



December 22, 2023

The Secord Lake Association recently published a summary of two FLTF meetings from early December. We suggested next steps for property owners to understand the specific Benefits Factor of their property. You can review this update [HERE](#)

We also asked people to forward questions they may have. As is customary, as others may have the same questions, we provide this edition of Frequently Asked Questions.

What components make up the Benefits Factor and do all properties derive the same benefit from the lake?

There was a formal process to explain and adjust Benefits Factors in Winter – Spring 2022 ahead of the Operations and Maintenance special assessment. The Factors look at these attributes of each individual property: Lake Front or Back Lot with Lake Rights / Can Be Developed / Lake Front Footage / Water Depth in Front of Property / Waterfront View.

The concept is straight forward. A property with 4' of water allowing for a pier with a full view of the lake and over 100' of frontage derives a greater benefit than a property with less than 2' of water located in a cut with no view of the lake and less than 48' of frontage. The Benefits Factor was used to create a balance among the approximately 8,000 properties across the special assessment district using fact-based criteria. All properties in the special assessment district are assessed using this methodology.

If you have questions regarding the Benefits Factor for your property or want to appeal, you can do so by January 12, 2024. To learn more visit www.fourlakesforce.org

What is the latest with Boyce Hydro?

The courts have determined the owner of Boyce Hydro:

- #1 Lied during the summer 2020.
- #2 Hid evidence of the breached area at Edenville as he was aware as early as 2010.
- #3 A federal court ruled Boyce Hydro responsible for the disaster.
- #4 Michigan won a \$120 Million judgement against the dam owner.

#1 = <https://www.ourmidland.com/news/article/Court-rules-former-Edenville-Dam-owner-Mueller-17487040.php>

#2 = <https://www.mlive.com/public-interest/2023/10/judge-says-former-edenville-dam-owner-hid-evidence-of-vulnerability.html>

#3 = <https://www.ourmidland.com/news/article/federal-judge-finds-boyce-hydro-responsible-18415519.php>

#4 = <https://www.bridgemi.com/michigan-government/michigan-wins-120-million-judgment-against-dam-owner>

The recent article regarding the \$120 million judgement reads in part: "The state's attorneys said they could have documented more damages but appeared to acknowledge that getting money from Mueller would be difficult given that he filed for bankruptcy in 2020."

The FLTF issued a statement that includes the following: "The State of Michigan took early emergency actions to address public safety in the community after the dam failures. There was a \$15 million civil penalty from the federal government and now a \$120 million judgment from the State for natural resources damages".

"It is unlikely this will result in any funds to support Four Lakes restoration coming from Lee Mueller (owner of Boyce Hydro) or any of the Boyce entities that went through bankruptcy in 2020".

“We understand the frustration of many property owners in the Four Lakes Special Assessment District of having to address the damages of the prior owner. We remain committed to finding funds to lower the financial burden for restoration as much as possible”.

Why should I as a property owner pay anything for the dam?

The unfortunate reality is private dam ownership is waning across the country as private owners either cannot or will not invest in maintenance, repairs, and operations.

As we witness with Consumers Energy dams here in Michigan, as a private owner they can make a business decision to remove the dams. The same would be true with our dams if they were still privately owned (they are owned by the County).

The state of Michigan has illustrated their desire to invest in dam removal via their allocation of \$9.1 Million this past May to just that.

If we want to keep our lake life and protect our property value, we will need to make an annual investment in the operations of our dam system and contribute to its restoration cost. While we do not like the additional cost, the loss of the lake in terms of quality of life and property values far exceeds the annual assessment to restore and retain our lakes.

NOTE: To learn more about the dams owned by Consumers Energy – Consumers is exploring options for 13 hydro dams they own that need up to \$1.4 Billion in upgrades to meet current dam safety standards.

<https://www.bridgemi.com/michigan-environment-watch/consumers-decision-13-dams-could-alter-michigan-rivers-towns>

What happened to every lake pays for their own restoration costs?

This is a two-part answer.

- 1) The \$200 Million State of Michigan grant was given to the special assessment district to rebuild the dams by reducing the cost to all property owners. The chart below outlines the criteria for the grant.

Grant Principles

The grant is to the property owners, not the specific dam.

State of MICHIGAN

1. To the **delegated authority for the 4 Lakes Special Assessment District.**
2. For **construction** of the dams.
3. Recipients must be able to demonstrate **20% match** via a SAD or other.
4. Funds appropriated are **subject to applicable federal audit** and reporting requirements.
5. The tentative **completion date is September 30, 2026**

FLTF on behalf of Gladwin and Midland Counties

1. To fund **all** property owners to the point where construction can begin
2. To apply grants to get the assessment to the **lowest common capital assessment** number based on benefit, with no lake paying more than they would if they financed on their own.
3. FLTF will do everything that can safely be done to remain **under** current project planning estimate of \$250 million.

Source: Approved MI Senate Bill 565 & FLTF Board Meeting 4/11/2022 32

Secord and Smallwood have benefitted from the State grant capitalizing permitting with funds in place for construction. Without the grant, the special assessment for construction would have needed to be in place before application for a construction permit.

- 2) The US Army Corps of Engineers Loan program has stringent requirements to qualify. As stand-alone projects, both Secord and Smallwood would not qualify for this loan program as both projects are underway. The projects also need to utilize all US materials (no foreign made steel for instance) and meet the requirements of the Davis-Bacon Act direction to the US Department of Labor to determine locally prevailing wage rates.

By blending the total cost of the 4 dam restoration projects, the FLTF can use the combination of grants and the loan program to benefit all property owners within the special assessment district.

Why are all 4 lakes combined for the special assessment district? Is Secord paying for the others?

At the State and Federal level, this is the Tittabawassee water system. The grants, permitting and support are to restore the lakes that make up the system.

For Secord to be permitted for construction, the Operations & Maintenance special assessment had to be in place. This was done as all property owners within the Special Assessment District began contributing. For those on the southern lakes, their question may have been, "Why should we pay this assessment now so construction can begin on Secord?"

In terms of the grant, the specific requirements are laid out in the answer above. While the political energy at the time was focused on rebuilding Sanford and Edenville, the government recognized the interdependence of the 4 lakes making up the Tittabawassee water way. Hence Secord and Smallwood were included in the allocation of grants to rebuild the system.

In closing, a criterion of the grant indicated "no lake paying more than if they financed on their own". Based on math and available sources of funding, this statement for Secord should hold true. In addition, without the combined efforts of the FLTF managing all 4 projects as one, it is unlikely the progress on Secord would be as far as we see it today.

Since these are public lakes, everyone should pay to rebuild, not just property owners.

The FLTF indicates \$247 Million has been contributed by taxpayers via State or Federal grants (with another \$5 Million in private donations). To put this into perspective, this amount represents over 10 years of the Gladwin County budget. Another reference point is the State of Michigan in May allocated \$15.3 Million toward 14 Michigan dam projects.

Taxpayers via the State of Michigan and Federal grants have contributed to the rebuilding effort. The significant Michigan grant requires a 20% match, which is typical for this type of government support.

There are some that have the position that everyone in Gladwin County should be assessed for the rebuilding. Gladwin and Midland Counties along with the townships, contribute to the annual maintenance and operations assessment. Getting Gladwin voters to approve a millage to rebuild may prove a challenge as it would need to go to a referendum.

Convincing voters on lakes like Lancer, Lancelot, and Wiggins to agree to this millage will be challenging as they already pay assessments for their dams. Getting Gladwin County voters with no ties to the lake will be a challenge.

With this said, if anyone wants to champion an initiative to create a county wide millage, there is a process to do so. You can contact the Gladwin County Board of Commissioners to learn more.

If you have additional questions, you can email them to secordlakeassociation@gmail.com We will do our best to respond with another Secord Lake Association communication as others may have similar questions.

You can expect continued updates from the Secord Lake Association. These updates will include townhall meetings. Our team is working through these details now. **There is a plan in full motion to restore Secord dam in 2025.** The Secord Lake Association is focused on what is required to prepare Secord to return. Keep an eye out for updates, there is more to come.