

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

Federal, State, and local agencies are engaged in an unprecedented effort to respond to the historic 2011 Missouri River flooding. The June 2011 runoff into the Missouri River Basin above Sioux City was 13.8 Million Acre Feet (MAF) – the single highest monthly runoff since records were kept starting in 1898. In addition, May 2011 runoff into the Basin above Sioux City was 10.5 MAF, the third highest monthly runoff. This means runoff for May and June 2011 totaled 24.3 MAF, which is just shy of the normal annual total runoff in the Basin of 24.8 MAF.

These record inflows have forced the U.S. Army Corps of Engineers (Corps) to make record releases from all 6 Mainstem dams to accommodate the water flowing into the system. The Corps has operated the Missouri River Reservoir System as necessary to address the historic inflow of runoff from rainfall and snowmelt within the Missouri River Basin this spring. Nonetheless, the Corps has established a process to accept and review claims from those who believe they are entitled to compensation for damages attributable to the Corps' Missouri River operations. The process will allow the Government to evaluate the claims, and, if liable, to offer appropriate compensation as permitted by law.

Other forms of emergency relief or assistance, unrelated to the claims process described in this notice, may be available. However, any such programs would be administered by other Federal, State, or local agencies and requests for emergency assistance and recovery should be directed to those officials.

This document makes no representation as to whether the United States has any legal liability for any claim submitted to it. The public should be aware that certain legal defenses may be available to the federal government, such as flood water immunity (33 U.S.C. 702c), “discretionary function” sovereign immunity, or the statute of limitations. Should you have questions as to the merits of any claim, you are strongly encouraged to consult with your own legal counsel.

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.

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 and is a legal prerequisite to filing a lawsuit against the United States seeking compensation for such damage.

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 the following link: <http://www.gsa.gov/portal/forms/type/SF>

A PDF version of the SF-95 can also be found on the Kansas City and Omaha USACE District websites.

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)
4. A signature of the person making the claim.

Claims should be accompanied by appropriate evidence and information to allow the Corps to investigate. That documentation generally should include, in the case of a property damage claim, such things as proof of ownership; estimates, bills for repairs, and/or receipts; photos of the damaged property, and pictures of the property before it was damaged if available; and any other information that the claimant believes would be helpful in understanding the basis for the claim and the extent of the damage. Anyone who is considering submitting a claim is strongly urged to consult the provisions of Part 28 of the Code of Federal Regulations, section 14.4 (28 CFR 14.4) for a listing of the documentation that may be necessary in support of a claim.

The completed claim form should be sent to the appropriate Corps of Engineers District exercising jurisdiction over the property where the claim arises, either the Omaha or Kansas City USACE District Office. Complete address information is below.

Mailing Address to Submit Claims

Claims within Omaha District Jurisdiction as described above:

US Army Corps of Engineers
Omaha District
Office of Counsel
1616 Capitol Avenue
Omaha, NE 68102-4901
Attn: Claims

Claims within Kansas City District Jurisdiction as described above:

US Army Corps of Engineers
Kansas City District
Office of Counsel
601 E. 12th St.
Kansas City, MO 64106-2824
Attn: Claims