



State Bar of New Mexico
2023 State Bar Annual Meeting

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Hermit's Peak/Calf Canyon Wildfire Damages Claims Update and Negligence Refresher
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Selected Resources

Laws and Rules:

Federal Tort Claims Act of 1946, ch. 753, 60 Stat. 842 (codified as amended in scattered sections of 28 U.S.C.).

Cerro Grande Fire Assistance Act, Pub. L. 106-246, 114 Stat. 511 (2000),
<https://www.congress.gov/bill/106th-congress/senate-bill/2736>.

Continuing Appropriations and Ukraine Supplemental Appropriations Act, Pub. L. No. 117-180, 136 Stat. 2114 (2022) (Hermit's Peak Fire Assistance Act), <https://www.congress.gov/bill/117th-congress/house-bill/7721/text?r=55&s=1>.

Disaster Assistance; Cerro Grande Fire Assistance Final Rule, 44 C.F.R. § 295 (2001),
<https://www.govinfo.gov/content/pkg/CFR-2001-title44-vol1/pdf/CFR-2001-title44-vol1-part295.pdf>.

Hermit's Peak/Calf Canyon Fire Assistance Interim Final Rule (released Nov. 22, 2022) (to be codified at 44 C.F.R. 296),
https://www.fema.gov/sites/default/files/documents/fema_hermits-peak-calf-canyon-fire-assistance-interim-final-rule.pdf.

Cases:

Berkovitz v. United States, 486 U.S. 531 (1988) (discretionary function exception to Federal Tort Claims Act).

Anderson v. United States, 55 F.3d 1379 (9th Cir. 1995) (discretionary function exception to Federal Tort Claims Act).

Thune v. United States, 872 F. Supp. 921 (D. Wyo. 1995) (discretionary function exception to Federal Tort Claims Act).

Florida v. United States, 2010 WL 3469353 (N.D. Fla.) (discretionary function exception to Federal Tort Claims Act).

De Baca v. United States, 399 F. Supp. 3d 1052 (D.N.M. 2019) (discretionary function exception to Federal Tort Claims Act).

Kelly v. CB&I Constructors, Inc., 102 Cal. Rptr. 3d 32 (Cal. Ct. App. 2009) (damages).

Federal Emergency Management Agency (FEMA) Materials:

FEMA Hermit's Peak/Calf Canyon Claims Office,
<https://www.fema.gov/disaster/current/hermits-peak>

Notice of Loss – Hermit's Peak/Calf Canyon Fire,
https://www.fema.gov/sites/default/files/documents/fema_notice-loss-hermits-peak-fire-form.pdf

Proof of Loss – Hermit's Peak/Calf Canyon Fire,
https://www.fema.gov/sites/default/files/documents/fema_hermits-peak-proof-loss-form.pdf

Books and Reports:

DOMINICK VETRI ET AL., TORT LAW AND PRACTICE (6th ed. 2020).

U.S. DEPARTMENT OF AGRICULTURE, GALLINAS-LAS DISPENSAS PRESCRIBED FIRE DECLARED WILDFIRE REVIEW (June 2022), https://www.documentcloud.org/documents/22065112-las-dispensas-review_final_6_19_22-508.