

Michigan approves plan to impose millions in fees on victims of dam failures

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On July 12, more than two years after multiple dam failures triggered flooding across Central Michigan, the commissioners of Midland and Gladwin counties unanimously endorsed a three-year special assessment plan developed by the Four Lakes Task Force, a non-profit organization delegated by the counties to develop restoration and maintenance plans for the dams and related lakes.

With a projected restoration cost of between \$250 and 300 million, the assessment plan calls for taxing residents just over \$4.6 million. As a result, homeowners, many of whom were devastated by the flooding, now face annual assessment fees of hundreds of dollars.

Current dam reconstruction and lake restoration plans call for completion in 2026. But the Four Lakes Task Force notes that this timeline hinges on proper funding for the project, which is by no means guaranteed.

On May 19, 2020, heavy rainfall triggered the collapse of the Edenville and Smallwood dams and the breaching of the Sanford Dam, all property of now-bankrupt Boyce Hydro LLC, located along the Tittabawassee River in Central Michigan. The historic flooding annihilated the Village of Sanford, decimated the city of Midland and damaged parts of Gladwin County, initially displacing over 10,000 residents. The event caused over \$209 million in damages and was officially declared a state and federal disaster.

The rise of Tittabawassee River water levels flooded chemical containment ponds on the Midland Dow Complex, located along the river. Due to the efforts of Dow Chemical to block testing reports, it remains unknown what chemicals leaked from the ponds and whether dioxin contamination spread from a downstream Superfund clean-up site.

After the initial disaster, which unfolded amid the

early stages of the COVID-19 pandemic in the US, private firms employing highly exploited migrant workers took over clean-up efforts for institutions such as the Mid-Michigan Medical Center-Midland, causing COVID-19 outbreaks among workers.

The Sanford, Wixom and Secord lakes remain either empty or at low water levels, triggering lakeside erosion and rampant vegetation growth in the lake beds. In Gladwin County, 600 wells have experienced water pressure loss as a result of the draining of Wixom Lake.

On February 25, following five months of meetings ordered by Democratic Governor Gretchen Whitmer, the Michigan Dam Safety Task Force issued a report detailing the “grave situation” facing Michigan's dams. The task force actually completed the draft in early February, but voted to withhold it and dial back its portrayal of the situation's urgency. This makes all the more alarming the information provided in the “dialed back” report.

While noting that most of the state's 2,600 dams are in fair condition according to inspection requirements, the report states that their deterioration is outstripping their upkeep, presenting the potential for more failures like those in 2020.

More than 80 percent of the dams have exceeded their 50-year design life, with most spillway capacities far below projected storm flows.

At the time of the flooding, the state of Michigan employed only two staff engineers to oversee nearly \$4 billion worth of dam infrastructure. The government in Lansing added only one additional engineer, in December 2020.

A separate report by an independent forensic team published in May 2022 revealed that the cause of the Edenville dam failure was “static liquefaction” (sudden loss of soil strength). The report noted that the

Edenville Dam, constructed alongside the other dams in 1925, “significantly deviated from the design plans and construction specifications,” including having an embankment made out of loose sand. Areas of the embankment had steep downstream slopes that were not up to modern stability standards.

Despite the billions of dollars Michigan received last year from the federal Infrastructure Investment and Jobs Act, plans to address Michigan’s disintegrating dam infrastructure are anemic, at best. In 2021, a bill was introduced in the Michigan legislature to allocate \$500 million for dam repair and replacement. It remains effectively buried.

On March 24 of this year, the Michigan House and Senate approved a \$4.8 billion supplemental budget bill to address several infrastructure priorities, utilizing \$945.4 million from the Infrastructure Investment and Jobs Act. Most of the rest of the funding comes from reallocating \$3.1 billion from federal COVID funds in the midst of an explosive surge of the BA.5 variant of SARS-CoV-2.

Only \$250 million is set aside for dam-related uses, \$200 million of which goes directly to Midland and Gladwin counties, leaving \$50 million for the rest of the state’s crumbling, archaic dams. While touted as an achievement by the political representatives of the ruling class, this funding is laughably insufficient to meet infrastructure needs and provide for the victims of the flood.

The paltry state and the federal relief provided to affected residents was used to cover up the causes of the dam disaster and contain the fallout. On July 10, 2020, seven weeks after the flooding, the Trump administration officially declared the area a major disaster area, allowing the Federal Emergency Management Agency (FEMA) to distribute \$43 million in federal relief aid, a fraction of the over \$200 million in damages.

As with the Hurricane Katrina and Hurricane Sandy disasters, FEMA layered the relief in red tape, further restricting the already insufficient funds. Faced with near-complete abandonment by the government, many residents turned to charities, volunteer organizations and GoFundMe.

Numerous lawsuits sprang up, among them a “mass tort” lawsuit against the state of Michigan, alleging that it had failed to take proper action to prevent the 2020

dam failures. The case has been filed on behalf of almost 300 victims of the Edenville Dam collapse.

In May 2021, a trial judge denied a motion by the state to dismiss the residents’ suits. On November 8, 2021, the Michigan Court of Appeals granted a motion to dismiss the state’s appeal of the earlier decision. But the Democratic administration in Lansing is using all available tactics to drag the case out.

Even if one or more of the lawsuits succeeds, it is unlikely that residents, following years of abandonment, will receive proper compensation. Meanwhile, Boyce Hydro and those responsible for the criminal neglect of Michigan dam infrastructure have escaped any accountability, the former having filed for Chapter 11 bankruptcy after the dam failures.

In April 2021, federal regulators imposed a \$15 million fine on Boyce for not acting on federally ordered safety work following the dam collapse. But attorneys note that payments are unlikely given Boyce’s insolvency and the fact that over \$7 million in creditor claims against the company take precedence over government fines.

Now, the victims of the disaster are being required to pay millions under the terms of the Four Lakes Task Force plan, another slap in the face.



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