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Judge backs Houston homeowners who sued feds for releasing water from Addicks, Barker during Harvey

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A federal judge vindicated Houston homeowners who have [argued for years](#) that the U.S. Army Corps of Engineers' decision to open Addicks and Barker dam gates during Hurricane Harvey flooding — sending water into their downstream homes — was no act of God.

Judge Loren A. Smith ruled Wednesday in a test case of 12 plaintiffs that first went to trial in 2024, finding that the government's actions amounted to a "taking" of private property and that homeowners were eligible to be compensated for the damage it wrought.

Smith's decision said the property owners proved they flooded more than they would have if the Army Corps had kept the dam gates shut. He dismissed the government's argument that the closure was necessary given the exceptionally devastating flood levels, saying operators opened the spigot "before an actual emergency posed an imminent danger to the structural integrity of Addicks and Barker."

The ruling reversed Smith's stance in 2020, when he dismissed the downstream case outright and said that [the hurricane itself was responsible](#) for the damages.

"Of course, the water from the hurricane was not the government's water, unless the storm was also created by the government's wind and air and sun and sky," he wrote in 2020.

"These were flood waters that no entity could entirely control."

The ruling in a lawsuit brought by homeowners flooded during Hurricane Harvey found the government liable for damages.

A federal appellate court reversed that decision in 2022, setting the stage for the lower court trial.

The team of attorneys representing owners of flooded properties downstream of the reservoirs celebrated the new ruling, which came nearly a decade after flood victims suffered damages during the storm. Next, the court will determine total damage amounts for 11 homeowners and one business owner in the test case. Property owners with comparable cases will then be able to seek remuneration.

Plaintiff's attorney Richard Mithoff said there could be many thousands of claims once the effort is all said and done. Mithoff, who currently represents 502 clients, went to trial alongside two attorneys, Rand P. Nolen and Jack E. McGehee, from other firms that represented their own slates of plaintiffs.

"This is an enormous victory for the citizens of Houston who have been waiting a long time for a decision on their claims," Mithoff said.

A separate group of homeowners with properties sitting upstream of the two large reservoirs also sued the federal government after flooding during Harvey, arguing that the overflowing reservoirs spread onto their properties in a way that was similarly controlled by the Army Corps' operations. Their wins came more quickly: A lower court found [in their favor in 2019](#), and that decision was largely [upheld by an appeals court panel](#) in December.

In the downstream case, government lawyers did not dispute that the properties in question also flooded; instead, they argued that Addicks and Barker offered an overall flood benefit to those homes. They said its detention gates prevented the worst of the area's potential flooding, compared to how water would have spread had the infrastructure never been built.

Addicks and Barker were [constructed during World War II between 1942 and 1945](#), long before urbanization spread throughout the area. Smith's latest decision detailed how the government "considered purchasing downstream land in anticipation of increased flooding events," but did not due to "astronomical" costs and a belief that the move would be unacceptable to Houston residents.

Then, Hurricane Harvey made landfall in Texas on Aug. 25, 2017, and dumped record-breaking rainfall on the Houston area. Two days later, the Army Corps said it would open the reservoir gates. The next morning it did, releasing water that flooded thousands of homes and businesses in the Buffalo Bayou watershed.

Fleetwood, Thornwood, Westchester, Nottingham Forest and the Energy Corridor all received the floodwater racing downstream. At least two people died in their homes after the gates were opened.