

# Australia: Victorian bushfire settlement covers up political culpability

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A \$494.7 million settlement has ended a legal action over the “Black Saturday” bushfires that killed 173 people in the Australian state of Victoria on February 7, 2009, but left the victims unsatisfied. While insurance companies used the court case to recoup their losses, devastated families will have to wait many more months for small compensation payments.

The settlement—made without any admissions of government or corporate liability—is also being used to deflect attention from the responsibility of successive Labor and Liberal governments, whose privatisation and deregulation of the state’s electricity network created the conditions for the fire disaster.

The payout was agreed by the Victorian government, private electricity provider SP AusNet (SPI), and maintenance company Utility Services Corporation Ltd (USC), after damning evidence emerged of their culpability for the deadly Kilmore East bushfire, just north of Melbourne, that was sparked by a damaged power line.

The legal action charged that SPI was negligent in failing to maintain the 40-year-old power line that ignited the fire, and USC was negligent in failing to properly inspect the line. A previous lightning strike had caused cracks, making the wire more susceptible to wind stress.

The law suit also alleged that the state government’s Department of Sustainability and the Environment failed to reduce the fuel load, and that the Country Fire Authority and Victoria Police did not provide adequate warnings about the Kilmore East fire, which alone killed 119 people and destroyed 1,242 properties.

The law suit was the largest of nine class actions stemming from the 2009 fires. It involved more than 10,500 group members, through lead plaintiff Carol Matthews, whose son was killed and home destroyed.

The civil trial lasted 200 days, with more than 100 witnesses providing testimony. The action included 1,700 personal injury claims, 4,000 claims for uninsured or underinsured property and 5,000 insurance claims.

At the start of the trial, Robert Richter QC, representing the plaintiffs, said that the fire could have been prevented if SPI had performed simple safety inspections and serviced the power line in the years before 2009. “They underspent hugely [on safety]... they were happy to rake in the profits but they underspent,” he said. According to official records, SPI slashed its annual maintenance budgets by \$95 million between 2001 and 2008.

Former SPI senior lines engineer Anthony Walley gave evidence of serious deficiencies in the company’s maintenance of its electricity infrastructure, including running conductors until they failed, downplaying risks internally, and not properly investigating failures, including in high bushfire risk areas. The company had no maintenance records for its infrastructure from before 1999, and did not apply vibration dampers to the Kilmore East line, in contravention of its own standards.

SPI’s lawyers maintained that current laws only required the company to take “reasonable care” in maintaining a safe electrical network, and that SPI could not spend money on safety measures that it had earmarked for distribution to its shareholders, because they expected a return on their investment.

This line of defence only underscored the culpability of the governments that have carved up the formerly state-owned electricity network for the benefit of big business. Before privatisation, replacement of poles or wires was “age based,” but now it is supposedly “condition based.” This has allowed the private owners

to slash maintenance spending.

Of the settlement, the Victorian government will pay \$103.6 million, SPI \$378.6 million and USC \$12.5 million, without admitting any liability. Large insurance companies that bankrolled the law suit will be the biggest winners, sharing about \$140 million of the settlement. They had sought \$463 million out of a total damages claim of about \$1 billion.

Twenty four insurance companies were involved, including CGU Insurance, Elders Insurance, Commonwealth Insurance owned by the Commonwealth Bank, QBE Insurance, Insurance Manufacturers of Australia, Insurance Australia Limited, Suncorp Metway, Australian Associated Motor Insurers, Australian Pensioners Insurance Agency, GIO and Allianz.

A court ruling from late 2013 said the insurance companies had a “direct commercial interest in the litigation.” A spokesman for Insurance Australia Group, which owns two of the companies, said it was the first time the company had been involved in such a case. “We wanted to recover a portion of the cost we’ve already paid out,” he said, while “assisting our customers who had some uninsured losses or who were underinsured.”

It remains unclear how much compensation will go to ordinary residents whose lives were destroyed by the 2009 bushfire. The process will take about 18 months to divide up the money after it has received final court approval.

Pam Phoenix lost her home in Humevale on “Black Saturday” and was part of the class action. “I’m waiting to see what happens about the settlement,” she told the *World Socialist Web Site*. “I think I’ll be lucky to get a few thousand. You are torn, trying to replace your life. It’s hard.”

Phoenix explained that her husband died after the fire: “We didn’t rebuild in Humevale. It would have cost \$1 million to replace our home under the new zoning. We had to scrap all our plans. There was a lot of heartbreak and anger. Everybody in our position was up in the air. Our hands were tied... I think the emotional letdown affected my husband. He lost the will to live. He should have gone to counselling.”

State authorities and the corporate media rushed to declare that the settlement meant that the 2009 bushfire scandal can be finally buried.

In 2010, a Royal Commission into the disaster, convened by the former state Labor government of Premier John Brumby, was a political whitewash of the disaster.

Now the current state Liberal government has welcomed the outcome of the court case, with Premier Denis Napthine hoping “that this matter can be settled once and for all.” Napthine boasted that the payout would not hinder his government’s austerity drive. “It won’t affect our budget, it won’t affect our bottom line,” he said.



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