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### Three ranchers to get millions for flood losses

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In the 1940s, O.L. Gragg cleared the timber from his more than 12,000-acre ranch along the banks of the Trinity River by dragging a battleship chain behind two U.S. Army surplus bulldozers.

Gragg knew when the Tarrant Regional Water District built the Richland-Chambers Reservoir upstream that the water released from the dam would wash away generations of his hard work. But the water district didn't believe him.

"He knew that river like Mark Twain knew the Mississippi," said Billy Gragg, son of O.L. Gragg, who died in 1992.

"He knew it would flood. We felt deeply it would ruin one of the most productive ranches in Texas."

So the Graggs feel vindicated, after a decade-long legal battle, that the water district has been ordered to pay them and two other families about \$27 million for repeatedly flooding portions of their land since the early 1990s.

Last week, the Texas Supreme Court denied a request to hear an appeal of a 1998 jury verdict that a Waco appeals court had upheld last year. After paying off legal fees, the Graggs and two other families will divide about \$18 million.

"This case is a grand example of courage and perseverance by these ranchers that has finally resulted in justice," said Corsicana attorney Glenn Sodd, who represented the ranchers.

Jim Oliver, the regional water district's general manager, said the the water district may have to sell bonds and slightly raise raw water rates it charged member cities to pay off the judgment.

The reservoir is a major water source for the district, which serves more than 95 percent of Tarrant County and portions of 10 other counties.

"I never thought we could lose a case like this," Oliver said. "It is very disappointing. It sort of shakes your faith in our court system."

The original suit was filed in 1992 by O.L. Gragg and two men who leased land from Gragg, Eugene Schwertner and Reginald Priest. All three are now deceased.

The suit accused the district of regularly flooding portions of the ranch land, which is about five miles downstream from the Richland-Chambers Reservoir in Freestone and Anderson counties.

The damaged area had always been within a flood plain, but flooding from the winding river and creeks never harmed the ranch. That changed after the reservoir was built and miles of twisting creeks were replaced with a straight chute.

The Graggs - along with Jim Schwertner and Mary and Cory Priest, heirs of the original

plaintiffs - claimed that the rapidly moving water washed out levees, roads and a privately owned bridge, **Sodd** said.

Billy Gragg said the water district also would give the ranchers only six to eight hours' notice before releasing water, and then would leave the land flooded for longer periods of time, making the property unusable for cattle.

"It changed the flooding characteristics significantly," he said.

Oliver said every drop of rainfall runoff in Fort Worth and Dallas runs down the main stem of the Trinity River and through the Gragg ranch. To hold the water district responsible for all the damages because of the reservoir - which contributes only 17 percent of the water flow - is unfair, he said.

"We think we got railroaded in Fairfield," where the original trial was held, Oliver said.

Originally, a Freestone County jury in 1998 awarded the families \$18.48 million in damages and interest. The award has been earning about \$7,000 a day in interest while on appeal, **Sodd** said.

The Gragg Land & Cattle Co. will get about 60 percent of what is left after legal fees, or about \$10.8 million, **Sodd** said. He said the Schwertner and Priest families will each get about \$3.6 million.

George Christie, the water district's attorney, said the district will ask the Texas Supreme Court to reconsider its decision but acknowledged that it rarely does so.

**Sodd** and Christie agreed that the Supreme Court's decision effectively ends the case.

"We are certainly glad to see it apparently come to an end," Gragg said. "But we don't have a check yet."

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MAP(S): Gragg Ranch

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