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COMEAUX V VISTA

Case No. 95-6359

Verdict Date: 4/13/1998

1998 LA Jury Verdicts & Sett. LEXIS 1423

TOPIC: Toxic Tort

RESULT: Court approved the settlement at a fairness hearing: DuPont/Conoco - $**15,000,000.00**
Condea Vista - $15,000,000.00 plus
$13,875,000.00 for property buy out about 550 pieces of property. In addition to the amount set aside for the sale of property, Condea Vista has agreed to pay 20% of the property value of each piece of property sold, to plaintiff counsel for closing costs and fees. $2.8 million for fees and costs associated with the sale of property to the company and $500,000 paid out over 10 years to the Calcasieu Parish School Board. A formula that takes into account proximity to the plant and years of residence will determine who gets what.

AWARDS: TOTAL $**45,000,000.00**

STATE: Louisiana

PARISH: Calcasieu

COURT: 14th JDC Div. H

JUDGE: Al Gray

PLAINTIFF(S): Sally Comeaux, et al

DEFENDANT(S): Condea Vista Co.
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J. Paul Warner

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ACCIDENT DATE/LOCATION: 12/1/1995 Mossville

SUMMARY: The tiny community of Mossville settles with Condea Vista plant for **$32 million for polluting area groundwater. The plant's previous owner, DuPont, had settled for $15 million already.**

PLAINTIFF CONTENTIONS: Ethylene-dichloride contamination (EDC) was discovered in 1995 under the homes of the tiny community of Mossville. In the early 1980s, EDC was detected in the groundwater beneath a vinyl chloride manufacturing process plant in the Condea Vista Plant near Lake Charles. The 2,800 residents filed suit in December 1995 after Condea Vista announced that chemicals from its vinyl monomer plant migrated under the adjacent neighborhood.
Conoco Inc. occupied and operated the plant from 1968 1984. In 1984 a group of Conoco engineers and inventors (Vista Chemical Company) purchased the VCM (vinyl chloride) plant for 500 million dollars. The plant name was later changed to Condea Vista. Conocos parent company is E.I. du Pont de Nemours and Company. Condea Vista officials have said the sale agreement between Vista and Conoco stipulated that Conoco and DuPont would retain responsibility for the existing groundwater contamination that predated the sale of the facility.

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In April 1995, less than one year after Vistas ownership, it was issued a compliance order for storage tank leaks. It was determined that there were a series of leaks and spills wherein tanks were not inspected and not monitored. In 1986, the DEQ issued an additional compliance order regarding groundwater remediation. A source of determination document dated from 1968 to 1986, documented the largest spills during their ownership period. Testimony from Conoco personnel stated an inspection of the tank farm in 1985 and 1986 found the tank bottoms to be like Swiss cheese, in addition to free-flowing material. Vista claimed that the majority of these spills occurred during Conocos ownership. After discovery of the chemical plume, Plaintiffs alleged Conoco/DuPont stepped back in for assessment of the spill origin. Louisiana Department of Environmental Quality made investigation, and pursuant to a compliance order, Vista provided a source determination report of all leaks and spills dated 7/9/86. This document noted that the larger spills occurred during Vistas ownership, including a 1990 10,000-gallon spill, a 1996 4700 K spill and 800-pound spill in 1997. Detection limits mandated by EPA and U.S. Dept. of Health states that any amount in excess of five parts per billion in potable water is unsafe.
In 1985, the DEQ noted the plume was migrating westerly and again in 1986 and 1987. Vista was to implement a remediation plan. Beginning in 1984, and in thirteen years time, Vista went through a number of consultants, who were to monitor the migration of the plume. By 1987, the EDC contamination was found at the western most boundary of the plant fence line.
The cleanup effort is ongoing and involves Condea Vista, Conoco/DuPont and the State Department of Environmental Quality.
Plaintiffs alleged trespass, nuisance, fear of disease, emotional distress, diminutation of property values, loss of use and enjoyment of property, medical monitoring and punitive damages.

PLAINTIFF EXPERTS:
Bill Mundy PhD - Economist/MIA Appraiser
Seattle

Frank Hunter - Industrial Hygienist

George Gregson CPA - Forensic Accounting

Larry Bankston - Real Estate Appraiser

Phillip Bedient - Environmental Science
Houston

Randy Hormk - Groundwater testing
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Richard Goldstein MD - Toxicology

Robert Brenner - Toxicology

DEFENDANT EXPERTS:
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Steve Larson - Hydrogeology
Bethesda
Ground water sampling, soil sampling and modeling

TRIAL DATE: 4/13/1998

TRIAL TIME: Bench Trial - 1 days

POLL: No Pol