

Flood damage claims pile in

Residents say city, county and MID responsible for expenses, suffering

By Leslie Albrecht
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More than 470 people have filed claims against the city of Merced, Merced County and Merced Irrigation District seeking what could amount to millions of dollars for damages they say they suffered during the devastating floods that swept through Merced in April.

Fresno attorney Mick Marderosian filed the claims on behalf of the residents, who live in the Franklin-Beachwood area and on the southwestern edge of Merced along Lopes Avenue, Thornton Road and Ashby Road.

That area suffered the brunt of the April floods, which caused \$10 million in damage countywide and prompted the governor to declare a state of emergency.

"These residents have to be moved from that area, they have to be fully compensated for their property, they have to be compensated for the injuries and damages they've suffered from that flooding," said Marderosian. "And the environment needs to



More online

Read one of the claims filed in response to the April flooding at www.mercedsun-star.com.

FLOODS

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be cleaned so it can be later redeveloped and occupied."

Marderosian said he couldn't specify the exact amount of money residents will be seeking as compensation, but he said "the scale that we're talking about here could exceed \$100 million."

Marderosian said he plans to file a lawsuit in Fresno's federal court within the next month.

The claims include allegations that the city, county and MID failed to maintain canals and levees, which led to the flooding that damaged residents' property.

The claims also argue that raw sewage from a treatment plant on Drake Avenue escaped from the plant during the flooding and contaminated residents' property.

As a result, the claims allege, residents suffered property damage, personal injury, loss of income and other damages.

"There is a serious, serious impact to the environment in this case that needs to be dealt with so that people can safely live in that area," said Marderosian. "Unfortunately it's one of the poorest areas of Merced, and these folks are helpless."

Marderosian, who has filed claims against the city in the past, said he began investigating the April floods while the waters still stood.

He hired a helicopter to survey the damage and placed a half-page ad in the Sun-Star inviting victims to come learn about their "rights" at a free meeting.

Marderosian said he's collected 473 plaintiffs for the

lawsuit so far and said he adds more each day.

"The government here has violated the state constitution and federal and state laws regarding the Clean Water Act," said Marderosian. "They have affected our environment at a level comparable to the Love Canal."

Love Canal was the infamous toxic waste site in New York state linked to high rates of cancer among neighboring residents that has become synonymous with environmental disaster.

Holly Doremus, a law professor at UC Davis, said to win his case, Marderosian must prove that the landowners affected by the flooding were "disproportionately injured in a way that the public ought to be covering some of those costs," said Doremus.

The government is not obligated to protect citizens from floods, said Doremus, but if cities or counties do choose to engage in flood protection they must have a "reasonable plan."

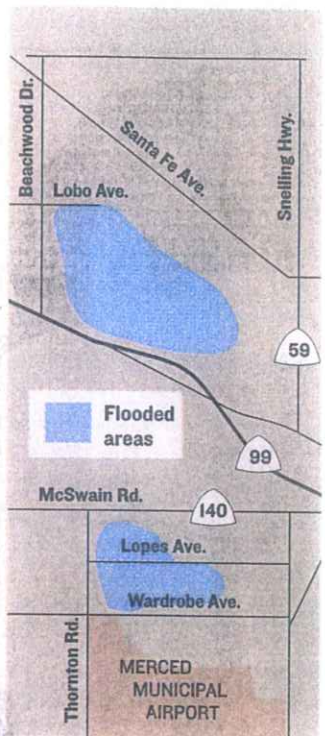
Marderosian could argue that the city, county and MID did not have a reasonable plan for flood control.

Doremus said the government was most recently forced to pay flood damages in 2003 when the state of California was ordered to pay \$600 million after a Yuba County flood caused by a weak levee.

The ruling was a surprise to the legal community, said Doremus, and could mean that it's more likely other flood victims could collect financial compensation.

But City Attorney Greg Diaz said he was not "unduly concerned" about how the Yuba County ruling could affect Merced's flood case.

"We've had flood cases before and the city of Merced has



been very successful before," said Diaz. "We anticipate a similar outcome."

Diaz will not be handling the lawsuit after it is filed in federal court.

The city and MID rejected all of the claims that Marderosian filed.

The county, which hasn't decided whether it will deny the claims, has hired attorney Terry Allen to represent the county when the case moves to federal court.

Allen said he couldn't comment on the claims directly, but he described the numerous claims as a "broad shot."

"It's a sort of like an elephant gun shooting at everything in sight," said Allen.

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