



# CAPS Newsletter

Summer 2011

Issue 12

## Community Alliance for Positive Solutions Inc.

*Representing 410+ supporters, including 210+ paid members, and growing...*



### Serving

Yarloop

Waroona

Hamel

Harvey

Cookernup

Wagerup

Other  
Impacted  
Areas

### Inside:

*-RDA inspection refused*

*-Environmental Justice  
Society*

*-MCS guidelines adopted  
in country WA hospitals*

*-Under Corporate Skies*

### LITIGATION MAY MOVE TO AUSTRALIA

An appeal filed against the District Court of Pennsylvania's (USA) decision to dismiss the case, *Auxer et al. v. Alcoa*, from being conducted in the United States has been turned down.

The legal team in Pittsburgh, Los Angeles and Australia, worked tirelessly preparing submissions and responding to arguments raised by Alcoa's counsel during the appeal process.

Shine Lawyers recently received notification that the appeal against Judge Cercone's ruling that the matter should not be heard in the United States was unsuccessful.

In making its decision the Court of Appeals for the Third Circuit found that Judge Cercone correctly determined that as the witnesses and evidence in these cases are located in Australia, the claims should not remain in the US jurisdiction.

The impact of this decision is that the claim commenced on behalf of local claimants cannot proceed any further in the United States.

This issue as to whether the claims can be litigated in the US has always presented a significant hurdle to the continued progression and ultimate success of the action against Alcoa Inc. Shine Lawyers are nevertheless very disappointed in the decision and are currently investigating the issue of commencing proceedings in Australia, pending instructions from the US principals.

### Alcoa gets slap on hand for dust event

Alcoa Wagerup has received a \$45,000 fine for breach of license in relation to the May 14, 2006 dust event that sickened a number of area residents. On August 24, 2010, in Perth Magistrates Court, Alcoa pleaded guilty to breaches of its operating licence by allowing dust from its red mud ponds to blow across towns around the Wagerup refinery. The charge of causing pollution with criminal negligence was downgraded. The charges stem from reports by the Department of Environment and Conservation that dust from Wagerup's toxic waste dump - the red mud lakes - blew into the Yarloop area in May 2006.

### Reviews of *Under Corporate Skies*

*"Scary stuff and heartbreaking to read about the desperate and despairing fight of the Yarloop residents. The book exposes a number of intriguing issues."*

*"We need the Brueckners and the Rosses of this country to tell this sort of story and we must be glad that they do. But telling the story ain't enough. We must read their story! Please do that. Their tale is horrendous so be sure to have a stiff drink before you start - especially if, as I do, you live in WA." --Gavin Mooney*

*"Pessimism is an excuse for not trying and a guarantee to a personal failure."*

*--Bill Clinton*



## **Alcoa refuses CAPS' and Consultants' request for RDA Inspection**

CAPS and consultants have requested a RDA site meeting with Alcoa, however, the request was refused.

According to a response to the request sent to the DEC by Alcoa in April 2011, "As you are aware, Alcoa makes every effort to operate in an open and transparent manner, and we regularly provide community members with the opportunity to visit our operations. We do not however support the visit by CAPS on the following grounds:

- The majority of the agenda proposed by CAPS appears to replicate the role of the DEC. We do not believe this to be appropriate, however I would be pleased to facilitate a DEC investigation on any matters it believes necessary.
- During 2010, Alcoa responded in detail to 57 questions or comments posed by CAPS, many of which related to groundwater management around the RSAs at Wagerup. While there appears to have been little acceptance by CAPS of the previously submitted information, DEC has not expressed any concerns with the content or quality of information provided."

CAPS' discussions with the DEC regarding Alcoa's RDA continue.

## **Environmental Justice Society launched in Australia**

On Friday 11 February 2011, human rights crusader Erin Brockovich officially launched the Environmental Justice Society (EJS) to further the cause of environmental protection in Australia. Working together with Erin, the EJS is a group of like-minded, environmentally-conscious people, whose goal is to empower individuals and communities to take action when negligent companies need to be brought to account.

The EJS is a unique concept in this country, informing Australians about their fundamental human right to a safe environment. By providing knowledge the Society will seek to empower people to protect this right if it is being jeopardised.

The EJS website was officially launched at the event. Through its website the EJS provides people with wide-ranging, practical information, whether it is the different conditions and adverse health impacts which might result from exposures to certain chemicals, how to gather the right sort of scientific evidence to establish whether an area is being harmed by pollution, or what legal avenues might be available if people have been wronged by a company who has mistreated the environment.

Individuals who contact the EJS will receive access to the website's Knowledge Centre, which is a resource containing fact sheets, research papers and articles relating to medical, scientific and legal issues of relevance and importance to the Australian community.

The EJS secretariat provides ongoing pro bono support to individuals and community groups to assist with furthering their cause. The EJS also assists by determining the most appropriate channels through which people may access advice and engage an expert specific to their circumstances.

Erin Brockovich is the official patron of the Environmental Justice Society. Erin's tremendous profile will be of great assistance in generating awareness and raising the profile of the EJS, and will be a powerful tool in drawing attention to the causes and cases the Society takes on.



### ***New MCS guidelines impact local hospital practices***

Persons with Multiple Chemical Sensitivity (MCS) now have access to MCS- friendly hospitalisation within the area covered by the WA Country Health Service (WACHS).

The Environmental Chemical Hypersensitivity Organisation (ECHO) worked in collaboration with Ms Melissa Vernon (WACHS Executive Director, Primary Health and Engagement) and Ms Carolyn Ngan (WACHS Operations Manager - Inland Districts) to develop Multiple Chemical Sensitivity / Chemical Hypersensitivity Guidelines for Western Australian Country Health. The Guidelines have been endorsed and are being implemented throughout the WA Country Health Service.

ECHO is seeking to have the Guidelines implemented in hospitals in the Perth metropolitan area. If you would like to see the same duty of care applied in these hospitals, please support this effort by writing to: Dr Russell-Weisz CEO North Metropolitan Health Service E Block Sir Charles Gardner Hospital Nedlands 6009 and Ms Nicole Feeley CEO South Metropolitan Health Service Locked Bag 8 Canning Bridge WA 6153.

ECHO wishes to thank Melissa Vernon, WACHS for the time and effort spent on development, endorsement and implementation of the Guidelines; The Disability Discrimination Unit of Sussex Street Community Law Service Inc., whose assistance was instrumental in initiating collaboration between WACHS and ECHO on development of the Guidelines; Vince Puccio, who attended ECHO's meetings with WACHS, representing CAPS members who suffer MCS; Dorothy Bowes of the Allergy, Sensitivity & Environmental Health Association, QLD. Inc. (ASEHA), for support and advice provided to ECHO, and WACHS SW Health Service staff who are steadily implementing the Guidelines.

For more information about these guidelines, visit these websites:

MCS/Chemical Hypersensitivity Guidelines for WA Country Health: [www.caps6218.org.au](http://www.caps6218.org.au)

Sussex Street Community Law Service Inc.: <http://www.sscls.asn.au/>

ASEHA <http://www.asehaqld.org.au>

### **No award, but many accolades for *Under Corporate Skies***

Though the Blake Dawson Business Literary Award went to Paul Barry's "Who Wants to Be a Billionaire?", the book written about the local fight with Alcoa has received many shining reviews. Being shortlisted for the prestigious award is an exceptional honour in itself and can be seen as validation of just how important the issues are around corporate responsibility. Finally people impacted by mining operations around the world are having their own similar stories told through the eyes of the community of Yarloop, a story now seen as a matter of national, if not global, importance.

Authors Martin Brueckner and Dyann Ross are now writing a more minor work concerning the emotional side of the Wagerup controversy. Not only are the emotions of the impacted community analysed, but also Alcoa's highly emotive behaviour "behind the scenes". This treatise may offer an opportunity to investigate the issues of company "fact" versus community "claims".

Further academic publications are planned over the next 12 months, and readers will be updated on the authors' progress.

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**Visit our website often-**

**[www.caps6218.org.au](http://www.caps6218.org.au)**

**it's updated frequently!**

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**Web links for stories about Alcoa and pollution:**

**<http://www.columbian.com/news/2010/oct/05/state-urges-monitoring-of-pollution-by-alcoa/>**

**<http://www.yadkinriverkeeper.org/issues/alcoa-pollution-new-documents-available>**

**<http://www.txpeer.org/toxictour/alcoa.html>**

**<http://topics.treehugger.com/article/0dbE4I16KB1IU>**

***Protecting your privacy*** It is our duty of care to protect the privacy of our members. There are still a few people who are not sympathetic to our cause or compassionate towards those suffering health effects, and these people have, at times, been confrontational. To protect the privacy of our members, we will only publish names with expressed consent. You may meet other members, supporters and the executive committee in person at CAPS Membership Meetings. Questions concerning this policy can be addressed by co-chairs Vince Puccio 9733 5011 or Merv McDonald 0409370235.

***A healthy environment for living and working is your basic human right.***

***Are you relocating? Please keep us informed by phoning or emailing us with your new contact details!***

