACIG	LGA Coastal Issues Group
MAIB	The Marine Accident Investigation Branch
MCA	Maritime and Coastguard Agency
MOD S&MO	Ministry of Defence, Salvage and Marine Operations
MSC Napoli	Mediterranean Shipping Company (MSC) Napoli
NCP	National Contingency Plan
NE	Natural England
NGOs	Non government organisations.
NT	National Trust
RoW	Receiver of Wreck
RSPB	Royal Society for the Protection of Birds
SCG	Strategic Coordinating Group
Silver level' teams	Tactical Management Involvement.
SOLACE	Society of Local Authority Chief Executives
SoSREP	Secretary of State's Representative
SoSREPoS	Secretary of State's Representative on Shore
SRC	Shoreline Response Centre
SW Tourism	South West Tourism
WHS	World Heritage Site
WRA	Water Resources Act

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