

State government inquiry whitewashes Australian chemical leak

Terry Cook
18 October 2011

Last week's release of the results of an inquiry commissioned by New South Wales Premier Barry O'Farrell into the serious chemical leak on August 8 at Orica's Kooragang Island ammonium-nitrate plant in Newcastle, north of Sydney, confirms the cover-up character of the entire exercise.

On August 8, between 10 and 20 kilograms of a carcinogenic chemical, hexavalent chromium, was released into the atmosphere, depositing a toxic residue across the nearby suburb of Stockton. Another 20 kilograms was deposited inside the plant, endangering the health of Orica's workers.

As a result of still-unexplained reporting delays by both Orica and the O'Farrell government, outraged local residents were not told of the leak until three days later, after the yellow and red residue had become visible.

The inquiry conducted by former senior public servant Brendan O'Reilly was part of a damage control exercise to placate Newcastle residents and head off any genuine probing of the incident's underlying causes. The terms of reference, drawn up by senior staffers of Environment and Heritage Minister Robyn Parker, excluded any examination of the government's role.

O'Reilly's report notes that the company did not notify the state Office of Environment and Heritage (OEH) and WorkCover until nearly 17 hours after the incident, and told the OEH it believed that any fallout had been contained on site. According to the report, "it is difficult to understand why it took Orica some 17 hours to inform OEH."

This claim of bewilderment is plainly ludicrous. If it was "so difficult to understand," why did the inquiry not probe the issue further? Clearly, Orica's delay was part of an attempted cover-up, which fell apart once the

residue became obvious to Stockton residents.

By law, the potentially hazardous situation required the activation of the State HAZMAT/CBR emergency plan to trigger the response of a number of government agencies. To minimise the implications of Orica's cover-up, O'Reilly stated it was now known that the leak "did not present a health risk to the residents of Stockton."

According to the report, environment minister Parker was not told of the incident until 46 hours after it occurred. It is hard to accept, however, that she knew nothing until the afternoon of August 10 given that OEH, the agency responsible for informing her, had been made aware of the incident 17 hours after it happened.

There was no probing of why Parker then chose to sit on the information for almost another 24 hours before finally making a statement in state parliament. Consequently, the public only became aware of what had happened via news broadcasts on the night of August 11—that is approximately 72 hours after the leak.

Parker's delay suggests that right up to the last minute the government was hoping to shield the company and at the same time minimise the political fallout from its own handling of the situation. Parker's ministerial statement came only after laboratory testing permitted her to claim there was no significant health risk.

The O'Reilly report exonerates Parker, stating that if the OEH had informed her office of the spill one day earlier, "consideration could have been given to a media release alerting the public to the incident."

O'Reilly noted: "I am not making any judgment, nor am I commenting on the role and/or actions of any member of Parliament."

Orica also escaped scot-free. Despite the fact that the company had potentially endangered public health by its delay, an offence punishable by a fine of \$1 million, the inquiry did not recommend any legal action against it. Instead, the report claims that "Orica has already expressed its regret that the Office of Environment and Heritage (OEH) was not informed sooner. With the benefit of hindsight, Orica would notify sooner."

These assurances are worthless. Even before the inquiry got underway, Orica admitted leaking effluent containing arsenic into the adjacent Hunter River on August 19, and on September 27 it released mercury vapour exceeding permissible limits from its Botany Bay site in Sydney. Those pollution licence breaches brought Orica's total to 265 across the Botany and Kooragang Island sites in 10 years.

Both the O'Farrell government and Orica swiftly welcomed the O'Reilly report's seven recommendations. These include requiring companies to immediately report "incidents" within one hour to the authorities rather than "as soon as practical" as currently specified under the previous state Labor government's legislation. The fine for breaching the requirement is to be doubled to \$2 million.

There is an obvious loophole in this law. The reporting rule only applies to "spillages or escapes" that "threaten to cause injury or death or damage to property." Polluting companies can claim, as Orica did, that there was no proven danger. As Stockton resident Kate Johnson told ABC radio: "[T]he same incident could occur and they [Orica] still would not have to notify the public because they didn't think that it was out of control outside their own site."

There is little reason to believe that Orica will not evade the rule whenever it sees fit, given that it has habitually breached its operating licence with almost total impunity. Moreover, the increased fine is not a serious deterrent for a company that netted \$1.35 billion profit in 2009-2010.

Another cosmetic recommendation is to re-establish the Environment Protection Authority (EPA) as a statutory agency, independent of the OEH. Under the previous Labor government, the EPA had a long history of covering up pollution by major companies, including Orica and BHP-Billiton, a record exposed by the 1997 Workers Inquiry report, *Cancer and Industrial Pollution*.

Even according to the official records of the EPA and OEH, the Orica leak is just part of a pattern going back decades. Since 1999 alone, companies have failed to notify authorities within 24 hours in 32 documented serious pollution incidents in NSW. Only two of the incidents led to prosecutions. In 2006, 2,500 litres of toxic chemicals were released into Sydney's Parramatta River from a CSR building products site at Rosehill, yet it took over 24 hours to notify authorities.

Mariann Lloyd-Smith an adviser to the federal Labor government's National Chemicals Notifications and Assessment Scheme, last month threw some light on the subservience of governments of all stripes to the dictates of giant corporations like Orica. Commenting that Orica "had a concerning level of spills, leaks and breaches" but had only been fined once, Lloyd-Smith declared: "Orica is one of the biggest explosive companies in the world and when Orica talks, government knees quiver."

Such quivering at the knees will no doubt also characterise a further parliamentary inquiry into the August 8 Orica leak, initiated by the opposition Labor Party and Greens. Its terms of reference are framed to cover the part played by Parker and the government, but avoid any real examination of the underlying relations between successive governments and the corporate polluters.

The author recommends:

Australia: Two whitewash inquiries into Orica chemical leak
[7 September 2011]



To contact the WSWS and the
Socialist Equality Party visit:

wsws.org/contact