



Hearing Set In Suits Over Edenville Dam Failure

8/27/24

A judge will hear the state's request to dismiss lawsuits filed over the 2020 failure of the Edenville Dam.

Court of Claims Judge James Robert **REDFORD**, the fifth judge to handle the lawsuits, held a virtual status conference today, at which it was noted the lawsuits likely won't go to trial before April – when his assignment to the Court of Claims ends.

Assistant Attorney General Nathan **GAMBILL** told Redford that he should first consider the Department of Environment, Great Lakes & Energy's motion to dismiss the more than two dozen lawsuits because there is disagreement over the facts in the case.

Redford bluntly expressed disbelief about the state's position, saying, "I don't understand why the people think there's no factual dispute that would entitle the plaintiffs to attempt to articulate their positions from an expert witness," the judge said.

Gambill replied that the issue is an inverse condemnation claim and "it doesn't matter" what possible expert reports would say about why the dam failed because the state did not force the dam owners to keep the water levels high.

The plaintiffs theorize the water levels were too high, and the state rejected the dam owner's efforts to lower those levels.

Redford said he'd give the state 20 minutes at the September hearing to argue its motion to dismiss the case.

Dams in both Gladwin and Saginaw counties failed in May 2020 after historic rainfall that flooded the Tittabawassee River, which rushed through Edenville and Sanford (See ["Gladwin County, Saginaw County Dams Fail, Thousands Evacuated,"](#) 5/19/20).

The Michigan Court of Appeals held in September 2023 that the lawsuits could move forward (See ["Edenville Dam Lawsuits Go Forward After COA Ruling,"](#) 9/8/23).

Gambill said another issue is that there are no lay witnesses who could testify in support of the plaintiffs' theory. He said witnesses from EGLE, dam owner Boyce Hydro and the Four Lakes Task Force contradict plaintiffs' allegations.

“They do not have evidence to support allegations of what happened prior to dam failure,” Gambill argued.

At a September hearing, Redford will hear arguments on the state’s motion to dismiss the lawsuits because the plaintiffs did not comply with the Court of Claims Act, including not verifying the complaints and untimely filing.

Attorneys representing the thousands of plaintiffs – in 28 separate but consolidated complaints – argue their complaints were filed consistent with the Act. One attorney called the state’s move a “little bit of a game of gotcha” as the plaintiffs continue to pursue relevant documents from the state.

Dave **DUBIN**, class liaison counsel, said more than 19 percent of the documents the state has provided are duplicates, which wastes attorneys’ time to review.

In a federal lawsuit, the former owner of the Edenville Dam was ordered to pay the state \$119.825 million in damages (See “[Former Edenville Dam Owner Ordered To Pay \\$119M To State,](#)” 11/27/23).