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Army Corps should have bought easements to make room for flood pools, lawsuit says

Thousands of properties ruined after reservoirs expanded in Harvey

By **Lise Olsen** Updated 3:40 pm, Wednesday, September 27, 2017



A federal lawsuit against the U.S. Army Corps of Engineers claims government officials knew for years that water impounded behind Addicks and Barker dams would flood-thousands of suburban homes during an extreme storm - and yet did nothing to advise or compensate property owners.



The lawsuit was filed on behalf of Christina Micu, a homeowner in the Canyon Gate neighborhood in Cinco Ranch, a subdivision that essentially became part of the reservoir during Harvey. The case is pending in the Washington D.C.-based U.S. Court of Federal Claims.

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Canyon Gate was inundated for more than a week when the Army Corps allowed water impounded behind the dams, called the "flood pool," to reach record size as



IMAGE 1 OF 15

At top, homes in the Cinco Ranch area are surrounded by water from the Barker Reservoir. Above, Mary Kent and others questioned the reservoir's overflow.

more than 50 inches of rain fell between August 25 and 29th.

The suit was filed as a class action on behalf of everyone who owns property that flooded behind both dams. Though other lawsuits have been filed on behalf of those whose properties were flooded by dam releases, this is the first case filed on behalf of those whose property flooded directly from what engineers call "reservoir pools" or "flood pools."

More than 30,000 people own property and more than 140,000 people live in areas that Harris and Fort Bend county officials have identified as subject to inundation from those flood pools, according to a Chronicle analysis of evacuation orders issued during Harvey.

Addicks and Barker dams were built in the 1940s to protect downtown Houston after flooding in 1935 wrecked the city and caused eight deaths. The dams hold back floodwaters from Buffalo Bayou, which forms the Houston Ship Channel downstream, and from creeks that enter the city from the northwest.

For decades, the two dams were basically country bumps -- earthen barriers surrounded by a vast high-grass prairie, a few scattered settlements, rice farms and rural ranches, including an operation that helped rescue Texas' Longhorns from extinction.

Unlike traditional "lake-forming" dams, Addicks and Barker do not have clearly defined reservoirs and are dry much of the year. The water they impound stretches west into what used to be prairie. The extent of the flood pool varies, depending on rainfall and on Army Corps decisions about how much water to release from the reservoirs through the dams' gates.

During Harvey, the corps deliberately allowed the flood pool to build up to a record 250,000 acre feet in an attempt to prevent flooding downstream on Buffalo Bayou and protect downtown Houston from catastrophe, the lawsuit said.

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In the process, thousands of homes were damaged in Houston and in Fort Bend and Harris Counties, though a full tally has not yet been released. At least 4,000 properties - including single family homes, apartment complexes and businesses -were damaged by water from Barker reservoir alone, both counties said.

Elsewhere in the United States, the Army Corps has blocked development around its reservoirs - at times purchasing land for "flood storage easements" around dams or levees in areas where it expects to divert or store floodwater, said Charles W. Irvine, the Houston-based lead attorney in the lawsuit. That never happened here, and now homeowners are owed compensation, Irvine argues.

"The corps has been discussing this but no one took it beyond that - not in term of disclosing it to the neighborhoods and certainly took no steps to offer to purchase a federal flood easement in exchange for some money," Irvine said.

A recent informational meeting about the case drew more than 100 homeowners from Canyon Gate and from other subdivisions that flooded during Hurricane Harvey, attorneys said. Irvine said that only five raised their hands when he asked who had flood insurance.

In Mississippi and Louisiana, the Corps has taken steps to inform people and compensate those -whose property could be subject to inundation in areas near levees and rivers, Irvine said.

That was never done with the West Houston dams. The reason may be that such a step in the 1980s or in the '90s would have stopped the march of development, said attorney Jim Blackburn, who has filed other lawsuits arguing that the region's flood control rules were insufficient to protect homeowners and the environment.

The Corps' original plans included a third dam and additional property that was never acquired. In the 1940s, it didn't matter much if, in a downpour, a large pool suddenly spread across the grasslands of the Katy Prairie to spare the Bayou City downstream from harm.

Over the years, public officials continued to approve developments around both reservoirs even after the Corps' own measurements recorded record flood pools time after time. Ten of the 11 largest pools in the reservoirs' history have been measured since 1990. Harvey generated the largest.

The Corps allowed the city of Houston, Harris and Fort Bend counties and the state to build major roads and parks inside the reservoirs. George Bush and Bear Creek are the largest parks. Barker Reservoir includes a smaller War Memorial developed by Fort Bend County. Then there's Millie Bush Bark Park; Bill Archer Dog Park; the Bear Creek Community Center; a 54-hole golf course; a zoo with a bison; a shooting range; a model airplane facility; paved parking; and a YMCA camp.

Fort Bend County officials added small-print warnings about the flood pools to subdivision maps beginning in 1994: "This subdivision is adjacent to Barker Reservoir and is subject to extended controlled inundation under the management of the U.S. Army Corps of engineers."

But few home buyers consult the maps, known as plats. Harris County, which has far more homes threatened by the flood pool, never included any advisories about the reservoirs on its plats.

Harris County Commissioner Steve Raddack said he didn't believe warnings were necessary. He said all Harris County homeowners should be aware of risks of flooding posed by the area's many creeks and bayous – and by the reservoirs. Raddack said that for 20 years he had been warning constituents about the flood pool – but most paid little attention.

"We knew the water would leave the federally controlled land and would flood neighborhoods in Fort Bend and Harris counties. The reservoir had never been tested to capacity," he said.

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