

Receipt number 9998-4348745

In The United States Court of Federal Claims

**FILED**  
Dec 5 2017  
U.S. COURT OF  
FEDERAL CLAIMS

Mohammed Abbas and Maria Rahim, §  
 Kendall and Melissa Berry, David Bethel, Brooke Bradshaw, §  
 William Breen, Robert Briggs, Ind. and d/b/a Briggs Rentals §  
 and Briggs & Co, Alison Buffington, §  
 Scot Carter for Heights Property Management, §  
 Ahra Cho, Tran Dat, James Davenport, Rickey Dean, §  
 Joe Depaula, Michael Fikaris, Doug and Meryl Gregory, §  
 Yolanda Green, Norvik and Cristina Grigorian, §  
 Ricardo and Irma Hidalgo,, Elnora Holmes, §  
 Harry James Huebner, Sharon Hultman, Jared Keel, §  
 Phi Khu, Jason Kim, Penny Koepsel, Sandra Kobayashi, §  
 Manboubeh Lahijani, Angela and Alfred Lilliman, §  
 Julian Manueco d/b/a The One Promotions, Kelsi Moore, §  
 Tam Ngo, Vahid Navissi as owner of Cafe Benedicte, §  
 Chuck and Suzanne Potet, Danyul Rios, Allison Roben, §  
 Riverview Place Community Improvement Association, §  
 Mark Sacra, Teodoro Saenz, Javier Serrano, §  
 Mojgan Shayegan, Kathleen Slaydon, §  
 Sean Tseng, Chyi Ping Wu doing business as, §  
 Hong Kong Northwest Investment and Delina Wu §

Case No. 17-1882 L

Judge: \_\_\_\_\_

Plaintiffs,

vs.

The United States of America

Defendant.

**Complaint (Downstream)**

Plaintiffs, Mohammed Abbas and Maria Rahim, Kendall and Melissa Berry, David Bethel,  
 Brooke Bradshaw, William Breen, Robert Briggs, Ind. and d/b/a Briggs Rentals and Briggs & Co,  
 Alison Buffington, Scot Carter for Heights Property Management, Ahra Cho, Tran Dat, James  
 Davenport, Rickey Dean, Joe Depaula, Michael Fikaris, Doug and Meryl Gregory, Yolanda Green,  
 Norvik and Cristina Grigorian, Ricardo and Irma Hidalgo, Penny Koepsel, Elnora Holmes, Harry  
 James Huebner, Sharon Hultman, Jared Keel, Phi Khu, Jason Kim, Sandra Kobayashi, Manboubeh

Lahijani, Angela and Alfred Lilliman, Julian Manueco d/b/a The One Promotions, Kelsi Moore, Tam Ngo, Vahid Navissi as owner of Cafe Benedicte, Chuck and Suzanne Poteet, Danyul Rios, Allison Roben, Riverview Place Community Improvement Association, Mark Sacra, Teodoro Saenz, Javier Serrano, Mojgan Shayegan, Kathleen Slaydon, Sean Tseng, Chyi Ping Wu doing business as Hong Kong Northwest Investment and Delina Wu file this Complaint against the United States for its taking of their real and personal property. The U.S. Army Corps of Engineers' ("Corps") design and operation of a system of reservoirs in west Houston resulted in sustained flooding of their residences and places of business, to such extent to constitute a taking for public use. In return for that taking, Plaintiffs seek just compensation granted by the Fifth Amendment to the United States Constitution.

## **1. The Parties and Property at Issue**

1.1 Plaintiffs are all individuals and families residing on the west side of Houston, asserting claims, not as a class, but independently alongside each other for compensation for property taken by federally-controlled flood-water captured and intentionally released from the Addicks and Barker reservoirs, as occurred during the last week of August 2017, and again whenever else in the future the Corps chooses. Plaintiffs owned the property in question that was taken at the time the taking occurred. Specifically, Plaintiffs are:

1.1.1 Plaintiffs Mohammed Abbas and Maria Rahima are renters who rented property in Houston, Texas. Mr. Abbas and Ms. Rahima rented a unit located at 880 Highway 6, Apt. 4121, Houston, Texas 77079. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, they seek to recover just compensation from the Corps.

1.1.2 Plaintiffs Kendall and Melissa Berry are homeowners who reside in Houston, Texas. Mr. and Mrs. Berry own a single-family home located at 10723 Holly Springs, Houston, Texas 77042 more particularly described as Lot 29, Block 24, Walnut Bend, Section 7. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Mr. and Mrs. Berry seek to recover just compensation from the Corps.

1.1.3 Plaintiff David Bethel is a homeowner who resides in Houston, Texas. Mr. Bethel owns a single-family home located at 14207 Cindywood Drive, Houston, Texas 77079 more particularly described as Lot 8, Block 17, Nottingham Forest, Section 1. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Mr. Bethel seeks to recover just compensation from the Corps.

1.1.4 Plaintiff Brooke Bradshaw is a homeowner who resides in Houston, Texas. Ms. Bradshaw owns a single-family home located at 15183 Kimberley Court, Houston, Texas 77079 more particularly described as Unit 52 Woods on Memorial Section 2 . As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Ms. Bradshaw seeks to recover just compensation from the Corps.

1.1.5 Plaintiff William Breen is a homeowner who resides in Houston, Texas. Ms. Breen owns a single-family home located at 419 Bayou Cove Court, Houston, Texas 77042 more particularly described as Lot 3, Block 5, Lakeside Forest Section 1. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of

government-controlled water on downstream properties that caused sustained flooding, Ms. Bradshaw seeks to recover just compensation from the Corps.

1.1.6 Plaintiff Robert Briggs, Ind. and d/b/a Briggs Rentals and Briggs & Co, is a homeowner and business owner who resides in and does business in Houston, Texas. Mr. Briggs owns Briggs Rentals, located at 12649-12699 Memorial Drive and Briggs and Company located at 5902 Holly Street, Houston, Texas. Mr. Briggs also owns a single-family home located at 242 Litchfield, Houston, Texas 77024 more particularly described as Unit 127, Ethans Glen, Section 3. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Mr. Briggs seeks to recover just compensation from the Corps.

1.1.7 Plaintiffs Alison Buffington is a renter who resides in Houston, Texas. Ms. Buffington rented a unit located at 1200 S. Dairy Ashford, Apt. 1215, Houston, Texas 77077. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Ms. Buffington seeks to recover just compensation from the Corps.

1.1.8 Plaintiff Scott Carter d/b/a Heights Property Management, LLC is a business in Houston, Texas. Heights Property Management, LLC., owns real property located at 644 N. Eldridge, Houston, Texas 77079 more particularly described as Unit 644, Bldg. 4, Turkey Creek, THRP. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Heights Property Management, LLC seeks to recover just compensation from the Corps.

1.1.9 Plaintiff Ahra Cho is a renter who resides in Houston, Texas. Ms. Cho rented a unit located at 880 Highway 6, Unit 4005, Houston, Texas 77079. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Ms. Cho seeks to recover just compensation from the Corps.

1.1.10 Plaintiff Tran Dat is a renter who resides in Houston, Texas. Mr. Dat rented a unit located at 880 Highway 6, Unit 2119, Houston, Texas 77079. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Mr. Dat seeks to recover just compensation from the Corps.

1.1.11 Plaintiff James Davenport, is a homeowner who resides in Houston, Texas. Mr. Davenport owns a single-family home located at 15157 Kimberley Court, Houston, Texas 77079 more particularly described as Unit 37, Woods on Memorial, Section 2. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Mr. Davenport seeks to recover just compensation from the Corps.

1.1.12 Plaintiff Rickey Dean is a renter who resides in Houston, Texas. Mr. Dean rented a unit located at 1200 S. Dairy Ashford, 1411, Houston, Texas 77077. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Mr. Dean seeks to recover just compensation from the Corps.

1.1.13 Plaintiff Joe Depaula, is a homeowner who resides in Houston, Texas. Mr. Depaula owns a single-family home located at 13127 Indian Creek Road, Houston, Texas 77079 more particularly described as Lot 3, Block 8, Gaywood. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Mr. Depaula seeks to recover just compensation from the Corps.

1.1.14 Plaintiff Michael Fikaris is a homeowner who resides in Houston, Texas. Mr. Fikaris owns a single-family home located at 1307 Trace Drive, Houston, Texas 77077 more particularly described as Lot 26, Tr. 278, Block 2 of Shepherd Trace. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Mr. Fikaris seeks to recover just compensation from the Corps.

1.1.15 Plaintiff Doug and Meryl Gregory are homeowners who reside in Houston, Texas. Mr. and Mrs. Gregory own a single-family home located at 10826 Riverview Drive, Houston, Texas 77042 more particularly described as Lot 29, Block 5, Lakeside Forest, Section 1. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Mr. and Mrs. Gregory seek to recover just compensation from the Corps.

1.1.16 Plaintiff Yolanda Green is a renter in Houston, Texas. Ms. Green rented a unit located at 880 Highway 6, unit 2098, Houston, Texas 77079. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of

government-controlled water on downstream properties that caused sustained flooding, Ms. Green seeks to recover just compensation from the Corps.

1.1.17 Plaintiff Norvik and Cristina Grigorian, are homeowners who reside in Houston, Texas. Mr. and Mrs. Grigorian own a single-family home located at 14111 River Forest Drive, Houston, Texas 77079 more particularly described as Tr. 16A, Block 3, Lot 16, River Forest. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Mr. and Mrs. Grigorian seek to recover just compensation from the Corps.

1.1.18 Plaintiffs Ricardo and Irma Hidalgo are homeowners who resides in Houston, Texas. Mr. Hidalgo own a single-family home located at 1212 Normans Woods Street, Houston, Texas 77077 more particularly described as Lot 10, Block 3, Lakes at Stonehenge. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Mr. and Mrs, Hidalgo seek to recover just compensation from the Corps.

1.1.19 Plaintiff Elnora Holmes is renter who resides in Houston, Texas. Ms. Holmes rented a unit located at 8700 Woodway Drive, #151, Houston, Texas 77063. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Ms. Holmes seeks to recover just compensation from the Corps.

1.1.20 Plaintiff Harry James Huebner is a homeowner who resides in Houston, Texas. Mr. Huebner owns a single-family home located at 440 East Fair Harbor Lane, Houston, Texas 77079 more particularly described as Lot 19, Barker Court Townhomes. As a result of the Corps' design

and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Mr. Huebner seeks to recover just compensation from the Corps.

1.1.21 Plaintiff Sharon Hultman is a renter who resides in Houston, Texas. Ms. Hultman was renting a unit located at 777 South Mayde Creek Drive, #133, Houston, Texas. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Ms. Hutman seeks to recover just compensation from the Corps.

1.1.22 Plaintiff Jared Keel is renter who resides in Houston, Texas. Mr. Keel rented a unit located at 880 Highway 6, Unit 1069, Houston, Texas 77079. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Mr. Keel seeks to recover just compensation from the Corps.

1.1.23 Plaintiff Phi Khu is a renter who resides in Houston, Texas. Mr. Keel rented a unit located at 880 Highway 6, Unit 1053, Houston, Texas 77079. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Mr. Khu seeks to recover just compensation from the Corps.

1.1.24 Plaintiff Jason Kim is a homeowner who resides in Houston, Texas. Mr. Kim owns a single-family home located at 12625 Memorial Drive, 155, Houston, Texas more particularly described as Lot 155, Somerset Place 3rd, RP. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water



on downstream properties that caused sustained flooding, Mr. Kim seeks to recover just compensation from the Corps.

1.1.25 Plaintiff Sandra Kobayashi is a homeowner who resides in Houston, Texas. Ms. Kobayashi owns a single-family home located at 12651 Memorial Drive #A, Houston, Texas 77024 more particularly described as Res. A8, Memorial Bend, Section 3. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Ms. Kobayashi seeks to recover just compensation from the Corps.

1.1.26 Plaintiff Penny Koepsel, is a homeowner who resides in Houston, Texas. Ms. Koepsel owns a single-family home located at 15710 Fleetwood Oaks Drive,, Houston, Texas 77079 more particularly described as Lot 33, Block 2, Fleetwood Section 1. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Ms. Koepsel seeks to recover just compensation from the Corps.

1.1.27 Plaintiff Manboubeh Lahijani is a homeowner who resides in Houston, Texas. Mr. Manboubeh owns a single-family home located at 7 Beaver Tail Point Houston, Texas 77024 more particularly described as Tr. 16, Block 13, Whispering Oaks, Section 4. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Mr. Lahijani seeks to recover just compensation from the Corps.

1.1.28 Plaintiff Angela and Alfred Lilliman are renters who reside in Houston, Texas. Mr. and Mrs. Lilliman rented a unit located at 880 Highway 6, Unit 3040, Houston, Texas 77079. As a

result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Mr. and Mrs Lilliman seek to recover just compensation from the Corps.

1.1.29 Julian Manueco d/b/a The One Promotions is a business owner in Houston, Texas. The business address is 301 Wilcrest Drive, Suite 3906, Houston, Texas 77042. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Mr. Manueco seeks to recover just compensation from the Corps.

1.1.30 Plaintiff Kelsi Moore is a renter who resides in Houston, Texas. Ms. Moore rented a unit located at 880 Highway 6, Unit 3013 Houston, Texas 77079. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Ms. Moore seeks to recover just compensation from the Corps.

1.1.31 Plaintiff Tam Ngo is a renter who resides in Houston, Texas. Ms. Moore rented a unit located at 880 Highway 6, Unit 1053 Houston, Texas 77079. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Mr. Ngo seeks to recover just compensation from the Corps.

1.1.32 Plaintiff Vahid Navissi is the owner of Cafe Benedicte, a business in Houston, Texas. The business address is 15455 Memorial Drive more particularly described as Res. B3-B3-1 Memorial Thicket, Section 2. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream

properties that caused sustained flooding, Mr. Navissi seeks to recover just compensation from the Corps.

1.1.33 Plaintiff Chuck and Suzanne Poteet are homeowners who reside in Houston, Texas. Mr. and Mrs. Poteet own a single-family home located at 10727 Russett, Houston, Texas 77079 more particularly described as Lot 28, Block 32, Walnut Bend, Section 8. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Mr. and Mrs. Poteet seek to recover just compensation from the Corps.

1.1.34 Plaintiff Danyul Rios is a renter who resides in Houston, Texas. Mr. Rios rented a unit located at 880 Highway 6, Unit 3089 Houston, Texas 77079. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Mr. Rios seeks to recover just compensation from the Corps.

1.1.35 Plaintiff Allison Roben is a renter who resides in Houston, Texas. Ms. Roben rented a unit located at 880 Highway 6, Unit 3040, Houston, Texas 77079. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Mr. Roben seeks to recover just compensation from the Corps.

1.1.36 Plaintiff Riverview Place Community Improvement Association is a business located at 11203 Riverview Way, Houston, Texas. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, they seek to recover just compensation

from the Corps.

1.1.37 Plaintiff Mark Sacra is a homeowner who resides in Houston, Texas. Mr. Sacra owns a single-family home located at 10027 Bayou Glen Road, Houston, Texas 77042 more particularly described as Lot 783, Block 28, Briargrove Park, Section 1. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Mr. Sacra seeks to recover just compensation from the Corps.

1.1.38 Plaintiff Teodoro Saenz is a homeowner who resides in Houston, Texas. Mr. Saenz owns a single-family home located at 662 N. Eldridge Parkway, Houston, Texas 77079 more particularly described as Unit 662, Bldg. 2, Turkey Creek, T/H/R/P. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Mr. Saenz sees to recover just compensation from the Corps.

1.1.39 Plaintiff Javier Serrano is a homeowner who resides in Houston, Texas. Mr. Serrano owns a single-family home located at 12707 Boheme, Unit 511, Houston, Texas more particularly described as Unit 511, Bldg. 5. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Mr. Serrano seeks to recover just compensation from the Corps.

1.1.40 Plaintiff Mojgan Shayegan is a homeowner who resides in Houston, Texas. Mr. Shayegan owns a single-family home located at 13906 Briarhills Parkway, Houston, Texas 77077 more particularly described as Lot 21, Block 3, Briarhills, Section 1. As a result of the Corps' design

and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Mr. Shayegan seeks to recover just compensation from the Corps.

1.1.41 Plaintiff Kathleen Slaydon is a homeowner who resides in Houston, Texas. Ms. Slaydon owns a single-family home located at 57 Bayou Point Drive more particularly described as Tr 8 Block 8, Woodlake Forest Section 3. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Ms. Slaydon seeks to recover just compensation from the Corps.

1.1.42 Plaintiff Sean Tseng is a homeowner who resides in Houston, Texas. Mr. Tseng owns a single-family home located at 11277 Riverview Way, Houston, Texas 77042 more particularly described as Lot 3, Block 1, Ele Lakeside Townhouses, Par R/P. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Mr. Tseng seeks to recover just compensation from the Corps.

1.1.43 Plaintiff Chyi Ping Wu is business owner whose business is in Houston, Texas. Mr. Wu owns Hong Kong Northwest Investment located at 12612 Briar Patch, Houston, Texas. As a result of the Corps' design and operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Mr. Wu seeks to recover just compensation from the Corps.

1.1.44 Plaintiff Delina Wu is a renter who resides in Houston, Texas. Ms. Wu rented a unit located at 880 Highway 6, Unit 1053, Houston, Texas 77079. As a result of the Corps' design and

operation of the Addicks/Barker reservoir system, specifically, its deliberate release of government-controlled water on downstream properties that caused sustained flooding, Ms. Wu seeks to recover just compensation from the Corps.

1.2 Defendant is the United States Government, including the Corps and any federal, state, or local agency or instrumentality working under the auspices of the federal government, all of whom may be served through the National Courts Section, Commercial Litigation Branch, Civil Division U.S. Department of Justice, Washington, DC 20530; telephone: 202-514-7300.

## **2. Jurisdiction**

2.1 This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1491(a)(1), as this inverse condemnation action seeks monetary compensation from the United States pursuant to the Fifth Amendment of the U.S. Constitution.

2.2 The Government and the Corps have consented to venue in the Court of Federal Claims for takings claims.

## **3. No Previous Lawsuits**

3.1 Plaintiffs have not begun any other lawsuits in state or federal court dealing with the same or similar facts involved in this action.

## **4. Facts**

4.1 Between August 25th and August 29th, 2017, Hurricane Harvey hit Houston bringing with it rainfall for over four days. Despite Hurricane Harvey's heavy rainfall, which caused many areas in Houston to flood, most Plaintiffs named here suffered no such flood damage, and none suffered any flood damage as a result of that heavy rainfall comparable to the flood damage caused by the subsequent reservoir waters.

4.2 In the 1940s the Corps addressed Houston's recurring problem of stifling rain and unpredictable flood paths by developing the Barkers and Addicks reservoirs. The reservoirs were designed to store and release accumulated rain water to help prevent catastrophic flooding to surrounding areas.

4.3 The Addicks and Barker Reservoirs were designed and are owned and operated by the Corps.

4.4 The reservoirs are designed to control the release of government-collected water out of the reservoirs by three instrumentalities: dam gates, auxiliary spillways, and the reservoir wall's peak elevation points.

4.5 The dam gates are situated at the northeast corner of the Barkers reservoir and at the south-east side of the Addicks; both drain into tributaries that unite in the Buffalo Bayou, which cuts through Houston from the west-side reservoirs, through downtown, through the east side, and into the ship channel. The gates remain open most of the time, but close at the Corps' discretion. The purpose of closing these gates is to prevent catastrophic flooding to downstream neighborhoods along the Buffalo Bayou, downtown Houston, and the Houston ship channel.

4.6 On August 25, 2017 at 8 p.m., as Hurricane Harvey began to inundate Houston, Texas with heavy rain, the Corps ordered the floodgates to two federally owned and operated systems of dams and reservoirs, the Addicks and Barker reservoirs, to be closed.

4.7 The two reservoirs soon began to rapidly accumulate rainwater. As water levels within the Addicks and Barker reservoirs quickly rose, the Corps feared that the integrity of the two reservoirs would be compromised. One of the auxiliary spillways was utilized, diverting water outside, north of the Addicks reservoir.

4.8 On August 27, 2017, the Corps issued a statement and announced their decision "to release intermittent amounts of water from both Addicks and Barker reservoirs to reduce the risk to the Houston metropolitan area." The next day, during the early morning hours of August 28, 2017, the Corps initiated controlled releases of collected stormwater from the Addicks and Barker reservoirs into the Buffalo Bayou watershed. In a press release issued by the Corps, on August 28, 2017, Galveston District commander, Col. Lar Zetterstrom, explained: "If we don't begin releasing now, the volume of uncontrolled water around the darns will be higher and have a greater impact on the surrounding communities."

4.9 The Corps knew its decision would cause flooding to neighborhoods along and near the Buffalo Bayou.

4.10 At first the Corps opened the floodgates slowly. The Corps then increased the release to 7,500 cubic feet of water per second (cfs) from Barker dam, and 6,300 cfs from Addicks, intentionally flooding thousands of homes downstream, choosing to sacrifice those homes for the greater public good.

4.11 As both reservoirs opened and released stormwater into the Buffalo Bayou, adjacent neighborhoods and roadways that were not otherwise flooded became inundated with water.

4.12 Plaintiffs' homes and property became soaked in reservoir-mixed Bayou water, ousting Plaintiffs from their homes, which along with their cars and personal effects, marinated for days (and in some cases weeks) before draining.

4.13 Plaintiffs suffered loss of personal property, their homes devalued and became completely uninhabitable and permanently damaged. Plaintiffs will need to expend significant resources to remediate, repair, and/or rebuild their homes.



4.14 Due to the abrupt nature of the Corps' decision, Plaintiffs were largely unable to mitigate the damage to their real and personal property from the intentional flooding.

## **5. Cause of Action: Inverse Condemnation / Taking**

5.1 Plaintiffs adopt and incorporate by reference all allegations made above.

5.2 The Fifth Amendment to the U.S. Constitution provides that when the government takes private property for public use, the government must pay just compensation.

5.3 Plaintiffs had legally protected interests in their real and personal property. The Corps' intentional flooding described above caused this property to be taken, damaged and destroyed.

5.4 Plaintiffs had distinct, reasonable, and investment-backed expectations that their properties would not be subject to intentional flooding, in line with historical flooding patterns.

5.5 The Corps' design of its reservoirs and its decisions and actions caused stormwater to accumulate in the Addicks and Barker reservoirs and caused the floodgates to open on August 28, 2017 and release those waters.

5.6 As a direct result of the design of the reservoirs and of the Corps' decisions and actions, Plaintiffs' homes and personal property were flooded, which caused damage to personal property, such as personal vehicles and personal effects; damage to home improvements and the structures on the property; and decreased market value to the real estate resulting from the Corps' decision to appropriate Plaintiffs' property as a flooding easement. This flooding and the damages it caused was a foreseeable result of the Corps' design of its reservoirs and its decisions and actions in opening the floodgates. Plaintiffs' injuries from the flooding was substantial and severe. Specifically:

5.6.1 Mohammed Abbas and Maria Rahim have suffered damages to their personal property, including personal vehicles and/or personal effects resulting from the Corps' decision to appropriate their property as a flooding easement.

5.6.2 Kendall and Melissa Berry have suffered damages to their real and personal property, including personal vehicles and/or personal effects; damage to their physical home, home improvements, and the structures on the property; and decreased market value of their real property resulting from the Corps' decision to appropriate their property as a flooding easement.

5.6.3 David Bethel has suffered damages to his real and personal property, including personal vehicles and/or personal effects; damage to his physical home, home improvements, and the structures on the property; and decreased market value of his real property resulting from the Corps' decision to appropriate his property as a flooding easement.

5.6.4 Brooke Bradshaw has suffered damages to her real and personal property, including personal vehicles and/or personal effects; damage to her physical home, home improvements, and the structures on the property; and decreased market value of her real property resulting from the Corps' decision to appropriate her property as a flooding easement.

5.6.5 William Breen has suffered damages to his real and personal property, including personal vehicles and/or personal effects; damage to his physical home, home improvements, and the structures on the property; and decreased market value of his real property resulting from the Corps' decision to appropriate his property as a flooding easement.

5.6.6 Robert Briggs, Ind. and d/b/a Briggs Rentals and Briggs & Co. has suffered damages to his real and personal property, including personal vehicles and/or personal effects; damage to his physical home and business, home and business improvements, and the structures on the properties;

and decreased market value of his real properties resulting from the Corps' decision to appropriate his property as a flooding easement.

5.6.7 Alison Buffington, has suffered damages to her personal property, including personal vehicles and/or personal effects resulting from the Corps' decision to appropriate their property as a flooding easement.

5.6.8 Scot Carter for Heights Property Management, has suffered damages to his real and personal property, including personal vehicles and/or personal effects; damage to his physical business structure and improvements and decreased market value of his real property resulting from the Corps' decision to appropriate his property as a flooding easement.

5.6.9 Ahra Cho, has suffered damages to her personal property, including personal vehicles and/or personal effects resulting from the Corps' decision to appropriate her property as a flooding easement.

5.7.10 Tran Dat, has suffered damages to personal property, including personal vehicles and/or personal effects resulting from the Corps' decision to appropriate his property as a flooding easement.

5.7.11 James Davenport has suffered damages to his real and personal property, including personal vehicles and/or personal effects; damage to his physical home, home improvements, and the structures on the property; and decreased market value of his real property resulting from the Corps' decision to appropriate his property as a flooding easement.

5.7.12 Rickey Dean has suffered damages to his personal property, including personal vehicles and/or personal effects resulting from the Corps' decision to appropriate his property as a flooding easement.

5.7.13 Joe Depaula has suffered damages to his real and personal property, including personal vehicles and/or personal effects; damage to his physical home, home improvements, and the structures on the property; and decreased market value of his real property resulting from the Corps' decision to appropriate his property as a flooding easement.

5.7.14 Michael Fikaris has suffered damages to his real and personal property, including personal vehicles and/or personal effects; damage to his physical home, home improvements, and the structures on the property; and decreased market value of his real property resulting from the Corps' decision to appropriate his property as a flooding easement.

5.7.15 Doug and Meryl Gregory have suffered damages to their real and personal property, including personal vehicles and/or personal effects; damage to their physical home, home improvements, and the structures on the property; and decreased market value of their real property resulting from the Corps' decision to appropriate their property as a flooding easement.

5.7.16 Yolanda Green has suffered damages to her personal property, including personal vehicles and/or personal effects resulting from the Corps' decision to appropriate her property as a flooding easement.

5.7.17 Norvik and Cristina Grigorian have suffered damages to their real and personal property, including personal vehicles and/or personal effects; damage to their physical home, home improvements, and the structures on the property; and decreased market value of their real property resulting from the Corps' decision to appropriate their property as a flooding easement.

5.7.18 Ricardo and Irma Hidalgo have suffered damages to their real and personal property, including personal vehicles and/or personal effects; damage to their physical home, home improvements, and the structures on the property; and decreased market value of their real property

resulting from the Corps' decision to appropriate their property as a flooding easement.

5.7.19 Elnora Holmes has suffered damages to her personal property, including personal vehicles and/or personal effects resulting from the Corps' decision to appropriate her property as a flooding easement.

5.7.20 Harry James Huebner has suffered damages to his real and personal property, including personal vehicles and/or personal effects; damage to his physical home, home improvements, and the structures on the property; and decreased market value of his real property resulting from the Corps' decision to appropriate his property as a flooding easement.

5.7.21 Sharon Hultman has suffered damages to her personal property, including personal vehicles and/or personal effects resulting from the Corps' decision to appropriate her property as a flooding easement.

5.7.22 Jared Keel has suffered damages to his personal property, including personal vehicles and/or personal effects resulting from the Corps' decision to appropriate his property as a flooding easement.

5.7.23 Phi Khu has suffered damages to his personal property, including personal vehicles and/or personal effects resulting from the Corps' decision to appropriate his property as a flooding easement.

5.7.24 Jason Kim has suffered damages to his real and personal property, including personal vehicles and/or personal effects; damage to his physical home, home improvements, and the structures on the property; and decreased market value of his real property resulting from the Corps' decision to appropriate his property as a flooding easement.

5.7.25 Sandra Kobayashi has suffered damages to her real and personal property, including personal vehicles and/or personal effects; damage to her physical home, home improvements, and the structures on the property; and decreased market value of her real property resulting from the Corps' decision to appropriate her property as a flooding easement.

5.7.26 Penny Koepsell has suffered damages to her real and personal property, including personal vehicles and/or personal effects; damage to her physical home, home improvements, and the structures on the property; and decreased market value of her real property resulting from the Corps' decision to appropriate her property as a flooding easement.

5.7.27 Manboubeh Lahijani has suffered damages to his real and personal property, including personal vehicles and/or personal effects; damage to his physical home, home improvements, and the structures on the property; and decreased market value of his real property resulting from the Corps' decision to appropriate his property as a flooding easement.

5.7.28 Angela and Alfred Lilliman have suffered damages to their personal property, including personal vehicles and/or personal effects resulting from the Corps' decision to appropriate their property as a flooding easement.

5.7.29 Julian Manueco, d/b/a The One Promotions suffered damages to his personal property, including personal vehicles and/or personal effect resulting from the Corps' decision to appropriate her property as a flooding easement

5.7.30 Kelsi Moore has suffered damages to her personal property, including personal vehicles and/or personal effects resulting from the Corps' decision to appropriate her property as a flooding easement.

5.7.31 Tam Ngo has suffered damages to his personal property, including personal vehicles and/or personal effects resulting from the Corps' decision to appropriate his property as a flooding easement.

5.7.32 Vahid Navissi as owner of Cafe Benedicte Vahid Navissi has suffered damages to his business and personal property, including personal vehicles and/or personal effects; damage to his physical business property and improvements as well as the structures on the property resulting from the Corps' decision to appropriate his property as a flooding easement.

5.7.33 Chuck and Suzanne Poteet have suffered damages to their real and personal property, including personal vehicles and/or personal effects; damage to their physical home, home improvements, and the structures on the property; and decreased market value of their real property resulting from the Corps' decision to appropriate their property as a flooding easement.

5.7.34 Danyul Rios has suffered damages to his personal property, including personal vehicles and/or personal effects resulting from the Corps' decision to appropriate his property as a flooding easement.

5.7.35 Allison Roben has suffered damages to her personal property, including personal vehicles and/or personal effects resulting from the Corps' decision to appropriate her property as a flooding easement.

5.7.36 Plaintiff Riverview Place Community Improvement Association has suffered damages to its real and personal property, including personal effects; damage to the physical building and improvements, and the structures on the property; and decreased market value of the real property resulting from the Corps' decision to appropriate its property as a flooding easement.

5.7.37 Mark Sacra has suffered damages to his real and personal property, including personal vehicles and/or personal effects; damage to his physical home, home improvements, and the structures on the property; and decreased market value of his real property resulting from the Corps' decision to appropriate his property as a flooding easement.

5.7.38 Teodoro Saenz has suffered damages to his real and personal property, including personal vehicles and/or personal effects; damage to his physical home, home improvements, and the structures on the property; and decreased market value of his real property resulting from the Corps' decision to appropriate his property as a flooding easement.

5.7.39 Javier Serrano has suffered damages to his real and personal property, including personal vehicles and/or personal effects; damage to his physical home, home improvements, and the structures on the property; and decreased market value of his real property resulting from the Corps' decision to appropriate his property as a flooding easement.

5.7.40 Mojgan Shayegan has suffered damages to his real and personal property, including personal vehicles and/or personal effects; damage to his physical home, home improvements, and the structures on the property; and decreased market value of his real property resulting from the Corps' decision to appropriate his property as a flooding easement.

5.7.41 Kathleen Slaydon has suffered damages to her real and personal property, including personal vehicles and/or personal effects; damage to her physical home, home improvements, and the structures on the property; and decreased market value of her real property resulting from the Corps' decision to appropriate her property as a flooding easement.

5.7.42 Sean Tseng has suffered damages to his real and personal property, including personal vehicles and/or personal effects; damage to his physical home, home improvements, and



the structures on the property; and decreased market value of his real property resulting from the Corps' decision to appropriate his property as a flooding easement.

5.7.43 Chyi Ping Wu has suffered damages to his real and personal property, including personal vehicles and/or personal effects; damage to his physical home, home improvements, and the structures on the property; and decreased market value of his real property resulting from the Corps' decision to appropriate his property as a flooding easement.

5.7.44 Delina Wu has suffered damages to her personal property, including personal vehicles and/or personal effects resulting from the Corps' decision to appropriate her property as a flooding easement.

5.7 Additionally, the Corps' decisions and actions deprived Plaintiffs of the use, occupancy, and enjoyment of their homes and properties.

5.8 The Corps' decision to discharge water from the reservoir was for a public use.

5.9 Plaintiffs' property would not have flooded as it did but for the Corps' decision to discharge water from the Addicks and Barker reservoirs.

5.10 The Corps' conduct constitutes a taking of Plaintiffs' property, since beginning on August 28, 2017 and continuing for days or weeks, water will continue to be released from the reservoirs, and Plaintiffs will be unable to return to their homes, causing damage to their personal and real property, and Plaintiffs will be deprived of the use, occupancy, and enjoyment of their property.

5.11 The United States has not compensated or offered to compensate Plaintiffs for the taking of their real or personal property.

## **6. Relief Sought**

6.1 Compensation. As a direct result of (i) the inundation of, destruction of, substantial damage to and/or devaluation of Plaintiffs' property by the Government's intentional release of detained floodwater on Plaintiffs' property in August-September 2017, and (ii) the Government taking a permanent interest in Plaintiffs' property, including taking, exceeding and/or expanding inundation easements over Plaintiffs' property, Plaintiffs are entitled to recover just compensation and such other appropriate relief as the Court deems just and proper in an amount to be determined by the trier of fact. All losses sustained by Plaintiffs were reasonably foreseeable by the Government. All conditions precedent to Plaintiffs' claims for relief have been performed and/or occurred.

6.2 Attorneys' Fees, Litigation Expenses and Costs. Plaintiffs are also entitled to recover reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred in this proceeding pursuant to 42 U.S.C. § 4652, and Rule 54 of the Rules of the United States Court of Federal Claims.

## **7. Prayer**

Plaintiffs pray that, after due proceedings, there be judgment rendered herein in their favor against the United States for all sums that are reasonable including, without limitation thereby, actual damages to Plaintiffs' real and personal property, reasonable fees and expenses incurred herein, together with pre- and post-judgment interest and all other relief, at law or in equity, to which Plaintiffs may be justly entitled.

Respectfully submitted,

**VB Attorneys, PLLC**

/s/ Vuk Vujasinovic

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