

AkzoNobel hit with new lawsuit over \$45B Ichthys LNG project



Energy & Natural Resources | 2021-07-12 6:01 pm | By [Cindy Cameronne](#) | Sydney

Japanese oil company Inpex has sued Dutch paint manufacturer AkzoNobel for allegedly making misleading statements about an epoxy coating it supplied for use in the Ichthys Liquefied Natural Gas project in Bladin Point, Darwin.

Inpex, which established the Ichthys project in 1998 to connect gasfields off north-western Western Australia with a gas processing facility in Darwin, sued AkzoNobel in the Federal Court on Thursday alleging breaches of the Australian Consumer Law.

The lawsuit follows one brought by contractor JKC Australia LPG against AkzoNobel and its subsidiary International Paint in September 2017 over alleged defects with its Intertherm 228 coating. In 2019, Federal Court Justice Katrina Banks-Smith said documents discovered in that lawsuit [could be used in relation to potential claims by Inpex or Ichthys LNG, which is majority owned by Inpex.](#)

In its lawsuit, Inpex says it selected AkzoNobel's coating to be installed in the Bladin Point plant based on the paint manufacturer's representations that it could provide a protective barrier for steelwork exposed to ultraviolet light, salt spray and high humidity.

However, Inpex says the coating "has failed to provide a protective barrier against the external environment where it has been applied to steelwork across the plant".

"Many of those areas of the plant now exhibit signs of severe erosion, rust crazing (both due to exposure to UV and water) and thermal degradation in higher temperatures within its stated temperature range (above 120°C but below 230°C)."

Inpex is seeking damages to compensate for its costs in investigating the alleged degradation at the plant, remediation costs as well as losses incurred while repair work was undertaken, including business interruption loss.

Alternatively, Inpex claims damages for the amount it paid its contractor for the supply and installation of the coating and cost of restoring the plant to its original condition.

Inpex entered into a US\$13 billion contract with JKC — a joint venture between the Japanese JGC Corporation and Chiyoda Corporation and US-based engineering and construction company KBR — to construct the onshore LNG plant.

Thus far, the Ichthys project has been plagued with delays, cost blowouts, and legal battles.

JKC installed AkzoNobel's epoxy coating over 300,000 m² of surfaces at the Bladin Point plant, which is located in a highly corrosive environment and required the coating for the steel systems operating at temperatures of up to 230 degrees Celsius, according to court documents.

AkzoNobel made representations to Inpex that the coating was suitable, the lawsuit alleges, including in a product data sheet and in correspondence from the company's Market Manager in November 2011 after Inpex asked for a formal comment on its suitability.

Inpex says it asked for a second time on 1 June 2012 that AkzoNobel comment the coating's suitability for the plant and to confirm that it had a 15-year service life. Akzonobel allegedly responded on 4 June 2012 to "agree in principle" but did not specifically address the coating used in the plant.

According to the lawsuit, Inpex continued to approve the coating for use on the plant from May 2013 to July 2015, only becoming aware on 23 July 2015 that the coating was failing and there was a systemic degradation issue at the plant.

Inpex alleges the coating was not able to provide a protective barrier on steelwork exposed to the environment of Bladin Point and was not suitable for exposure to temperatures of 230 degrees Celsius.

AkzoNobel allegedly advised Inpex's contractor in October 2016 that the coating may not be robust for the long term and did not have a 15-year service life with conditions at the plant. After an investigation of the coating's failure in December 2016, AkzoNobel concluded the coating was not suitable for plant, according to the lawsuit.

In August 2019, UGL [reaching a settlement](#) in a class action alleging it kept shareholders in the dark about problems with the \$900 million contract for the Ichthys plant.

The details of the settlement agreement, announced by IMF Bentham, were not known. IMF estimated it would pocket \$8.3 million for bankrolling the litigation. In October 2018, Justice Bernard Murphy [signed off on a common fund order](#) under which IMF's cut would not exceed 30 per cent of the resolution sum.

The class action, filed by investment group Clime Capital in December 2017 and led by Phi Finney McDonald, claimed the company breached its continuous disclosure obligations by failing to alert shareholders to problems with the project.

The class action alleged that between April 16, 2014 and November 5, 2014, UGL failed to notify shareholders that the project was running behind schedule and subject to increased project costs. The plant itself eventually fired up its turbine generators in November 2017.

UGL knew a loss for its Ichthys power project was "looming" as early as February 2014, according to the class action, which claimed the engineering firm should have forecast a loss of \$129 million for the project.

Lawyerly has reached out to AkzoNobel for comment.

Inpex is represented by Ruth Higgins Sc and Emma Bathurst, instructed by Corrs Chambers Westgarth.

The case is [INPEX Operations Australia Pty Ltd & Anor v AkzoNobel N.V. & Ors](#).