

(Email received by Secord Lake Association from Russ Hicks, Eaton Rapids, Dam Safety Speakers Bureau, Association of State Dam Safety Officials 17-July-2020 at 10:40pm)

Good Evening,

I stumbled onto a Zoom meeting about the budding SLPA and the dilemma that you folks are having with properties on a man-made and impounded lake. As you have discovered, there are few alternatives available to you in the near-term. In order for your water level to return to a "normal" or acceptable level, you'll need the cooperation of too many players to achieve this before a few more summers pass by the calendar pages. There are many layers to Lee Mueller and his former business cohort, Scott Goodwin.

As you probably know, Scott Goodwin once owned 51% of Boyce as well as full ownership of all three dams in Eaton Rapids as well as three more on the Thornapple River. (Incidentally, his Irving Township Dam failed in February 2018 with a complete uncontrolled dewatering for which he was fined. The civil fines are always paid and the private owner(s) go about their business knowing that they are too small for FERC to pay much attention to unless there is a catastrophic failure like at Edenville and Sanford.) He also owned dams in Wisconsin and New York. And all of them had multiple violations with FERC. The reason that this is important is that dam ownership and profit margin for these decrepit and out-dated hydro locations is solely based on the subsidies from the 1978 Public Utilities Regulatory Power Act or PURPA. These small operators can't make a profit without subsidies. It's too expensive. I caution you to think long and hard before you become the owner/operator of an elderly dam. The Secord Dam has value to you because it maintained your lake level and, without it, you have properties a long ways away from the river. You also probably know that Michigan's riparian rights are not the same for a natural inland lake versus a man-made/unnatural lake/impoundment. This bottom land is owned by the dam owner unless the property owners petition the state for ownership within 15 years of the dam's construction. While natural lake owners own a pie-shaped wedge out to the center of the lake, ownership on dam impounded waters ends at the ordinary high water mark. (This is how Mr. Mueller can call for criminal trespass violations on the river/lake bed.) You are in a Catch-22 situation. You need the dam for your water level but to own the dam creates a liability for the owners that puts your personal property and real estate at risk. Unfortunately, Mr. Mueller knows that he has desperate people who will do almost anything to bring back the water level. It's a seller's market. The dam is worth significantly more to you for your lake than it will ever return as a producer of hydroelectric energy. Because of the immense cost, there is no longer any return on investment for these small/tiny hydro stations. Hydro is an energy of size and scope which now renders these stations not only obsolete, but economically and operationally unfeasible and parts are no longer available for turbines that may now be nearing 100 years old. In fact, the Lansing Board of Water and Light has decommissioned their North Lansing Dam and has designs to remove it. Their Moores Park Dam and hydro unit will be decommissioned as of Dec. 31, 2020, even though they stopped producing hydroelectric power over a decade ago and, strictly for safety reasons, invested \$3 million in a 2017 50-year rebuild knowing full-well that they would never see a penny's return on that investment. And just yesterday, discussion began regarding its potential removal. (These Westinghouse turbine units are from 1908.) It's now cheaper to generate power from solar, wind, and natural gas. Consumers Energy is considering exiting their hydro business by 2040 for the same reasons. Before you move forward, you may wish to communicate with the Village of Lyons' Village Board and the Hubbardston Village Clerk. Both of these villages dealt with the same issues of irresponsible dam ownership. Lyons eventually removed their dam in 2016 while the owner of the Hubbardston Dam revoked his DNR Dam Removal Grant in 2015.

Civil lawsuits for drowning deaths at dams is increasing. Often, the settlement or court-ordered settlement is used to take ownership of the "offending" dam by the victim's family who, in turn, has it removed. Be careful. I know of a law firm in Denver who now specializes in these types of civil cases simply because these drowning deaths at dams nationwide have increased dramatically in the past eight years. In 2017, there were 40 dam-related drowning deaths by July 1st alone. And for those of you who have FEMA flood insurance, you are also discovering that policies become null and void when the flooding is due to earth movement; the loss of the berms. While the majority of the rock, brick, iron, and steel structures remain intact, the lack of an adequate spillway capacity, known for years, caused the water to seek its own relief. And that relief, the loss of the berm structures and the earth movement, is what invalidates the policies.

I can provide to you additional data about dam safety and dam-related issues that you may wish to obtain as your membership searches for answers.

Take care and good luck.

Russ Hicks
Eaton Rapids, Dam Safety Speakers Bureau
Association of State Dam Safety Officials