

Fort Worth **Business Press**

Water District may face an old adversary

Robert Francis - May 15, 2006

As the Trinity River Vision plan moves forward, the Tarrant Regional Water District (TRWD) may face an old adversary who beat it in a landmark case that spanned more than a decade.

Attorney Glenn Sodd did more more than just beat the water district. He gave it a financial whipping to the tune of \$33.5 million after filling a lawsuit that spanned 12 years from 1992 to 2004 (see related column, page 49). The TRWD was sued for flooding land on an East Texas ranch in conjunction with its construction of the Richalnd-Chambers Reservoir in Freestone and Anderson counties. Three plaintiffs said flooding resulting from changes caused when the reservoir washed out levees, roads and a privately owned bridge over the Trinity River.

Sodd, a 57 year-old, Fort Worth-born attorney with Corsicana-based Dawson & Sodd, said he may represent several landowners whose property may be needed for the estimated \$435 million Trinity River Vision project.

"It's quite possible. I've had meetings with probably 80 people when you add it all up. I've been retained by a few already," said Sodd.

A lawsuit could hamper the project and be costly to defend, but according to TRWD board member Gina Puente-Brancato, any delays will be temporary.

"The work has been done and the plan has been approved. There may be some small changes, but unless there are funding issues, the project is in good shape," she said.

Because of attorney-client confidentiality, Sodd would not name his clients, but he said he has been retained by a few business and property owners in the area impacted by the Trinity River Vision project.

"These people are pretty upset," he said. "They feel like they're been contributing to the economy for 50 to 60 years and now they're being shucked by city officials who want their land for something else."

As many as 100 Fort Worth businesses on the north side of the Trinity River, along White Settlement Road, Henderson Street and North Main, would be impacted by the Trinity River Vision project. The United States Corps of Engineers issued its final approval of the project in April, meaning the TRWD can begin its final engineering plans. By the end of this year, TRWD officials say they will begin contacting landowners about purchasing their land.

"We're kind of in limbo at the moment," said Jim Teague, owner of Teague Lumber at 2501 White Settlement Rd.

Teague has not yet made plans to join the pending law suit(s) but said he will make a decision once he receives the final word from the TRWD on what will happen with his property.

While the TRWD says the project is primarily for flood control, Sodd is quite adamant that the project is for economic development.

The current \$435 million Trinity River Vision calls for digging a river channel across the industrial areas north of downtown and creating a lake that would stretch from the existing riverfront to the channel.

The channel would allow the U.S. Corps of Engineers and the TRWD to regulate the level of the river, which would mean the levees along the river would be removed. Several businesses and vacant lots would have to be acquired for the diversion channel. The Corps recently gave the project the green light to proceed with engineering, design, funding and the property acquisition required for the plan.

“This is an economic develop project for the city of Fort Worth and that’s all it is,” he said. “They want high-rise office buildings instead of old, ugly-looking businesses. These are businesses that have contributed to the economy of the city for years. That’s not the kind of thing that is supposed to happen in America.”

Sodd’s biggest encounter with the TRWD began in 1992 when he and his law firm represented a rancher, O.L. Gragg, who felt that the Richland-Chambers Reservoir was flooding his ranch. The TRWD completed the 44,000-acre Richland Chambers Reservoir in 1987 to supply water to Tarrant County and nearby areas.

The reservoir traps water from Richland and Chamber creeks, two tributaries of the Trinity River. Their watersheds are along an 80-mile stretch of the river near Corsicana, Athens and Palestine.

Gragg had cleared much of the land after World War II by dragging an old battleship chain behind two Army surplus bulldozers, said Sodd.

The 12,000-acre ranch, one of the largest in East Texas, is about eight miles downstream from the reservoir, has 17 miles of river frontage and 11,000 acres of bottomland where cattle graze. In 1990, water from the reservoir was released for the first time after some heavy rains. The resulting flood breached levee roads and gouged large sections out of the ranch’s bottomland, according to the court ruling.

A Waco appeals court originally ordered the TRWD to pay Gragg’s estate (he was by then deceased) \$18 million for flood damage in 2001. The TRWD appealed that ruling, and in 2004, the Texas Supreme Court ruled the TRWD had to pay \$33.5 million. The increase was due to interest that accrued from the time of the original ruling to the tune of approximately \$9,000 a day, said Sodd.

Despite the high cost of the judgment, the TRWD was able to use contingency funds to pay the settlement and did not increase its tax rate in light of the ruling, according to district officials.

While some said the TRWD should have settled the suit sooner to reduce the financial impact of the

ruling, Sodd said the outcome was unknown until the final ruling.

“Looking back, I’m sure they wish they had settled, but the TRWD did a good job. They had amicus [friend of the court] briefs filed from the cities of Dallas and Houston and the Association of Water Districts. They made a good presentation, so even though we were pretty sure we had made our case, we certainly weren’t assured of the outcome,” he said.

Lawsuit costs were not revealed by press time.

Jim Oliver, general manager for the TRWD, said the district thought it had a good case or it wouldn’t have fought it for so long.

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