

**STATE OF MICHIGAN
COURT OF CLAIMS**

DAVID KRIEGER, et al.,

Court of Claims Nos.

Plaintiffs,

20-000103-MM;

20-000116-MM;

MICHIGAN DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND
ENERGY, et al.,

20-000156-MM

Defendants,

HON. JAMES ROBERT REDFORD

STIPULATION AND ORDER FOR ISSUE CLASS CERTIFICATION

WHEREAS, Plaintiffs Christopher Forbes and Laura Forbes filed a class action complaint against Defendant Michigan Department of Environment, Great Lakes & Energy in the State of Michigan Court of Claims, Case No. 20-000103-MM;

WHEREAS, Plaintiffs Robert Woods and Holly Johnson filed a class action complaint in the State of Michigan Court of Claims against Defendants Michigan Department of Environment, Great Lakes & Energy; the Michigan Department of Natural Resources; and the Michigan Department of Attorney General, Case No. 20-000116-MM;

WHEREAS, Plaintiffs Pleasant Beach Mobile Home Resort, LLC, Carol and Dave Clarkson, Brian Matthias, Patrick and Patricia Pangle, Ronald and Sandra Streeter, Jared Nickel, Mid Michigan Pressure Cleaning, LLC and Mid Michigan Window Cleaning & Powerwashing, LLC D/B/A Mid Michigan Carpet Cleaning, Julie Van Ameyde, John Smilnak, and Randall and Kim Mier filed a class action complaint in the State of Michigan Court of Claims against Defendants Michigan Department of Environment, Great Lakes & Energy, and Michigan Department of Natural Resources, Case No. 20-000156-MM;

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WHEREAS, on March 22, 2024, Plaintiffs Christopher Forbes, Laura Forbes, Robert Woods, Holly Johnson, Pleasant Beach Mobile Home Resort, LLC, Carol Clarkson, Dave Clarkson, Brian Matthias, Patrick Pangle, Patricia Pangle, Ronald Streeter, Sandra Streeter, Jared Nickel, Mid Michigan Pressure Cleaning, LLC and Mid Michigan Window Cleaning & Powerwashing, LLC d/b/a Mid Michigan Carpet Cleaning, Julie Van Ameyde, John Smilnak, Randall Mier, and Kim Mier (collectively, "Class Plaintiffs") filed a Consolidated Amended Class Action Complaint against The Michigan Department of Environment, Great Lakes & Energy ("EGLE") and The Michigan Department of Natural Resources ("MDNR") (collectively "State Defendants" or "State"), seeking monetary, declaratory, and injunctive relief from the State Defendants in the Michigan Court of Claims, under MCL § 600.6401, et seq. ("Class Action Lawsuit");

WHEREAS, in the Class Action Lawsuit, the Class Plaintiffs assert an inverse condemnation claim pursuant to Mich. Const. 1963, art. 10, § 2, alleging, *inter alia*, that the State Defendants caused the taking, destruction, and/or devaluation of their personal and real property;

WHEREAS, to prove their inverse condemnation claim, the Class Plaintiffs must prove (1) that the government's actions were a substantial cause of the loss of property or decline of the value of their properties, and (2) that the government abused its powers in affirmative actions directly aimed at the properties;

WHEREAS, the State Defendants deny all claims in the Lawsuit;

WHEREAS, the Court has bifurcated trial in this matter between liability and damages;

WHEREAS, for purposes of this Stipulation and to define the class membership, Plaintiffs have defined the area allegedly impacted by the failure of the Dam as the "Impacted

Zone,” which includes all parcels or addresses meeting at least one of the following criteria: (a) the Four Lakes Special Assessment District (SAD); (b) the 447 properties identified by Plaintiffs’ expert L. David Givler, MSCE, PE in his December 5, 2024 report as “studied properties” or “properties meeting criteria”; or (c) properties identified by Plaintiffs’ expert Jeffrey E. Zabel, Ph.D., in his December 5, 2024 report as located within the “one-mile buffer” to the flooding inundation zone of Midland and Saginaw Counties.

NOW THEREFORE, the Class Plaintiffs and State Defendants agree as follows:

1. Pursuant to MCR 3.501 and for the reasons fully set forth below, the parties stipulate to certification of the following classes for purposes of liability only:

- a. **Real Property Class:** All persons or entities who owned real property in the Impacted Zone.
- b. **Personal Property Class:** All persons or entities who owned or leased real property in the Impacted Zone.
- c. **Business Class:** All persons or entities who owned a business in the Impacted Zone.

The Real Property Class, Personal Property Class, and Business Class shall be referred to collectively as the “Classes.” Excluded from the Classes are all persons who have a pending individual lawsuit in the Court of Claims as of the date of this stipulation or who otherwise opt out of the Classes by deadlines to be set by the Court, all employees of the State Defendants, all governmental entities, and the judge to which this matter is assigned, his immediate family, and his staff.

2. Pursuant to MCR 3.501 and for the reasons fully set forth below, the parties stipulate to the appointment of:

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- a. Class Plaintiffs Christopher Forbes, Laura Forbes, Robert Woods, Holly Johnson, Pleasant Beach Mobile Home Resort, LLC, Carol Clarkson, Dave Clarkson, Brian Matthias, Patrick Pangle, Patricia Pangle, Ronald Streeter, Sandra Streeter, Jared Nickel, Mid Michigan Pressure Cleaning, LLC and Mid Michigan Window Cleaning & Powerwashing, LLC d/b/a Mid Michigan Carpet Cleaning, Julie Van Ameyde, John Smilnak, Randall Mier, and Kim Mier as “Real Property Class Representatives” to represent the Real Property Class;
- b. Class Plaintiffs Christopher Forbes, Laura Forbes, Robert Woods, Holly Johnson, Carol Clarkson, Dave Clarkson, Brian Matthias, Patrick Pangle, Patricia Pangle, Ronald Streeter, Sandra Streeter, Jared Nickel, Julie Van Ameyde, John Smilnak, Randall Mier, and Kim Mier as “Personal Property Class Representatives” to represent the Personal Property Class;
- c. Pleasant Beach Mobile Home Resort, LLC, Mid Michigan Pressure Cleaning, LLC and Mid Michigan Window Cleaning & Powerwashing, LLC d/b/a Mid Michigan Carpet Cleaning as “Business Class Representatives” to represent the “Business Class”; and
- d. David Dubin of Dubin Law, Elizabeth Fegan of Fegan Scott, and Jason Thompson of Sommers Schwartz as “Class Counsel” to represent the Classes.

3. Pursuant to MCR 3.501(B)(3)(d)(i), the parties stipulate to certification of the Real Property Class, Personal Property Class, and Business Class for the following “Class Liability Issues”:

The question of either or both state defendants' liability under a theory of inverse condemnation for the catastrophic failures of the Edenville and Sanford Dams on May 19, 2020, as explained in the Court's October 4, 2024 Order of Bifurcation.

4. The parties do not stipulate that the Real Property Class, Personal Property Class, or Business Class are certified as classes for the purposes of the questions to be addressed in the second stage of litigation as described in the Court's October 4, 2024 Order of Bifurcation, which is what, if any, damages have taken place. If the case proceeds to the second stage of litigation described by the Court, this stipulation has no bearing on the issue of class certification.

5. The parties agree that, within 30 days of the Court's order, adopting this stipulation and certifying the Classes, the parties will submit a proposed plan to provide notice to the Classes pursuant to MCR 3.501(C).

As stipulated by:

/s/ Jason J. Thompson
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On behalf of Interim Class Counsel

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Attorneys for Defendants

IT IS SO ORDERED

Date: July 3, 2025


Honorable James Robert Redford
Court of Claims

