

## JM Eagle makes its case clear

By Clare Goldsberry

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New test results confirm JM Eagle's PVC pipe meets industry standards, and the company releases evidence in support of alleged fraud and a kickback scheme.

JM Eagle released the results of new tests conducted by one of North America's leading testing and engineering firms, Jana Laboratories, confirming that JM Eagle's PVC pressure pipe meets the requirement for long-term strength. JM Eagle has been the target of a whistleblower (qui tam) lawsuit regarding its pipe (see original report [here](#)).

The testing was done on two sets of pipe. One set was taken from the same lot of pipe that was submitted to the federal government for testing during its investigation, manufactured in June 2006, prior to JM Eagle having knowledge of the qui tam lawsuit. The second test was taken from JM Eagle inventory in August 2009. The tests that were conducted were 2000-hour tests to determine the pipes' ability to withstand long-term pressure, known as their "hydrostatic design basis." Each set met the 4000 psi requirement, said information released by JM Eagle.

Thought four states and several municipalities in California have apparently chosen to intervene in the case, none of these entities have ever registered a complaint with JM Eagle regarding its pipes, said the latest release. The Attorney General's office in Delaware publicly stated that Delaware had no known failure of pipes. The intervening entities also did not engage in any sustained discussions of the facts or merits of the allegations with JM Eagle, as did the federal government and the State of California, which each declined to intervene.

"Why would all these entities engage in a case where they had no complaints?" Davis questioned in his telephone conference. "In my experience as both as a plaintiff's and defendant's attorney, it's called a 'free ride.' They're entering a case with nothing to lose and at no cost to them, and maybe I'll [sic] get a settlement. Maybe there will be money that will land on the doorsteps at these hard-pressed municipalities."

There is also an issue of the credibility of the former employee, John Hendrix, in connection with his alleged involvement in a kickback scheme. Information released by JM Eagle's attorney, Lanny Davis, in a telephone conference last week, said that they have sworn statements signed by a customer of JM Eagle, William Sheldon of Sheldon Site Utilities (Poway, CA). In the statement, Sheldon said that he had purchased pipe from JM Eagle in 2005 for a San Diego apartment project. After installation of the pipe, leaks were detected, and it cost Sheldon \$30,000 to replace the pipe. He requested reimbursement for the pipe from JM Eagle. It was later discovered that vandals had drilled holes in the pipe.

According to Davis, Sheldon stated that Hendrix called him and asked him to inflate the amount of his claim to JM Eagle from \$30,000 to between \$95,000 and \$103,000. When asked why, Sheldon said that Mr. Hendrix responded with words to the effect that, "After getting your money and cashing the check, I will send you my address so you can compensate me for my efforts on your behalf," Sheldon wrote in his sworn statement. During a subsequent call, Mr. Sheldon told Mr. Hendrix that he "was not going to falsify my claim and I just wanted my \$30,000 back," Davis said.

JM Eagle's President and CEO, Walter Wang, said, "We are confident that the more the proper authorities in Virginia, Tennessee, Nevada and Delaware, as well as the handful of California cities who are today still a party to the litigation, look closely at John Hendrix, they will not like what they see. Once these entities look at the facts of the case, and the evidence we have, they will quickly determine that this is a dishonest individual who not only doesn't deserve their trust, but an individual who wished to defraud the government as well as JM Eagle."

"It appears to me as a lawyer that there could be two crimes committed here if these allegations are true. The offer to inflate claims is fraudulent and possibly unlawful," Davis said in the telephone conference. "And secondly, the offer to receive back some portion of the inflated claim could also be a crime. We are referring to this letter to federal prosecutors to determine if a crime has been committed. Several individuals were present when Mr. Hendrix talked to Mr. Sheldon. Credibility is very much an issue in this case. If any of these plaintiffs want to go ahead with this [qui tam suit] in light of this sworn affidavit, we welcome that."

Since 2000, JM Eagle has produced more than 11 billion ft of pipe and the number of gross product claims is less than a tenth of a percent, far below the industry average, the release stated. JM Eagle operates 23 manufacturing plants throughout North America, and is the largest manufacturer of plastic pipe in the world, producing a wide array of high-grade, high-performance PVD and HDPE pipe, said the company. —Clare Goldsberry [✉](#)