



Michigan Businesses Join Class Action Against Owners of Breached Dam That Caused Massive Damage and Evacuations

Receding waters reveal catastrophic damage to numerous businesses; dam owners and operators, including J.P. Morgan, had flouted regulations and repair deadlines for years

SOUTHFIELD, MI (May 29, 2020) – A group of local businesses devastated by the catastrophic dam failures in Michigan have joined individual plaintiffs in a class-action lawsuit against the dams’ owners over their alleged, years-long failure to maintain the structures.

Leading plaintiffs’ law firms **Grant & Eisenhofer**, **Morgan & Morgan** and **Jenner Law** have jointly filed an amended complaint in U.S. District Court in for the Eastern District of Michigan that adds business claimants seeking damages from dramatic dam failures a week ago that forced mass evacuations in locations across Midland, Gladwin and Saginaw Counties, MI.

Among the plaintiffs added to the class action are businesses already struggling to make ends meet amidst the COVID-19 shutdown. Many suffered punishing losses of equipment and inventory that will need to be repaired or replaced before they can resume operations once the pandemic restrictions lift, while residents have been forced into crowded evacuation centers where social distancing requirements in place are virtually impossible to maintain.

“This pair of disasters was years in the making, feared and warned by townspeople who lived near the dams and enabled in virtually every way by the alleged misconduct, negligence and reckless indifference of the owners and operators,” said **Elizabeth Graham** of Grant & Eisenhofer, **Frank Petosa** of Morgan & Morgan, and **Rob Jenner** of Jenner Law PC, the attorneys representing the class.

The lawsuit names the dam operators, as well as its owners, a series of trusts belonging to the family of Lee Mueller. JPMorgan Chase & Co., which is an alleged co-trustee of the Boyce Family Trusts that own and operate the failed dams, is also named as a defendant.

The dam break at the Edenville and subsequently the Sanford facility – disasters that had been foreseen for years due to the dams’ decrepit condition – sent floodwaters surging through homes and downtowns across the counties, and even into the waste basins of a large chemical plant. The rain that drove a 35-foot surge of Wixom Lake waters over the top of the Edenville dam on May 19, and then broke through the Sanford dam farther downstream, overtook poorly functioning barriers and inadequate spillways weakened by years of neglect and unmet promises to make badly-needed repairs and upgrades.

The Federal Energy Regulatory Commission (FERC) and other government agencies repeatedly cited the dams as inadequate to handle an extreme event. However, the owners remained uncooperative, “despite knowing full well,” the complaint states, “that the Edenville Dam could fail at any moment, endangering life and property downstream.”

At one point the dam owners refused to make an \$80,000 repair, insisting that communities around the dams foot the bill. When cosmetic updates were made, the lawsuit alleges, they were slapdash and not to code, and not reported to government entities.

In 2018, FERC took a stark and unusual step, revoking the owners’ license to operate a hydropower plant at Edenville due to the dam’s poor condition. Even that, according to the complaint, did not prompt them to make safety upgrades.

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“Despite the defendants’ well-known record of ignoring safety regulations, they now appear to be trying to exploit political divisions within the state by blaming the government for failures at the properties they were responsible for maintaining,” said the attorneys. “This is a despicable dereliction of oversight and public trust, and homeowners and businesses throughout the area are paying the price. Our class action is a vital step to hold the dam owners accountable to the law and to common decency.”

As the attorneys note, following the breach, the dam’s owners immediately tried to pin blame on the Michigan state government for the disasters, claiming that authorities required too high a water level behind the dams. This is untrue: water levels before the flood were never higher than normal. Rather, in April, the owners had illegally opened dam spillways to artificially lower water levels, exposing fragile ecosystems. The state had sued dam operators to raise water levels to their previous, and required, height, which the dam would have been able to control if the owners had complied with applicable safety standards.

The poor condition of the dams, and the repeated failures of the operators and owners to meet their obligations to public safety, are the alleged primary causes of the devastating events that have overtaken Midland, Gladwin and Saginaw Counties.

Notably, Grant & Eisenhofer’s Ms. Graham and Morgan & Morgan’s Mr. Petosa served as co-lead counsel, and Mr. Jenner served on the Executive Committee and negotiating team, representing residents and businesses harmed in a series of fires and explosions caused by Columbia Gas in Merrimack Valley, Mass. The resulting class action resulted in a \$143 million settlement for plaintiffs – the largest class action settlement in Massachusetts state court history.

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