

## Issue over flooded house goes back to court

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Friday, September 3, 2010



World file photo/Don Seabrook

Brad Sturgill sits in June 2002 on the foundation where his vacation house once stood by the Methow River near Mazama. The house slid into the river after log jams diverted it toward his property.



World file photo/Don Seabrook

Heather Sturgill stands in June 2002 by the Methow River and what's left of her home near Mazama after the swollen river changed course and took her vacation house with it.

MAZAMA — The question of who's to blame for a vacation home swept down the Methow River eight years ago will be sent back to a lower court for trial, the state Supreme Court ruled Thursday.

The Mazama home — owned by Don and Pam Fitzpatrick of Woodinville and Brad and Heather Sturgill of Ballard — tipped into the river and was swept away on June 16, 2002.

The Fitzpatricks and Sturgills did not have flood insurance for the 2,800-square-foot log house, which was originally built about 100 feet away from and 8 feet above the river, outside the floodplain.

In a claim against Okanogan County filed in July 2004, the families were seeking \$1 million for the loss of their home and property.

They then filed a lawsuit in Douglas County Superior Court claiming Washington state and Okanogan County officials were at fault due to a county-built dike that changed the natural course of the river.

Judge John Hotchkiss dismissed the case, granting a motion for summary judgment without a trial after finding there were no basic issues over the facts of the case.

But a state Court of Appeals overturned the summary judgment, saying the matter should be heard in trial. The case was argued before the Supreme Court in May 2009, and justices upheld the appeals court decision 7-2 in an opinion filed Thursday.

Justice Gerry L. Alexander wrote that some facts of the case — including the natural course of the Methow River — are at issue, and need to be determined in trial.

In the ruling, Alexander wrote that if the river causing damage to the property meets the definition of surface water, it “is regarded as an outlaw and a common enemy against which anyone may defend himself, even though by so doing injury may result to others.”

That would mean the state and county were not at fault for the property damage.

“In contrast, the natural watercourse rule prevents interference with the natural flow of a waterway,” he wrote, so if the dike diverted water from its natural course, the property owners may claim damages.

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