



Questions Regarding Qui Tam Action

- **Is there any basis for the lawsuit against JM Eagle?**

There is no basis for this lawsuit. A dishonest former JM Eagle employee, John Hendrix, alleges the company sold PVC pipe that did not meet certain quality standards. This is inaccurate and unsupported.

JM Eagle performs all quality control and quality assurance testing required by American Water Works Association (AWWA) standards which are designed by the AWWA to ensure that water products consistently and reliably satisfy the requirements of the applicable standards. These tests are observed during unannounced audits conducted by Underwriters Laboratories (UL), NSF International, and other independent agencies that certify JM Eagle's pipe as complying with their quality standards. NSF additionally monitors the materials used in producing JM Eagle PVC pipe and conducts testing to ensure that they meet the required "longitudinal tensile strength." Hendrix's claims regarding longitudinal tensile strength are based on test results obtained using an incorrect test method that significantly understates the results that would be obtained under the proper test method. Hendrix is trying to fool the public by completely ignoring the applicable standards which are 100% clear that what is being tested is the pipe material, not the pipe.

In addition, the JM90 pipe material is listed by the Plastic Pipe Institute as meeting the long term hoop tensile strength or "hydrostatic design basis" (HDB) of 4000 psi; recent tests performed by Jana Laboratories on random samples has confirmed that JM's material does in fact meet the HDB requirement. The pressure ratings for PVC pipes are designed to ensure that in actual operation, the hoop stress to which the pipes are subjected does not come close to the stress that would cause them to fail within their expected lifetime. Under current standards, the maximum stress to which PVC pipe is allowed to be subjected is 2000 psi. Pipe meeting the HDB requirement that is subjected to this maximum stress have an expected hydrostatic life of over one trillion years.

The quality of JM Eagle's pipe is also supported by historical quality claim data. Since 2000, less than one tenth of one percent (0.04% – 0.09%) of the more than eleven billion feet of pipe installed have been subject to a claim. Further, these claims include issues related to onsite installation errors by the contractor for which JM Eagle is not responsible, or unrelated to the quality of the pipe itself. This confirms that JM Eagle's PVC pipes are of the highest quality.

- **It has been reported that the federal government has investigated the allegations made against JM Eagle and decided not to join the lawsuit. What did this involve?**

Both the U.S. Justice Department and the Attorney General of California have thoroughly reviewed the allegations made by this one disgruntled former employee and have declined to intervene in the case. The Attorney General of Florida also declined to intervene stating to reporters that his office "agreed with the U.S. Justice Department that the case was without merit." The Commonwealth of Massachusetts also has apparently declined to intervene.



JM Eagle cooperated fully with the exhaustive 3-year federal investigation. The government's investigation included reviews of thousands of pages of testing data, meetings with the company and outside experts, written questions and answers. JM Eagle also supplied pipe samples to the federal government for testing. The positive results of the recent testing by Jana Laboratories, mentioned above, were from tests conducted on pipe from the very same lot that was provided to the government.

- **Why are other states deciding to join the suit?**

A *qui tam* lawsuit such as this is filed by an individual on behalf of the government. This is typically done without the government's prior knowledge. It is then up to the named government entities to investigate and determine whether they wish intervene and participate in the lawsuit. Intervening in the lawsuit could provide additional revenue with little to no investment on behalf of state and local governments. With governments facing increasing budget shortfalls, it takes a great deal of integrity for elected officials to objectively review the facts and decline to intervene in a case that could translate into much needed funds when the merits do not support it.

We are happy to see this strong leadership displayed by our federal government, California and Florida who have all decided to decline the suit. Massachusetts, as well, has apparently declined to intervene.

Of the four states – Delaware, Nevada, Tennessee and Virginia – and 43 municipalities that have apparently chosen to intervene in the case, **not one** has registered a quality claim with JM Eagle regarding matters relating to these allegations, and **not one** actively participated in a series of discussions on the facts or merits of the allegations as did the State of California and the federal government.

- Officials from the state of Delaware have stated that it has experienced “no known failures of pipe.”
- CRT Laboratory results of reported failures in Nevada concluded, “the sample failed due to a combination of excessive insertion force and misalignment. The scars on the pipe and the presence of a fatigue crack initiated on the inside of the pipe in an area of maximum stress revealed the cause of failure.”

- **Recent news has come to light about an attempted kick-back scheme organized by the former employee who filed the qui tam lawsuit. What is known about this?**

According to a sworn statement by a JM Eagle client, Mr. Hendrix sought to enrich himself by engaging at least one of our clients in a scheme to defraud JM Eagle. This scheme involved submitting inflated and false claims against the company for which he would receive a kick-back in return for orchestrating this fraud. The client declined to become a party to the fraud that Mr. Hendrix attempted to perpetrate against JM Eagle.

We have provided this affidavit to law enforcement authorities for their examination to determine what legal actions are appropriate in this case. This evidence should raise serious concerns regarding the veracity of Mr. Hendrix.