

O'MELVENY & MYERS
Multiple Sites

CGL Insurance Recovery Litigation Support & Cost Analysis

O'Melveny & Myers, LLP, on behalf of their client INA/CIGNA retained Geolex, Inc. (Geolex) to investigate aerial photographic evidence and the history of material handling and waste disposal at numerous American Cyanamid and CIBA-Geigy (the plaintiff) sites throughout the United States. Geolex offered opinions and conclusions concerning the features observed on historical aerial photographs of the sites, the areas of the plant site where wastes were disposed, the type of waste disposal practices that were employed at the site, the sources, timing and relative importance of sources of contamination.

In addition, Geolex provided expert consulting and analysis of remedial action proofs of claim, and reviewed the costs expended at the various sites. Analyses of the costs included in the plaintiff's proofs of claim for each site was conducted in order to evaluate expenditures in terms of RCRA v. CERCLA compliance, voluntary or duplicative investigations, reasonableness in comparison to available data from other sites, and costs associated with various components of the investigations, remediation and closures which had been conducted at the sites.

Geolex analyzed these remedial costs claimed based on the information provided in the proofs of claim databases and a sampling of support information such as vendor invoices and time sheets. We analyzed costs incurred in conjunction with the timetable of reports and deliverables produced by EPA, the plaintiff's consultants and the various RCRA and CERCLA documents associated with the actions taken at the sites. Industrial facilities routinely incur costs associated with environmental protection and compliance including, but not limited to, permitting, wastewater treatment, health and safety and managing solid and hazardous waste. Geolex evaluated the proofs of claim databases to determine what claimed expenditures arose from voluntary actions and those costs which represent routine environmental costs of doing business.

Geolex also evaluated the timing of expenditures relative to the release of contaminants to groundwater through dissolution of DNAPLs. This evaluation was based on the testimony and work conducted by the plaintiff's consultants in support of activities at the sites.

Geolex examined the original proofs of claim databases to categorize costs based on the information available in the database and sampled selected underlying documents. Other documents, depositions and trial transcripts from the original technical investigations and the liability portion of the trial were used to aid in this analysis.

Geolex experts provided deposition and trial testimony in two Federal trials, lasting approximately 4 and 3 weeks, respectively.

Major Project Elements:

- Hydrology
- Aerial photography
- Litigation support
- CERCLA
- RCRA
- Expert witness testimony

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