

# Bursting Pipes Lead to a Legal Battle

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**State and local governments across the country may have to replace their water systems because of defective pipes, according to a whistle-blower lawsuit unsealed this week.**



Nanine Hartsenbusch for The New York Times

John Hendrix of Clifton, N.J., says faulty pipes made by his former employer, JM Eagle, have been installed in places like Nevada, where breaks have occurred.



Nevada State Public Works Board

A broken pipe in Nevada.

The whistle-blower, John Hendrix, accuses his former employer, one of the world's largest pipe manufacturers, of falsifying test results about the quality of its products. Pipes that should last 50 years are in some cases rupturing in their very first year, according to Mr. Hendrix and some state documents. This can lead to explosions, leaks, fires and other dangers.

Officials of the company, JM Eagle, dispute the allegations and say that the tests were done correctly.

Mr. Hendrix said he uncovered the problem after he was asked to oversee the certification of a new manufacturing process that put the pipes through a prescribed battery of tests. He concluded that JM

Eagle had been selling substandard plastic pipe since 1996, and that it had subsequently manipulated test results.

When he told his superiors of his concerns, they said the problems were a normal "business risk," according to the complaint. When he pressed harder, he was fired.

Mr. Hendrix, 31, of Clifton, N.J., then began a whistle-blower lawsuit under federal and state statutes that allow private citizens to file on behalf of government agencies if they suspect a fraud. In his lawsuit, he asserts that less than half of JM Eagle's pipe would have qualified for sale if it had been properly tested. "It became apparent to me that this was being done intentionally," he said in an interview.

Some states, cities and water districts have already experienced leaking, cracking and exploding pipes made of PVC, or polyvinyl chloride. Many are now joining Mr. Hendrix's lawsuit, filed in United States District Court for the Central District of California.

Nevada, Virginia, Delaware, Tennessee and more than 40 water authorities in California have decided to take part.

"We will hold anyone who cheats Nevada taxpayers accountable," said Catherine Cortez Masto, Nevada's attorney general. Nevada recently spent \$5 million replacing a three-quarter-mile section of a water main that supplies a large prison south of Las Vegas. The original pipe, made by JM Eagle, had been rupturing several times a year, baffling state officials and costing tens of thousands of dollars a year to repair. Other states and cities are still reviewing the allegations and deciding whether to participate. The cost of repairing or replacing the defective pipes is not known, but could run into many millions of dollars for each of the affected systems.

JM Eagle, a successor to Johns Manville that was once based in Livingston, N.J., and now has its headquarters in Los Angeles, has operated a dozen manufacturing plants across the country, claiming about 60 percent of the nation's market for new water pipes. It also sells to Mexico and Canada, suggesting problems could be more widespread.

A company spokesman, Marcus Galindo, said the company "stands 100 percent behind the quality of our products." He said that the company would not have been able to gain such a large share of the market if it had not been satisfying its customers year after year.

He said he believed that Mr. Hendrix had "cherry-picked" testing documents and e-mail messages to give the impression that the company had not followed proper testing procedures. Some of the requirements were ambiguous, he said, and Mr. Hendrix was interpreting them so strictly "no manufacturer could have met that standard." Mr. Galindo said JM Eagle had worked with the relevant industrial associations to clarify the ambiguous language.

If Mr. Hendrix's allegations are borne out, it is not clear who will pay to repair the faulty water systems.

Standing behind JM Eagle is the Formosa Plastics Group, Taiwan's biggest diversified industrial company, with factories spinning out textiles, semiconductors, oil, detergents and plastics in Asia and the United States. Its founder, Wang Yung-ching, was known as the "god of management" in Taiwan, and was revered as a rags-to-riches legend who helped the province become one of Asia's "tiger" economies.

At the time of his death last year at 91, Mr. Wang was Taiwan's second-richest man. But he left no will, and his nine children have been quarreling in state court in Newark over who should gather the assets of his vast estate and who will pay its debts.

His youngest son, Walter Wang, has asked the court to let him handle the estate, but his siblings have made rival claims. Walter Wang has been chief executive of JM Eagle since 1990, when his father appointed him at age 25.

Another large company with exposure to JM Eagle's problems is the [American International Group](#), which has provided some insurance to the company, according to Mr. Hendrix. The insurer has been trying to raise money to pay back its bailout by the government in 2008. Any large claim by municipal governments would be a setback.

JM Eagle was created in 1982, after the bankruptcy of Johns Manville, the first major corporation to seek protection from asbestos claims by filing for bankruptcy. The elder Mr. Wang bought the pipe division out of bankruptcy that year, renamed it JM Manufacturing and added it to his empire. (The company became JM Eagle after acquiring PW Eagle in 2007.)

PVC pipe had been just a small part of Johns Manville's business, but Mr. Wang made his acquisition at a time when the plastic was fast catching on among cities replacing their older, decaying water systems. For several years, managers stayed on at the company and participated in the development of new standards for plastic pipes.

Mr. Hendrix said in his complaint that after Walter Wang became chief executive in 1990, many of the longtimers resigned or retired, and people who had minimal backgrounds in engineering or failure analysis replaced them.

JM Eagle also put a premium on cutting costs, Mr. Hendrix said, hiring people like him straight out of college. It even maintained a boarding house near Livingston for Taiwanese employees who could not afford suburban New York housing on their modest salaries.

One of his first jobs was to field customer complaints, which he said came in at the rate of at least one a day. He said he was trained to look for ways to attribute leaks and ruptures to the governments and contractors who installed and maintained the pipes.

Only when he was assigned to oversee certain tests did Mr. Hendrix begin to think the complaints stemmed from the company's own cost-cutting measures. He said he realized JM Eagle had started buying

a lower grade of raw materials from Formosa and had speeded up its production lines without reporting the changes to the certification agencies as required.

The more he learned, he said, the harder it became for him to tell customers their problems were the result of their own errors on construction sites.

Yet that was the response Gus Nuñez, manager of the Nevada Public Works Board, said he got when he asked JM Eagle for help finding out why a pipe carrying water to a cluster of prisons south of Las Vegas kept breaking.

"The pipe was coming apart and blowing up, probably an average of three or so times a year," Mr. Nuñez said. The pipe ran underground, and each new rupture sent water blowing up through the ground like a geyser. Every time it happened, Mr. Nuñez said, crews had to turn off the water supply to the prisons, go look for the leak and try to repair it.

Finally they brought in specialists from the company to try to identify the problem, he said.

Mr. Nuñez said the specialists faulted the materials supporting the pipe and the installers. "They said: Well, we think some of the bedding may be defective. It looks like maybe when the contractor put the pipe together, they may have pushed it too far and caused a stress on the pipe that it wasn't designed for."

Not long after that, he said, the state heard about Mr. Hendrix's lawsuit, and asked to review his information.

The state gave up on fixing the existing main. It disconnected it and built a new pipeline. The new installation cost about \$5 million, said Susan Stewart, the state's deputy attorney general and construction law counsel for the Public Works Board. That does not count the cost of the many unsuccessful repairs.

Ms. Stewart said Nevada and its local governments have spent \$57 million on PVC pipe in recent years, all from JM Eagle, now in use in prisons, universities, government offices and local water projects.

"We have something in the ground that, had we known what it was, we would not have bought it," Ms. Stewart said. "No way. At any price."