

CAMP LEJEUNE FEDERAL TORT CLAIMS ACT (FTCA) CLAIMS Questions and Answers

Question: Why were the claims denied?

Answer: Beginning in 2005, a number of FTCA claimants filed suit against the U.S. government. These claimants alleged they had been harmed by exposure to contaminated drinking water at Camp Lejeune, North Carolina.

The FTCA is a limited waiver of sovereign immunity that allows the U.S. to be sued under certain circumstances, with several congressionally-imposed conditions on the waiver. The Department of the Navy (DoN) is authorized to pay an FTCA claim only when those conditions apply.

These lawsuits, which were fairly representative of all of the Camp Lejeune FTCA claims, were later consolidated into a multidistrict litigation (MDL) court (U.S. District Court for the Northern District of Georgia). In December 2016, the MDL court dismissed the lawsuits finding that the conditions required for a waiver of sovereign immunity had not been met. In other words, the claims could not be considered; therefore, there is no legal basis to pay them.

The court's detailed opinion is based on the following factors:

- Application of the North Carolina 10-year statute of repose, which bars all suits brought 10 years after the last act or omission of the defendant.
- The Discretionary Function Exception, which preserves the U.S. government's sovereign immunity for any claim that is based on a federal agency's performance or nonperformance of a policy-based discretionary task. The court found that because there were no directives in place regarding groundwater contaminants at the relevant time and the alleged negligent conduct implicated protected policy considerations, the U.S. government cannot be held accountable.
- The *Feres* doctrine, which prohibits suit by service members against the U.S. government for injuries which arise out of or are incurred incident to military service.

Question: Why did the Navy make this determination now?

Answer: DoN made the determination after senior leadership exhaustively reviewed current and pending scientific research, examined pertinent legal rulings, consulted subject-matter experts, and received a recommendation from the Department of Justice (DoJ). Ultimately, DoN senior leaders decided unnecessarily delaying final action on the claims would be a disservice to the claimants.

Question: Are all claimants affected by this decision?

Answer: Claimants who filed a FTCA claim with the Office of the Judge Advocate General of the Navy (OJAG) are impacted by this decision. For more information about a specific claim, or the claims process, please contact OJAG at:

Attention: Claims & Tort Litigation Division (Code 15)
Washington Navy Yard, Bldg 33
1322 Patterson Ave SE Suite 3000
Washington DC, 20374
Phone: (202) 685-4600
http://www.jag.navy.mil/organization/code_15.htm

Question: What options do claimants have now?

Answer: As required by law, all denial letters will inform claimants of their right to file suit in the appropriate U.S. District Court within six months of the date of the mailing of the denial letter.

Question: Can I file a claim with the government for an illness that I believe is potentially related to the past drinking water at Camp Lejeune?

Answer: Claims for personal injury or wrongful death regarding Camp Lejeune contaminated water can be filed; however, the MDL court's decision made it clear there is no legal basis to pay such claims. If you have any questions about filing a claim, you may call the Claims & Tort Litigation Division, OJAG, at 202-685-4600 or visit http://www.jag.navy.mil/organization/code_15.htm.

Question: Are there benefits that may be available to me?

Answer: On Aug. 6, 2012, the "Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012" was signed into law. Veterans and family members who served on active duty or resided at Camp Lejeune for 30 days or more between Jan. 1, 1957 and Dec. 31, 1987 may be eligible for medical care for 15 health conditions. The dates were subsequently updated to Aug. 1, 1953 to Dec. 31, 1987. By law, the Department of Veterans Affairs (VA) may only compensate family members for eligible out-of-pocket expenses (after March 2013, when the law was funded by Congress) after family members have received payment from all other health plans. For more information, please visit <https://www.clfamilymembers.fsc.va.gov> or call toll-free at 1-866-372-1144.

In addition, the VA finalized a new rule on Jan. 13, 2017 making veterans who have one of eight diseases eligible to receive VA disability benefits if they served for no less than 30 days (consecutive or nonconsecutive) on permanent or temporary duty at Camp Lejeune between Aug. 1, 1953 and Dec. 31, 1987.

To learn more about filing a claim with the VA or VA health care and disability benefits programs and eligibility, please visit <http://www.publichealth.va.gov/exposures/camp-lejeune/>.

Question: If I previously filed a VA claim, will the Navy's decision to deny the FTCA claims impact my VA claim?

Answer: No, this decision has no impact on any benefits or programs administered by the VA.

Question: What have the Navy and the Marine Corps done or are now doing to provide information to concerned citizens regarding the Camp Lejeune water issue? How can I receive more information?

Answer: DoN has undertaken several initiatives, including a mass media outreach plan, to inform former residents, employees, and families of Camp Lejeune, as well as the public, about the past water quality at Camp Lejeune. The Marine Corps maintains a comprehensive outreach and notification program that includes a website, a toll free call center, a notification database, national media advertisements, social media, and targeted outreach via letters to former base residents and workers.

DoN is committed to informing the public with the most up-to-date information and continues to work closely with interested members of the media and the public to ensure the widest dissemination of accurate information.

For more information about the Camp Lejeune Historic Drinking Water (CLHDW) issue or to register with the Marine Corps to receive information updates in the mail, please visit the CLHDW website at <http://www.marines.mil/clwater> or call the toll free call center at (877) 261-9782.