



United States Department of the Interior

BUREAU OF RECLAMATION

Lahontan Basin Area Office
705 N. Plaza Street, Rm 320
Carson City, NV 89701

IN REPLY REFER TO:

March 11, 2008

LO-110
IRM-3.00/PRJ-15.00(TCB)

To: Claimant

From: Elizabeth Ann Rieke *Betsy Rieke*
Area Manager

Subject: Federal Tort Claims

With this memorandum, I am providing you with an information packet explaining how to file a claim with the United States Bureau of Reclamation (Reclamation) for injury or damage to your property as a result of the January 5, 2008 Truckee Canal embankment breach. The packet contains the form and information you need to initiate your claim. Please read it carefully and complete the form as instructed.

Once we receive your claim, we will work with you to be sure it is complete. Then we will forward it to the Office of the Solicitor in Sacramento, California for processing as expeditiously as possible. We will provide you updates on your claim as we receive them.

Reclamation is committed to providing you the best service possible initiating your claim. If you need additional information or have questions relative to filing your claim, please contact Claude Johnson, Jr. or Laura Jolle at (775) 882-3436.

Attachment

FILING A CLAIM UNDER THE FEDERAL TORT CLAIMS ACT FOR DAMAGES DUE TO TRUCKEE CANAL EMBANKMENT BREACH ON JANUARY 5, 2008

Background

This document outlines the general process for filing a claim for property damage or injury against the United States under the Federal Tort Claims Act. It is for informational purposes only and is not legal advice. This document also makes no representation as to whether the United States has any legal liability. It is strongly encouraged that you consult with your own legal counsel.

However, you should be aware that in order to preserve your right to seek compensation from the United States for any property damage or injury resulting from the January 5, 2008 Truckee Canal embankment breach, you must file an administrative claim with the Bureau of Reclamation. The claim may be denied (or it may not be) but you must file it in order to preserve your right to seek relief in federal district court. You must file the claim within two years after the date you became aware of the property damage or injury.

Where can I find out more about the claim process?

Please consult the Federal Tort Claims Act, available in Title 28 of the United States Code, Sections 2671–80 and Department of Justice regulations concerning the Act, available in Title 28 of the Code of Federal Regulations, Part 14.

What paperwork is needed?

Although not required, the simplest way to present an administrative claim to the Bureau of Reclamation is to complete Standard Form 95. That form and the instructions for completing that form are attached. Please note that filing a claim does not entitle you to an award.

All claims must include the date you became aware of the property damage or injury, and a specific sum being claimed. A monetary “range” or estimate of loss is not acceptable. Under 28 C.F.R. § 14.4, claims for property loss shall include the following: (1) proof of ownership; (2) detailed statement of amount claimed with respect to each item; (3) itemized receipt for necessary repairs, or itemized estimate for such repairs; (4) a statement of purchase price, date, and salvage value, where repair is not economical; and (5) any other information which may have bearing on the responsibility of the United States, or the damage incurred. These supporting documents should be included with Standard Form 95.

Where do I send Standard Form 95 and the associated materials?

Please send these materials to the Bureau of Reclamation’s Lahontan Basin Area Office at the following address:

Claude Johnson
Bureau of Reclamation
Lahontan Basin Area Office
705 North Plaza Street, Room 320
Carson City, Nevada 89701
(775) 884-8344

What happens after I file my claim?

The Bureau of Reclamation will work with you to assure you have provided all the necessary paperwork and will forward your claim to its attorneys in the Regional Solicitor’s Office in Sacramento, California. The agency will investigate and verify the claim. If the agency denies liability for your claim, you have the option of filing suit in federal district court. If, after six months, the agency has taken no action on your claim, you also have the option of filing in federal district court. On the other hand, if the United States accepts liability for the claim, you may attempt to settle your claim with the agency.

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.			FORM APPROVED OMB NO. 1105-0008	
1. Submit To Appropriate Federal Agency:				2. Name, Address of claimant and claimant's personal representative, if any. (See instructions on reverse.) (Number, Street, City, State and Zip Code)		
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input type="checkbox"/> CIVILIAN		4. DATE OF BIRTH	5. MARITAL STATUS	6. DATE AND DAY OF ACCIDENT		7. TIME (A.M. OR P.M.)
8. Basis of Claim (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary.)						
9. PROPERTY DAMAGE						
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).						
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF DAMAGE AND THE LOCATION WHERE PROPERTY MAY BE INSPECTED. (See Instructions on reverse side.)						
10. PERSONAL INJURY/WRONGFUL DEATH						
STATE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE NAME OF INJURED PERSON OR DECEDENT.						
11. WITNESSES						
NAME			ADDRESS (Number, Street, City, State, and Zip Code)			
12. (See instructions on reverse.) AMOUNT OF CLAIM (in dollars)						
12a. PROPERTY DAMAGE		12b. PERSONAL INJURY		12c. WRONGFUL DEATH		12d. TOTAL (Failure to specify may cause forfeiture of your rights.)
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM						
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side.)				13b. Phone number of person signing form		14. DATE OF SIGNATURE
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM				CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS		
The claimant is liable to the United States Government for the civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729.)				Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of his vehicle or property.

15. Do you carry accident insurance? Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. No

16. Have you filed a claim on your insurance carrier in this instance, and if so, is it full coverage or deductible?

17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts.)

19. Do you carry public liability and property damage insurance? Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item #12 of this form.

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) **Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.**

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. *Authority:* The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

B. *Principal Purpose:* The information requested is to be used in evaluating claims.
C. *Routine Use:* See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.
D. *Effect of Failure to Respond:* Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid".

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, D.C. 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.