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## Kinder Morgan Settles \$45M Pipeline Cost Overrun Suit

Share us on: By **Jeremy Heallen**

Law360, Houston (September 17, 2012, 8:09 PM ET) -- A [Kinder Morgan Inc.](#) subsidiary on Friday settled a \$45 million suit against a general contractor that charged more than double its bid to construct a 135-mile natural gas pipeline, ending three years of litigation in Texas court on the eve of trial.

Kinder Morgan Louisiana Pipeline LLC and Latex Construction Co. announced to the court that they had settled a dispute over millions in cost overruns related to the Kinder Morgan Louisiana Pipeline, eliminating the need for a trial that was to start Monday morning.

E. Lee Haag of [Fulbright & Jaworski LLP](#), who represents Kinder Morgan, confirmed the agreement Monday, saying his client was "pleased as punch" that the case settled Friday evening, but declined to offer any additional details on the confidential settlement.

Representatives for Latex Construction did not immediately respond to a request for comment Monday.

According to court records, Kinder Morgan filed the suit in 2009 against Latex Construction and a pipe manufacturer as a result of millions in cost overruns and delays allegedly caused by the companies.

Kinder Morgan claimed in the suit that it hired Welspun Corp. Ltd. — the world's second largest manufacturer

of large diameter pipes — and Georgia-based Latex Construction to provide materials and services for construction of the pipeline, which was designed to deliver large daily quantities of natural gas from the Sabine Pass Liquefied Natural Gas Terminal into the national pipeline and underground storage grid.

In 2006, Welspun was paid some \$28 million to manufacture the needed pipe and Latex was hired in 2007 as the project's general contractor, the suit said.

Latex originally agreed to oversee the project for a price of \$234 million, the suit said. But as a result of Latex's "mismanagement and inefficiency," Kinder Morgan claimed it had to pay the general contractor more than \$500 million to get the project done.

After agreeing to raise the contract price three times from \$234 million to an eventual \$475 million, Kinder Morgan said that when Latex realized it was about to exceed the budget yet again, it threatened to walk off the uncompleted project unless Kinder Morgan paid an additional \$35 million.

"Latex knew that it was about to exceed the \$475 million [limit] and that it still had work to complete on the project," the suit said. Latex's unilateral demobilization in February 2009, under the protest of [Kinder Morgan], was an attempt to force [Kinder Morgan] to pay additional monies to Latex."

Compounding the problem, Kinder Morgan said the pipe provided by Welspun did not meet design specifications. Because most of the pipe had to be buried 40 to 80 feet underground, Kinder Morgan said its purchase order with Welspun called for a grade of pipe that would withstand extreme pressures.

But after it received and tested the pipe, Kinder Morgan said it discovered the pipe was defective and would not hold up under the required pressure load. Kinder Morgan claimed that Welspun refused to repair the pipe and that it was forced to have the problem fixed at its own expense.

"If Kinder Morgan did not perform the foregoing mitigation efforts and did not attempt to avoid the consequences of Welspun's breach, or if [Kinder Morgan]'s attempts to reclassify the out of spec pipe provided by Welspun proved unsuccessful, the costs associated with the delayed in-service date, the increased construction costs, the costs associated with pulling pipe and the adverse effects on the liquefied natural gas market could have exceeded a billion dollars," the suit said.

Latex Construction denied Kinder Morgan's allegations and argued in a counterclaim filed in the suit that it was still owed for work performed on the project.

Court records show that Kinder Morgan and Welspun resolved their dispute in August 2011. Details of Kinder Morgan's settlements with the companies were not disclosed, though court records show it was seeking \$66 million from Welspun and \$45 million from Latex Construction. It is unclear how much Latex Construction was seeking through its counterclaim.

Kinder Morgan is represented by E. Lee Haag, Chris Watt and Tonja D. De Sloover of Fulbright & Jaworski LLP.

Latex Construction is represented by Scott G. Burdine and Carl D. Kulhanek Jr. of [Hagens Burdine](#)

[Montgomery Rustay PC](#) and Brian G. Corgan, R. Lee Mann III, Chad V. Theriot and Daniel M. Murdock of [Kilpatrick Townsend & Stockton LLP](#).

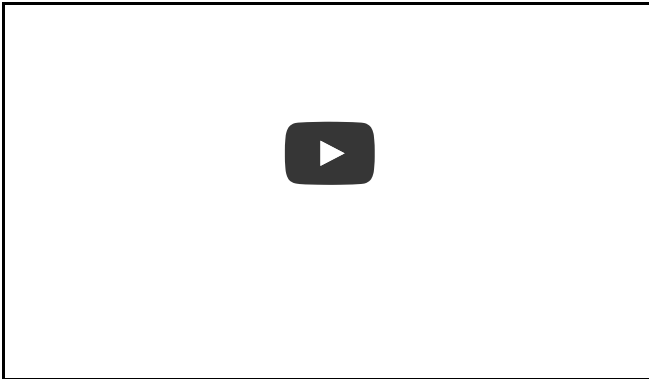
The case is Kinder Morgan Louisiana Pipeline LLC v. Latex Construction Co., case number 2009-54103, in the 11th Judicial District Court of Harris County, Texas.

--Editing by Lindsay Naylor.

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