

**FILING A CLAIM FOR DAMAGES AS A RESULT OF THE U.S. ARMY
CORPS OF ENGINEERS OPERATIONS RELATED TO MISSISSIPPI
RIVER FLOODING IN 2011**

This document outlines the general process for filing a claim with the U.S. Army Corps of Engineers for property damage or injury resulting from operation of the Mississippi River and Tributary System during the floods of Spring 2011. This document makes no representation as to whether the United States has any legal liability for any claim submitted to it pursuant to the procedures set forth herein, and the public should be aware that certain legal defenses such as flood water immunity (33 U.S.C. 702c), sovereign immunity, or statute of limitations may be available to the government. Should you have questions as to the merits of any claim, you are strongly encouraged to consult with your own legal counsel.

Filing a claim against the Army Corps of Engineers under the Federal Tort Claims Act

The Federal Tort Claims Act provides for the filing of claims against the United States for personal property damage or loss, personal injury, or wrongful death caused by the negligent or wrongful acts or omissions of federal government employees while acting within the scope of their employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the state where the act or omission occurred. The Federal Tort Claims Act requires that the claimant file a written administrative claim with the appropriate federal agency, in this case the U.S. Army Corps of Engineers. An administrative tort claim must be filed within two years of the date of the incident that gave rise to the claim.

A Standard Form 95 (SF-95) should be used to submit a claim under the Tort Claims Act. A SF-95 may be obtained at www.gsa.gov under "Forms Library" or at www.mvd.usace.army.mil.

Your written claim must include:

1. The claimant's name, mailing address and phone number;
2. Enough information to permit investigation; and
3. A specific dollar amount of the claim (a sum certain) .

You are required to submit evidence to support your claim. For example, the following information should be provided:

1. The damage that has occurred (for example, pictures of the damaged property and pictures of the property before damage occurred);
2. How you contend that the damage occurred (i.e., what acts of a government employee occurred that caused the damage for which you seek compensation);
3. Proof of ownership for damaged property (such as a copy of title, registration, deed or tax documents);
4. Documentation to support the amount claimed (medical records, repair estimates, etc.);
5. Witness statements; and
6. Any other evidence or information that supports your claim (28 C.F.R. § 14.4 provides a full listing of information that you may need to provide).

Once an administrative claim is filed, the Federal Tort Claims Act provides for a period to allow the Government to investigate and settle or decide the claim. Thus, a lawsuit against the United States cannot be filed until the following occurs:

1. If there is no final administrative action on your claim, the Federal Tort Claims Act permits you to file suit in an appropriate United States District Court six months after the claim was filed, provided the claim has been properly filed and adequately documented. However, filing suit is not required, particularly if satisfactory progress is being made in the administrative claims process. If you do not file suit, the statute of limitations will be tolled until you are notified in writing by certified mail of the final administrative action by the Army; or
2. After final administrative action, a claimant may file suit in an appropriate United States District Court no later than six months from the date of the final administrative action. Final administrative action consists of a denial or final settlement offer.

Filing a claim against the United States for a “Taking” of Property

For a claim for compensation based on an alleged taking of property under the 5th Amendment to the U.S. Constitution as a result of floodway operations, there is no legal requirement that an administrative claim be filed prior to filing a lawsuit. However, the Corps will accept takings claims for those who wish to have their claims reviewed administratively. Here, too, filing of the claim can be accomplished by submitting a completed SF-95 and sending it to the Corps of Engineers District exercising jurisdiction over the location where the claimed taking occurred, as set forth above regarding tort claims. Should a claimant wish to file suit, the U.S. Court of Federal Claims in Washington, D.C. has exclusive jurisdiction for takings lawsuits seeking more than \$10,000. See 28 U.S.C. § 1491. For takings claims below \$10,000, claimants may file suit in either in the U.S. Court of Federal Claims or in an appropriate United States District Court. See 28 U.S.C. § 1346(a)(2). The United States should be named as defendant.

Mailing Address to Submit Claims

US Army Corps of Engineers
New Orleans District-Office of Counsel
Attn: Claims
P.O. Box 60267
New Orleans, LA 70160

Claims Phone Number:

(504) 862-2826