

Edwards, 14, died in Silver Creek on Memorial Day in the area of the Providence Mill Dam.

According to New Albany Police Chief Todd Bailey, witnesses said the teenager went under water while swimming and did not resurface.

The NAPD has not released further details about the circumstances of Edwards' death.

Multiple media reports stated that the teenager was on or near the dam when he went under water but that has not been confirmed by police.

Meanwhile, there have been multiple court filings in the litigation over the Silver Creek dam following Edwards' death.

For the past three years, the City of New Albany has challenged the planned removal of the Providence Mill low-head dam on Silver Creek.

A civil lawsuit against River Heritage Conservancy and EcoSystems Connections Institute, the organizations seeking the dam removal, is pending in Floyd Superior Court No. 3.

Attorneys for the two organizations filed a response on Monday in opposition to a recent motion by the City of New Albany.

On May 31, the attorneys representing the two organizations filed a notice to court of the "reported death at the Providence Mill Dam," referring to Edwards' death.

In response, the City of New Albany filed a motion on June 4 to strike the defendants' notice and to request a status conference in the case.

The defendants are now requesting the court to deny the city's motion to strike the notice.

The City of New Albany is seeking a preliminary injunction in the civil lawsuit. The city argues in court filings that River Heritage and ECI do not have ownership rights to remove the Providence Mill Dam.

The city previously sought to block the removal by appealing a permit from the Indiana Department of Natural Resources.

However, the Indiana Natural Resources Commission ruled last fall to allow for the dam removal.

The city filed the local lawsuit against River Heritage and ECI immediately after the commission's ruling.

River Heritage and ECI have been pursuing the removal due to safety concerns associated with low-head dams. As part of its Origin Park project, River Heritage



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plans to remove the dam.

The organizations say the removal will allow for safer recreational access and improve ecological conditions in Silver Creek.

The city has voiced concerns about the effects of the dam removal on surrounding properties such as the Loop Island Wetlands. The city has also called for historical preservation of the dam.

Last April, the City of New Albany opened Silver Creek Landing, a paddle launch point near the Providence Mill Dam.

NEW COURT FILING

In Monday’s court filing, the attorneys for ECI and River Heritage said that the “tragic incident completely undermines the City’s complaint for preliminary injunction.”

“To support its request for preliminary injunction, the City dismissed the dangers presented by the Dam and went so far as to call Defendants’ safety concerns ‘hyperbole,’” the attorneys said in the court filing.

“The City claimed the Dam was not dangerous because there was ‘no record of any safety incident specific to this Dam.’ That claim, tragically, can no longer be made as a young boy has died at the Dam.”

The response also states that the City of New Albany should have been aware of the dam’s risks because “ECI presented ample evidence of its dangers, including expert testimony.”

“Now, after the boy’s death, there is no denying the dangers of the Dam,” the defendants’ attorney said in the court filing. “Unfortunately, however, instead of acknowledging the fallacy of its claims, the City continues to fight to keep this death trap in place.”

Gordon Ingle, the attorney representing the city in the case, argues in the motion to strike that the “hearing on the preliminary injunction request is stayed pending the Court’s resolution of Defendant’s motion to dismiss, and so there is no imminent evidentiary purpose to the Notice.”

In response, the defendants’ attorneys write that the city “cites no authority to support its argument.”

“Mr. Edwards’ death is relevant to the City’s request for preliminary injunction because it undermines the City’s and its bases,” the attorneys state in the court filing.

The City of New Albany also alleges that the defendants’ motion included “inflammatory language.”

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Attorneys state in the response that the notice does not contain “inflammatory language, but instead it “contains facts.”

— “Further, Defendants noted that but for the City’s opposition, the Dam would have been removed in the summer of 2021, and this tragedy would have been averted,” the court filing states. “This is yet another fact. Just because the facts are damning to the City’s arguments does not mean they should be stricken.”

The city’s motion to strike also questions the validity of the references to stories from local media in the defendants’ notice.

The defendants’ attorneys state that courts “routinely take notice of video recordings.”

60% “What the City’s attack on local news media fails to appreciate is that many of the news reports contain admissions by City employees, statements by other law enforcement personnel, and interviews with witnesses,” the defendants’ attorneys state in the court filing.

The attorneys also ask the court to deny the city’s request for a status conference, saying it would be “unnecessary and would waste resources.”

COMMUNITY RESPONSE

A homemade memorial to Edwards sits on the banks of Silver Creek above the dam, surrounded by flowers and various keepsakes. A poster with a photo of the teenager states that he is “gone but never forgotten.”

— “AJ was 14 years young and loved by so many,” the poster reads. “He was a sweet caring boy who lost his life. This could have been avoided if the mayor would take action to remove the dam.”

“Remember his face and his story. Do not swim here or play on the dam.”

A sign at Silver Creek Landing advises people to check the water levels of the waterway, but it does not note the safety risks associated with low-head dams.

The sign describes the history of the dam, which was constructed for the nearby Glenwood Park.

“The dam was a very successful addition to the park that allowed Glenwood Park guests to swim, canoe/kayak and skate on the backwaters of Silver Creek.”

70% The Indiana DNR website emphasizes the hazards of low-head dams, describing them as “deceptively dangerous.”

“These structures have been known to trap unsuspecting victims in dangerous conditions. Even the strongest swimmers and rescuers wearing the best personal floatation devices have [drowned] at low-head dams.”

Members of Edwards’ family spoke up at a June 3 meeting urging for the city to remove the dam.

At the meeting, New Albany City Council President Adam Dickey read a statement from New Albany Mayor Jeff Gahan.

“We must keep this family in our thoughts. The loss of this young man and his family’s current needs is where our focus should be at this time.”

The mayor also stated that the city will improve safety in the area and pursue a rock-arch dam conversion.

“We are hopeful that Origin Park officials will finally understand and see the need to meet to discuss these improvements with us,” Gahan said.

Multiple Southern Indiana officials have urged for the removal of the dam, including the Floyd County Commissioners.

The defendants’ attorneys in the dam lawsuit attached the commissioners’ June 4 joint statement in the recent court filing.

“It’s time for the City of New Albany to drop its lawsuit and allow removal of this antiquated yet existential threat to our citizens’ safety,” the commissioners said.

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Brooke McAfee





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