

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION**

IN RE:)	
CAMP LEJEUNE WATER LITIGATION)	Case No. 7:23-cv-897
)	
)	UNITED STATES' REPLY IN
)	SUPPORT OF MOTION TO
)	AMEND TRACK 1 ORDER TO
This Document Relates To:)	PRIORITIZE TRIALS OF TRACK 1
ALL CASES)	SINGLE DISEASE PLAINTIFFS

PLG’s Opposition for the first time discloses a significant assertion: “potentially half of individuals with Track 1 or Track 2 illnesses have multiple diseases caused by the Camp Lejeune water[.]” D.E. 181, Opp. at 2. PLG’s assertion means that the Track 1 pool will include not only the five Track 1 diseases selected by the Court, but also many, many additional diseases, potentially on the order of 50 or more, that plaintiffs will assert were independently caused by Camp Lejeune water. PLG conspicuously does not dispute the United States’ point, D.E. 167, Mot. at 5, that it would be impossible for the parties to conduct expert discovery on all of the Track 1 multiple disease plaintiffs within the existing schedule. Unless the Court implements a plan to prioritize the Track 1 diseases, the presence of so many additional alleged diseases in Track 1 will undermine the Court’s overarching case management objective to “[s]tag[e] discovery and trials by ‘tracks’ of illnesses.” D.E. 23, CMO 2, at 8. The Court correctly noted in CMO 2 that this staging process “is the most efficient way to advance the CLJA litigation and support a global resolution of CLJA claims.” For these reasons alone, the United States’ Motion to prioritize trials of Track 1 single disease plaintiffs should be granted.

The United States welcomes the necessary discussions about trial structure and eventual bellwether selection. But the United States believes that clarity on the fundamental issue

presented in its Motion—trying single disease plaintiffs first, in keeping with CMO 2, and multiple disease plaintiffs next—is a necessary predicate for those discussions. In any event, it will not be possible to select bellwethers from the Track 1 discovery pool before fact discovery has been completed. The purpose of working up a wider discovery pool (as the parties agreed), rather than simply selecting a smaller number of bellwethers from the outset, was to allow the parties to conduct fact discovery to ascertain which cases would be best suited for trial and most informative for global resolution. At the same time, waiting until the end of fact discovery to decide the multiple disease plaintiffs issue would put the United States in an impracticable position. The schedule for expert discovery this summer—in particular, allowing just 30 days after receipt of plaintiffs’ expert reports for the United States to disclose its expert reports—only works if the parties’ causation experts can focus only on the Track 1 diseases.

The United States respectfully requests that the Court grant its Motion to give the parties certainty that single disease plaintiff cases in Track 1 can move forward, while providing necessary space to set up procedures for the multiple disease plaintiffs. The United States agrees that after the close of Track 1 fact discovery, in accordance with CMO 2, the Court and the parties should have a well-informed discussion about trial structure and bellwether selection among the single disease plaintiffs in Track 1.

Dated: May 1, 2024

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General
Civil Division

J. PATRICK GLYNN
Director, Torts Branch

BRIDGET BAILEY LIPSCOMB
Assistant Director

ADAM BAIN
Special Litigation Counsel

/s/ Daniel C. Eagles

DANIEL C. EAGLES

Trial Attorney

U.S. Department of Justice

Civil Division, Torts Branch

Environmental Torts Litigation Section

1100 L Street NW

Washington, DC 20005

E-mail: daniel.c.eagles@usdoj.gov

Phone: (202) 305-0253

Fax: (202) 616-4473

Attorney inquiries to DOJ regarding the
Camp Lejeune Justice Act:
(202) 353-4426

CERTIFICATE OF SERVICE

I hereby certify that on May 1, 2024, a copy of the foregoing Reply in Support of Motion to Amend Track 1 Order to Prioritize Trials of Single Disease Track 1 Plaintiffs was served on all counsel of record via the Court's electronic filing system.

/s/ Daniel C. Eagles
DANIEL C. EAGLES