RECOMMENDED ACTION AND JUSTIFICATION:

Authorize Chair to sign an Order of the Board to reject Claim No. C05-3 in the amount of $495.05. Claimant alleges that during the repair of a sewage leak County personnel disturbed and/or removed Claimant’s plants which were located within the County’s easement on Claimant’s property. The County Administrative Officer/Risk Manager recommends rejection of this claim based on a report from the Public Works Department together with review of a previous claim filed by Claimant in August of 2003 wherein County personnel had to remove Claimant’s plants placed in the County’s easement on Claimant’s property to repair a leak. The previous claim was approved for payment since the Claimant had been unaware of the County’s easement prior to the repair and the Public Works Director had given assurances to Claimant that the County would reimburse him the cost of replacement of the plants that they had needed to remove to make the sewer line repair in the County’s easement. However, since that time the easement has been marked and the Claimant has been made aware of the easement’s existence. Therefore, the County Administrative Officer/Risk Manager is requesting denial of this claim based on the information presented above that the Claimant knowingly replanted vegetation in the County’s easement.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board usually follows the Risk Manager’s recommendation in matters of this nature.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

➢ Reject claim as recommended.
➢ Take no action; claim will automatically be denied if no action is taken.

Financial Impact?  ( ) Yes  [X] No  Current FY Cost: $  Annual Recurring Cost: $  
Budgeted In Current FY?  ( ) Yes  ( ) No  ( ) Partially Funded
Amount in Budget: $  
Additional Funding Needed: $  
Source:  
Internal Transfer  
Unanticipated Revenue  4/5’s vote  
Transfer Between Funds  4/5’s vote  
Contingency  4/5’s vote  
( ) General  ( ) Other  

List Attachments, number pages consecutively  
Claim  
Public Works Report  

CLERK'S USE ONLY:  
Res. No.: 25-15  Ord. No.:  
Vote – Ayes: 5  Noes:  
Absent:  
( ) Approved  
( ) Minute Order Attached  ( ) No Action Necessary  
The foregoing instrument is a correct copy of the original on file in this office.
Date:  
Attest: MARGIE WILLIAMS, Clerk of the Board  
County of Mariposa, State of California  
By:  
Deputy  

COUNTY ADMINISTRATIVE OFFICER:  
[ ] Requested Action Recommended  
[ ] No Opinion  
Comments:  

CAO:  

Revised Dec. 2002
COUNTY OF MARIPASA CLAIM FORM

CLAIM OF  

David Sarginson  
(Claimant)  

CLM FOR PERSONAL INJURY AND/OR PROPERTY DAMAGE  
(Government Code § 910)  

v.  

COUNTY OF MARIPASA  

TO THE BOARD OF SUPERVISORS OF MARIPASA COUNTY:

YOU ARE HEREBY NOTIFIED that: (PLEASE TYPE OR PRINT)

Claimant: David Sarginson  
Whose address is: 161 Parkhaven Dr  
City and State: Danville CA Zip: 94506

claims damages from the COUNTY OF MARIPASA in the amount, computed as of the date of presentation of this claim, of $495.05.

This claim is based on: (CHECK APPROPRIATE BOX OR BOXES)

✓ Property Damage  < > Other (LIST)
< > Personal Injury  < > Contract

which occurred on April Early March 2004, in the vicinity of:

2332 Ranchito Dr, La Grange CA 95329  
(MONTH/DAY)  
(PLACE WHERE INCIDENT OCCURRED)

Describe generally the facts and circumstances that give rise to the claim: (PLEASE USE BACK OF THIS PAGE IF MORE SPACE IS NEEDED.)

In Early March, 2004 a leak occurred in an underground pressurized sewage line on (under) my property. The County repaired the leak, and determined it was probably caused by a backhoe operator working two lots away. The County told me to perform repairs to return my lot to its previous state.

The name(s) of the public employee(s) causing claimant's injuries or damages under the above-described circumstances is/are:

N/A
The injuries sustained by claimant, as far as known, as of the date of presentation of this claim consist of:  (DESCRIBE GENERALLY CLAIMANT'S INJURIES OR DAMAGES)

\[ N/A \]

The amount claimed, as of the date of presentation of this claim is computed as follows:

**Damages incurred to date:**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenses for medical and hospital care</td>
<td>$ 0</td>
</tr>
<tr>
<td>Loss of earnings</td>
<td>$ 0</td>
</tr>
</tbody>
</table>

**Specific damages (ITEMIZE & PROVIDE 3 REPAIR ESTIMATES)**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Other damages (ITEMIZE)**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Items + Labor to restore property to original condition following sewage return line leak repair</td>
<td>$ 495.05</td>
</tr>
</tbody>
</table>

**TOTAL DAMAGES INCURRED TO DATE:**

\[ $495.05 \]

**Estimated future damages as far as known from this incident:**

**Total estimated prospective damages:**

\[ N/A \]

**TOTAL AMOUNT CLAIMED AS OF DATE OF PRESENTATION OF THIS CLAIM:**

\[ $495.05 \]

All notices or other communications with regard to this claim should be sent to claimant at:

**161 Parkhaven Drive, Danville, CA 94506**

(ADDRESS TO WHICH NOTICES ARE TO BE SENT)

Dated: **12/21/04**

Signed: [Signature]

(CLAIMANT/AGENT FOR CLAIMANT)

**Government Code § 911.2. Time of or presentation of claims**

A claim relating to a cause of action for death or for injury to person or to personal property or growing crops shall be presented as provided in Article 2 (commencing with § 915) of this chapter not later than six months after the accrual of the cause of action. A claim relating to any other cause of action shall be presented as provided in Article 2 (commencing with § 915) of this chapter not later than one year after the accrual of the cause of action.
David Sarginson  
161 Parkhaven Drive  
Danville, CA 945206

December 8, 2004

Gary Clinkenbeard  
County Of Mariposa  
Public Works Office  
4639 Ben Hur Road  
Mariposa, CA 95338

Re: 2332 Ranchito Drive

Dear Gary,

Per our agreement, I have enclosed per your instruction original receipts for labor, plants and supplies to restore our garden to its condition prior to the sewage return leak. Consider this letter the actual original receipt for my labor (I used the hourly rate per your direction). I am also including a recent water bill. This is probably more reflective of the water you used when you compacted the fill dirt, rather than the bill (that you have) from that month, which I believe was for a greater amount.

- Orchard Supply Hardware .......... $109.85
- Ace Hardware........................... $ 74.01
- Navlet's Garden Centers.............. $ 2.99
- Lake Don Pedro C.S.D. water bill. $ 32.20
- 23) Hours labor @ $12.00/hour... $276.00
- TOTAL............................... $495.05

Please let me know if you require anything further from me regarding this matter. I look forward to getting this resolved.

Thanks very much for your assistance with this matter.

Regards,

David Sarginson  
(510) 265 – 0158  
dsarginson@shieldsharper.com

Attch.
ORCHARD SUPPLY HARDW
1041 MARKET PLACE
SAN RAMON CA 94583
(925)275-1670

NORMAL SALE
× 010066454471 54"GREEN TOMATO CA
10 3.79 3.79 T
× 010066454471 54"GREEN TOMATO CA
10 3.79 3.79 T
× 010066454471 54"GREEN TOMATO CA
10 3.79 3.79 T
× 010066454471 54"GREEN TOMATO CA
10 3.79 3.79 T
048745312385 TOMCAT BAIT BLOCKS
10 4.99 4.99 T
048745312385 TOMCAT BAIT BLOCKS
10 4.99 4.99 T
052309706107 BABY VERSA PUMP M6
10 18.99 18.99 T

SUBTOTAL
44.13
TAX @ 8.250%
3.64
TOTAL
47.77
M/C No: XXXXXXXXXXXX8746
47.77
AUTH: NO: 007848
CHANGE
0.00

MONDAY THRU FRIDAY
8:00AM-9:00PM
SATURDAY 8:00AM-8:00PM
SUNDAY 8:00AM-7:00PM
NOW HIRING! WORK WHERE YOU LOVE TO SHOP

15.16
1.25
16.41

TOTAL FOR
REPAIR WORK
TO RANCHITO
OR HOUSE
39.10
TAX
3.22
42.32

39.03 610 2308 04/07/04 12:57:10
**ORCHARD SUPPLY HARDW**
1041 MARKET PLACE
SAN RAMON CA 94583
(925)275-1670

**NORMAL SALE**

<table>
<thead>
<tr>
<th>Item</th>
<th>Price</th>
<th>Quantity</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>JUMBO VEGETABLE</td>
<td>1.99</td>
<td>10</td>
<td>19.90</td>
</tr>
<tr>
<td>4&quot; VEGETABLE</td>
<td>1.09</td>
<td>10</td>
<td>10.90</td>
</tr>
<tr>
<td>4&quot; VEGETABLE</td>
<td>1.09</td>
<td>10</td>
<td>10.90</td>
</tr>
<tr>
<td>4&quot; VEGETABLE</td>
<td>1.09</td>
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</tr>
<tr>
<td>4&quot; VEGETABLE</td>
<td>1.09</td>
<td>10</td>
<td>10.90</td>
</tr>
</tbody>
</table>

**TOTAL**
19.76

M/C NO: XXXXXXXXX8746
AUTH NO: 031500
CHANGE 0.00

**MONDAY THRU FRIDAY**
8:00AM-9:00PM
SATURDAY 8:00AM-6:00PM
SUNDAY 8:00AM-7:00PM
NOW HIRING! WORK WHERE YOU LOVE TO SHOP

---

**Navlet's Garden Centers**
7755 Cash 4649 0013 003

<table>
<thead>
<tr>
<th>Description</th>
<th>Price</th>
<th>Quantity</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>4&quot; Color/Herbs</td>
<td>2.99</td>
<td>1</td>
<td>2.99</td>
</tr>
</tbody>
</table>

**TOTAL**
2.99

Cash 10.00
CHANGE 7.01

Where Customers Always Come First!

390 03 866 9174 03/23/04 15:46:20

---

390 06 654 8093 03/31/04 16:40:09

390 03 866 9174 03/23/04 15:46:20

---
Public Works completed repairs to a broken sewer line within the Public Utilities easement on Mr. Sarginson's property. At that time, Mr. Sarginson claimed that he was unaware of the Public Utilities easement and that the County should pay for the damage to his property. It is my understanding that Mr. Sarginson was compensated for the damage to his property for the sewer line repairs. It has always been the Public Works Department's policy that any improvement made within a Public Utilities easement is the responsibility of the owner including any cost to restore these improvements if damaged during maintenance activities. Mr. Sarginson was clearly aware of the location of the Public Utilities easement and his improvements were within the easement. However, it is my understanding that the former Public Works Director told Mr. Sarginson that the County would pay for his cost to replace the improvements. The Facility Maintenance Manager has confirmed that this was his understanding.

If you have any questions regarding this matter please do not hesitate to contact me.
BEFORE THE BOARD OF SUPERVISORS

OF

MARIPOSA COUNTY, STATE OF CALIFORNIA

In the Matter of:  
CLAIM FOR DAMAGES PURSUANT TO GOVERNMENT CODE § 911.6

CLAIM NO. C05-3

DAVID SARGINSON, 161 Parkhaven Drive, Danville, California, having filed with this Board on February 23, 2005, a claim for damages in an amount of $495.05.

NOW, THEREFORE, IT IS ORDERED by the Board of Supervisors that the claim is hereby rejected.

The foregoing order was passed by the following vote of the Board:

AYES: STEWART, TURPIN, BIBBY, FRITZ, PICKARD
NOES: NONE
ABSENT: NONE
ABSTAINED: NONE

Dated this 5th day of April 2005.

BOB PICKARD, Chair
Board of Supervisors

MARGIE WILLIAMS, Clerk of the Board

THOMAS P. GUARINO, County Counsel

ATTEST:

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:
TO: David Sarginson  
161 Parkhaven Drive  
Danville, CA 94506

RE: CLAIM FOR DAMAGES (DAVID SARGINSON- CLAIM NO. C05-3)  
AMOUNT OF CLAIM: $495.05  
NOTICE OF REJECTION

NOTICE IS HEREBY GIVEN that the claim, which you presented to the Board of Supervisors of Mariposa County on February 23, 2005, was rejected by action of the Board on April 5, 2005.

WARNING

"Subject to certain exceptions, you have only six (6) months from the date this notice was personally delivered or deposited in the mail to file a court action on this claim." (See Government Code § 945.6)

"NOTE: This six-month filing period applies only to State Court actions. If your action is based on federal law and/or you intend to file it in Federal Court, a shorter or longer period within which to file the action may apply."

"You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately."

RICHARD H. INMAN  
Mariposa County Administrative Officer/  
Risk Manager

PROOF OF SERVICE BY MAIL (1013a, 2015.5 C.C.P.)

STATE OF CALIFORNIA, COUNTY OF MARIPOSA:

I am a citizen of the United State and a resident of the County aforesaid. I am over the age of eighteen years and not a party to the within entitled action; my business address is 5100 Bullion Street (P.O. Box 784), Mariposa, CA 95338. On April 26, 2005, I served the within Notice of Rejection of Claim on the claimant in said action by placing a true copy in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing a copy into an inter-office delivery receptacle located in Administration’s office:

David Sarginson  
161 Parkhaven Drive  
Danville, CA 94506

I declare, under penalty of perjury, that the foregoing is true and correct. Executed on April 26, 2005 at Mariposa, California.

Rhonda Scherf