

**STANDING COMMITTEE ON
ENVIRONMENT AND PUBLIC AFFAIRS**

ALCOA ALUMINA REFINERY AT WAGERUP

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
ON MONDAY, 8 JULY 2002**

SESSION 3

Members

**Hon Christine Sharp (Chairman)
Hon Kate Doust (Deputy Chairman)
Hon J.A. Scott
Hon Louise Pratt
Hon Frank Hough
Hon Robyn McSweeney
Hon Bruce Donaldson**

[11.45 am]

FERGUSON, MR JOCK

Secretary, Australian Manufacturing Workers Union, examined:

The CHAIRMAN: You will have signed a document entitled Information for Witnesses. Have you read and understood that document?

Mr Ferguson: I have.

The CHAIRMAN: These proceedings are being recorded by Hansard and you will be provided with a transcript. You will need to identify fully any document from which you quote so that the transcript is correct, and you need to be aware of the microphones when speaking. After you have checked and confirmed your transcript, it will become a matter for the public record. If for some reason you wish to make a confidential statement to the committee, the committee will consider whether to grant your request. I also warn you that until your transcript has been finalised and released publicly, any premature publication or disclosure may constitute a contempt of Parliament; that is, the material that is disclosed will not be protected by parliamentary privilege. Would you like to make a statement to the committee?

Mr Ferguson: Yes. I thank you for the opportunity to be here. The Australian Manufacturing Workers Union acknowledges that the terms of reference of this committee are specific to Wagerup, but things that have come to light recently traverse all the Alcoa operations; that is, at Wagerup, Pinjarra and Kwinana. I will address some of those issues. There has been an ongoing dispute between Alcoa and the AMWU for about six years. That dispute has revolved around the specific issue of the liquor burner at Wagerup, but it has gone a bit beyond that. Eight or nine members of the union who are employed at Alcoa's Wagerup operations suffer from multiple chemical sensitivity. Those people have been off work for a considerable period. They have been long-serving, loyal employees of the company. One of the workers who was a member of the union is a contractor and is suffering from a malaise known as Goodpastures disease. He is in a pretty sad way. We have been in dispute for a number of years, and all sorts of discussions have taken place between the AMWU and Alcoa about the problems at Wagerup. Until six or nine months ago, Alcoa had performed abysmally in its responsibility for its employees and the people who live in close proximity to its operations, as well as in its responsibility for what has been happening at Wagerup. Unfortunately - or fortunately - the issue has had an inordinate amount of press coverage. For some weeks there has been something of a feeding frenzy. We have not made too many comments to the Press. We would rather have dealt directly with Alcoa and tried to resolve things in a more non-confrontational way. However, unfortunately, that has not happened. At any given time, between 600 and 800 members of the union are employed across the Alcoa operations, including contractors. I will come back to the issue of contractors a little later, because, until recently, contractors have been treated as second-class citizens. Even though they have worked in the same environment and have suffered similar health effects, they have not been given the same information and they have been treated with some disdain by Alcoa. The information has not flowed through to those contractors. That arose recently at a dispute, and we make no excuse for that. Our members withdrew their labour because of their great concerns about the environment in which they were working. In doing that, we have reached a negotiated position with Alcoa. Again, I will come back to that position later.

Alcoa has been in a state of denial. It has been very slow to recognise that there is a problem, particularly with the eight or 10 individuals who are suffering from multiple chemical sensitivity. I will go back a step. All of this has emanated from the addition of the liquor burner at Wagerup in either late 1996 or early 1997 - the exact date escapes me. The issue was raised with us and with

Alcoa. As I have said, it is in a state of denial. Only recently has it said to me that it considers that it is responsible, but not necessarily liable. I do not know the difference between the two. It will take greater legal minds than mine to work out the difference between responsibility and liability. Nevertheless, over the past 69 months it has been acting in a more positive way. I think that has been since Dr Cullen's visit from the United States. Some of the statements he made and some of his investigations brought to light the problems with individuals who have been exposed to emissions from the liquor burner at Wagerup. It is not only Alcoa that has not been performing to the best of its ability up until recent times; various government departments and regulatory bodies also have not been performing to the best of their ability. They were handballing the issues from one to the other. No doubt there was some overlap. Only since the present Government came to power have we started to see some direction and some sense come out of the issue. We approached various ministers. A meeting took place at Parliament House which was attended by representatives from various departments - I do not know whether it was the heads of those departments. A presentation was made and only after that presentation did they start to realise the gravity of the problem and started to get a better understanding of what was happening and how it was impacting on the work force and on the community. Our members at Alcoa, particularly these eight or 10 workers, have been affected not only physically but also psychologically. They have been harassed and they have felt intimidated. They believe they have been followed. They believe they have been filmed doing various things around their homes. We abhor that sort of performance by any employer. It surprises me that that would happen.

I turn now to the contractors. I raised the whole issue of multiple chemical sensitivity with Mr Geoff Hayward from Alcoa at a meeting 18 months ago. We meet on a regular basis to discuss any issues or problems, which is obviously a sensible thing to do, to try to head off things that look like they may come to pass. I raised the issue of multiple chemical sensitivity. I was quite surprised at the way the defences went up. He said that Alcoa understood that there was a potential problem and that it was putting in place various mechanisms to address it, but in our view they were not good enough at the time. We tried very hard to make Alcoa understand that it would be a real problem. In fact, a month or so later it became a real problem when the media got hold of it and started, quite correctly, running with it quite fiercely. Only then did Alcoa start to realise that it was a problem. We have been in serious discussions with Alcoa about the members concerned since last June or so. We have just about reached agreement with Alcoa about what should happen with the eight or 10 employees in the interim. It recognises that it has a responsibility. The whole issue will not be resolved for a considerable period. Alcoa must enter into a whole rehabilitation program, for not just its employees but also the community. It must try somehow to rehabilitate its relationship with the community, which will be somewhat difficult for Alcoa to do. Its public relations have been a disaster. It has been in a defensive mood for far too long, and it should stand up now and start to take on that responsibility. I am not saying that it is not attempting to do that, but it has not done it very well in the past.

I believe that by the end of August we will have reached an agreement with Alcoa that will apply to the eight or 10 employees. Although Alcoa has a rehabilitation program, it has been somewhat modified. I believe that a rehabilitation program will be put in place that will accommodate each individual depending on his needs. There will be an economic consideration for each individual. I am not at liberty to say how much that will be - I apologise for that - because we have not yet finalised the discussions with Alcoa and some refinement is still to be done. Some of those individuals are taking civil action against the company, and it has cost them a significant amount in legal fees along the way. That is being discussed. There will be some sort of economic payment - I would not call it compensation - to look after them in the future because of the disease or malaise they are suffering and the way it has affected them, their lives and the lives of the members of their families.

A Healthwise report has been published recently. No doubt the committee is aware of some aspects of that report. It indicates that people working at Alcoa are more susceptible to three different types of cancer; that is, respiratory, melanoma and pleural cancer. The results of the report show that they were highly unexpected and they are statistically significant. That report looked at all except four Alcoa employees from 1983 to 1996 - some 11 300 employees. It is all very well for Alcoa to produce a report. It can have all the reports and policies in the world, but it must have an implementation strategy, otherwise the whole thing is useless. We have been discussing with Alcoa exactly what will be done with that information and how it can address that issue.

[12 noon]

We have grave fears as the reports only cover the period to 1996 and the liquor burner came into operation in 1996-97. The next set of results may be significantly worse. They will be for the period up to 2000, and will be published in January or February next year. We must have a strategy in place to handle that when the results are published. Everything that can be done must be done to safeguard the work force and put their minds at rest - and for their families and the community. The AMWU believes it has responsibility for the community, as its members live and work in the community. The union is not only industrially minded; it is also community minded. It will do everything it can to assist the process.

I want to speak further about the contract. The union has reached agreement on behalf of the contractors and the permanent Alcoa work force on an action plan that arose from the Healthwise study. The action plan has been developed from a combination of factors, including logical actions arising from the study, suggestions made by the ACTU representative on the Healthwise study, actions suggested at the meeting of all unions on Wednesday 26 June, and actions arising from Alcoa's responses to contractors' concerns. The action plan will be implemented in cooperation with all unions at the three sites. There will be a review of lung, trachea and bronchus cancer incidents to identify where the cases occur to see if there are any significant groupings. It will be a small targeted study of respiratory cancer cases and their specific histories to determine if any relationship to the condition can be established. Obviously, it is no good having a study that just states a significant increase in incidents of cancer. One has to try to pinpoint the reasons for that, whether it is due to melanoma, is trachea-related or whatever. We must look at people's tasks and the environment in which they work. A more in-depth and detailed study will be carried out. An analysis of the statistical part of the study will be undertaken to see whether a more detailed understanding of lung, trachea and bronchus cancer is possible. A review of pleural cancers to examine work exposure to asbestos will also be conducted. People working at Alcoa may contract - I sincerely hope they do not - mesothelioma, although they may have contracted it elsewhere and not necessarily at Alcoa's operations. A second search of the cancer and death registries will be conducted to include data from 1996 to 2000. As I said before, by February 2003, or as soon as possible, the results will be available.

Medical testing and screening will be provided for any employee or contractor, current or past, who may be concerned by the results of study. It will be advertised appropriately to ensure that everyone is aware of it. All employees will be able to avail themselves. We will place advertisements to try to catch all employees and contractors who have been on site. A team will be drawn from the Healthwise research group to provide direct information to employees. We felt it was not suitable for the Healthwise team to give the results to Alcoa and for the company to pass them on because it may lose something in the interpretation. We want someone from the Healthwise team to liaise directly with the employees concerned. That has been agreed.

Contractors currently employed at Alcoa sites will be the subject of a study of their own by the Healthwise group. The Healthwise group covered permanent Alcoa employees. There is now agreement for a further study on contractors across the three sites. The study will commence forthwith. It is difficult to retrospectively study contractors and the results might not be too sound

because we believe it would not catch all employees of all contractors who have worked at the sites over the past two years, or even up to five years. We have to start somewhere and we are starting now. Alcoa will provide an expert, most likely one of the researchers from the Healthwise study or a member of the advisory board of Healthwise, to assist employees and their unions to fully understand the issues arising from the Healthwise study. Obviously, employees and their unions are not medical experts and have asked Alcoa to provide an expert, preferably an epidemiologist, to more readily understand the results handed down by the Healthwise study. There has been some disagreement among the Healthwise board on what the results mean. That is why there has been a lapse between the completion of the report and when it was made available. The period was used to examine exactly what the report meant. Alcoa will raise with the Healthwise advisory board the means of ensuring that employees and their unions feel adequately presented on the board. At the moment, the ACTU has one representative. Alcoa has advised us that it has no problem with another ACTU representative being on the board. It is still subject to further discussion as to who that individual will be.

I have been a trade union official for a considerable period. This issue has been one of the most frustrating and complex that I have ever been involved with in my time as a union official. It has been very frustrating; in the first instance, Alcoa was in a state of denial and was of no great assistance to the unions. It only passed on information that it wanted us to know. We received information from other people in the Alcoa operations that was sometimes contradictory to some of the things Alcoa was telling us. That created confusion. There was no access to the workers compensation system for employees suffering from multiple chemical sensitivity. That also caused frustration. There was frustration among the community as to how it was affected. Various things happened: Alcoa bought up houses and extended buffer zones. I told the company at the time that that was an absolute nonsense as it was creating an even bigger problem. It was an identification by Alcoa, in my view, that there was a problem but the company would not address it directly. I must say that Alcoa is a better corporate citizen now than it has been in the past. I would not say that the company is brilliant, by any stretch of the imagination, although it is more open and honest than before. It is unfortunate that it took so long. Many people were frustrated, and still are. There needs to be a lot of fence mending before people are assured that Alcoa is doing everything that can be done. It has introduced a raft of technical modifications to Wagerup and Kwinana. We will await the results.

We would like to see a number of things happen. As far as the departments are concerned, there should be greater vigilance by the regulators. Appropriate departments must monitor emissions on a more regular basis and publicly report the findings. I found it fascinating that Alcoa, among others - I do not know if it still is but I will raise it anyway - was covered by old state agreement Acts in that it did not have to conform to various Environmental Protection Authority standards. That should change. In my view, the company should be forced to negotiate new agreements. If it is good enough for some members of the community, it should be good enough for all members of the community. Multiple chemical sensitivity is a very complex issue and it should be recognised as a disease for which people can be compensated. Our members have suffered great trauma; they have suffered great physical, emotional and psychological strain. A whole of government approach, on a departmental basis, should be taken when an issue like this arises. We found that departments did not liaise with each other. It is an issue that cuts across various departments. It should not be handballed around. There must be coordination between departments so they understand what should happen and what are their responsibilities. Once again, I raise the issue of the Occupational Safety and Health Act versus the Mining Act. It is a nonsense that workers in one industry are covered by one set of rules and regulations while workers in another industry are covered by similar, but nonetheless different, rules and regulations. Everyone should come under the provisions of the Occupational Safety and Health Act.

I note with interest an article in *The Sunday Times*, in which some people called for an occupational health and safety ombudsman. The AMWU does not support that proposition. It believes there is no need to reinvent the wheel and that regulatory bodies already exist in Western Australia, which, if they carried out their functions in an appropriate and proper way, would ensure there was no need for an ombudsman. Unless we are persuaded otherwise, we do not support the proposition, albeit that it was raised by another union.

Some of the issues I have traversed are contained in a written report. I would like to submit the report to the committee. Other information may come to hand over the next 24 to 48 hours. By leave of the committee, I would like to submit further information that may come to hand. I thank the committee for the opportunity of addressing it. I will answer all questions to the best of my ability.

The CHAIRMAN: Thank you very much. The committee will appreciate any further information that the witness thinks is relevant to the inquiry.

Hon KATE DOUST: Mr Ferguson talked about the frustration in dealing with Alcoa and getting an arrangement for his members. What strategies have been put in place with the company to ensure better communication between the workers, safety representatives and the company?

Mr Ferguson: It is a hot topic at the moment because I do not believe Alcoa knows how to communicate properly with its work force. When the Healthwise study was handed down a few weeks ago, we conducted a meeting. We were very critical of Alcoa because it called us to an urgent meeting in Mandurah at three o'clock in the afternoon. I cannot remember the exact date, but it was recently. It gave us the results of the interim report and asked us what we thought of it. We discovered at that meeting that the company had held meetings two days previously with another union, the AWU.

[12.15 pm]

They had negotiated some of the outcomes from the report, which, to coin a phrase, pissed us off no end, because we had understood that that was the first communication that would take place. They had discussed it with the AWU, and had reached agreement, and then things were put in place. That is an indication that they have not got the communications right. My view was that the company should have called together its senior delegates, convenors and occupational health and safety representatives, because they are the employees and they should have been the first to know what the issues were and how the company intended to address. The AMWU had meetings with Alcoa last week. I was not there, because I was laid out with the flu for two or three days, but I think the company has now assured the union that communications will be a lot better than they have been. Our members and delegates are not happy with the way the company has performed in handing down the Healthwise report. Alcoa has had a lesson to learn in that. We all learn lessons from every dispute and situation such as this, and we can always improve the way we operate.

Hon KATE DOUST: Alcoa has been in a very privileged position in this State, of being able to develop and deliver the only in-house safety representative training program in the State. Because of everything that has happened, and maybe because there has not been adequate monitoring of whether the representatives have been able to perform to the standard required, is it time that the company became more mainstream and provided better monitoring of its programs to ensure that workers have access to enough information about the hazards they have been exposed to, and in general improved communication?

Mr Ferguson: That is an interesting question, because from time to time the AMWU has been invited, or given the ability by agreement, to address occupational health and safety courses, to put the issue from a union perspective, whatever that may mean. Occupational health and safety is occupational health and safety. If everyone is doing the appropriate thing, there should not be any particular perspective. The safety of the work force should be paramount. I do not think that

Alcoa, or any other employer, should be in a privileged position, in which it can do its own training, and regulate itself in occupational health and safety or any other issue. The company should be part of the mainstream, and maybe that should be looked at.

Hon LOUISE PRATT: I am unsure if you will be in a position to answer this question. If you reach agreement on the nine or 10 employees for whom you are seeking compensation and recognition of their complaints, will that agreement recognise multiple chemical sensitivity, or will it neatly sidestep the issue?

Mr Ferguson: Therein lies the problem, because Alcoa has never recognised that MCS is a problem. It has never recognised MCS as a type of disease. All through this issue, for every expert the union throws up, the company can throw up two. The answer to your question would have to be no. The company does recognise that something is wrong with these individuals but does not necessarily put it down to MCS. The company recognises that there is a problem, and does not know what the problem is. On some occasions, the company has said that the complaint was psychosomatic; that our members were suffering from psychological problems. That certainly was not the case. A lot more research must be done, and a definition of MCS must evolve before it can become a compensatable disease.

Hon J.A. SCOTT: At one of the hearings of this committee, when I asked why the AWU said it did not seem to be getting sick members, while the AMWU was, I was told that that was because your union was in negotiation with the company on wages and conditions. Is there any truth in that?

Mr Ferguson: You have me at a disadvantage. Are you saying that that was what the AWU said?

Hon J.A. SCOTT: Yes.

Mr Ferguson: Maybe the AMWU members are more sensitive than AWU members, and so feel more exposed. I absolutely refute the statement made in your question. It is an absolute nonsense. I would ask why the AWU, which has the bulk of the membership across the Alcoa operations, has only one or two members suffering from MCS. Some AWU members have approached us, and we have told them to speak to the AWU, which I believe they have done. The AMWU has never used, nor will it ever use, occupational health and safety as an industrial tool. If that is what the AWU said, we take great exception to it. I will leave it at that.

Hon J.A. SCOTT: Did you have much contact with the Department of Minerals and Energy about its regulatory role? Can you describe what action the department took, and whether you were satisfied with that action?

Mr Ferguson: I have not had great contact with the mines department personally, although I have spoken to AMWU members on the job, and they were less than satisfied with the performance of the department. In the view of the union, the department was just supporting Alcoa's position, and was also in a state of denial. That is the opinion I am receiving from our members on the job. I cannot comment, because I have not been directly involved, but all the departments that were involved, or should have been involved, did not perform to the best of their ability.

Hon J.A. SCOTT: I think you already indicated something about this. Do you think there should be some review of the regulatory process, in particular examining the issues of levels and mixture of chemical emissions?

Mr Ferguson: One of the problems we found, from a technical perspective - we are not epidemiologists or chemists - was that we kept getting results from the liquor burner at Wagerup, showing a host of different chemicals being emitted, including benzene and others whose names escape me. A number of these chemicals were known carcinogens. Those chemicals were present in concentrations below the accepted levels. We kept asking what happens if these emissions are mixed together. What sort of cocktail does that produce? No-one knew what the answer was to that question, and that caused us great concern. What I said before was that issues such as this -

particularly at Alcoa, because it has had the public exposure - should be monitored on an ongoing basis. The regulatory authority should pay specific attention to this. I am not saying that the plant is pumping out carcinogens at the moment, but close attention should be paid to the emissions by the appropriate regulatory body, which should be speaking to other such bodies, and exchanging information so that a determination or decision can be made on whether there is a problem. This should be based on all the information at hand, not just one set of statistics.

The CHAIRMAN: Thank you Mr Ferguson. How many members does the AMWU have at the Wagerup site?

Mr Ferguson: I guess, a couple of hundred.

The CHAIRMAN: That is my only question. Thank you very much. The committee has finished with questions, and really appreciates your input.

Proceedings suspended from 12.25 to 1.00 pm