DEPARTMENT: County Counsel  BY: Jeffrey G. Green  PHONE: 966-3222

RECOMMENDED ACTION AND JUSTIFICATION:  (Policy Item: Yes ___ No X)

Authorize Chair to sign an Order of the Board to reject Claim No. C98-21 in the amount of $188.65. The claimant is requesting reimbursement to replace two tires on her vehicle that were damaged when she hit a rain gutter that was lying in the road. According to staff at the Public Works Department, they were not doing any kind of work that involved rain gutters in that area and did not receive any phone calls relating to debris in the roadway. The rain gutter probably fell off of a private vehicle. Based on this information, Counsel does not believe the County has any liability exposure in this matter.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board usually follows Counsel's recommendation in matters of this nature.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

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

COSTS:

☐ (X) Not Applicable

A. Budgeted current FY  $__________
B. Total anticipated costs  $__________
C. Required additional funding  $__________
D. Internal transfers  $__________

SOURCE:

☐ 4/5ths Vote Required

A. Unanticipated revenues  $__________
B. Reserve for contingencies  $__________
C. Source description:

Balance in Reserve for Contingencies, if approved: $__________

SPECIAL INSTRUCTIONS:

List the attachments and number the pages consecutively:

Claim No. C98-21, Notice of Rejection.

CLERK'S USE ONLY:

Res. No.: 422  Ord. No._____  Vote - Ayes: 5  Noes: 0
Absent: 0  Approved: 0  Denied: 0  Minute Order Attached: 0  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

12-15DSA

ADMINISTRATIVE OFFICER'S RECOMMENDATION:

This item on agenda as:

☑ Recommended
☐ Not Recommended
☐ For Policy Determination
☐ Submitted with Comment
☐ Returned for Further Action

Comment: __________________________

A.O. Initials: ______

Action Form Revised 5/92
COUNTY OF MARIPOSA CLAIM FORM

CLAIM OF  Antigone Foreman  CLAIM FOR PERSONAL INJURY
                      (Claimant)     AND/OR PROPERTY DAMAGE
                      (Government Code § 910)

v.                                                                                      

COUNTY OF MARIPOSA

TO THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY:

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

Claimant:  Antigone Foreman

Whose address is:  4954 Mt. Rwillian Cut off Rd.

City and State:  Mariposa, CA  Zip:  95338

claims damages from the COUNTY OF MARIPOSA in the amount, computed as of the date of presentation of this claim, of  $188.65 .

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

< ☑ Property Damage      < ☑ Other (LIST)
< ☑ Personal Injury
< ☑ Contract

which occurred on  Sept. 5, 1998 , in the vicinity of:

Mt. Rwillian Cut off Rd.

(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.)

I was heading towards Hwy 140 from Mt. Rwillian Cut off Rd. and just before I got to marker 1125, a discarded rain gutter in my lane slashed two of my tires.

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

The front and rear tires on the passenger side of my 1990 Ford Crown Vic were slashed open by a discarded rain gutter in the road. The two tires had to be replaced.

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

**Damages incurred to date:**

- Expenses for medical and hospital care
  - $ __________
- Loss of earnings
  - $ __________
- Specific damages (ITEMIZE)
  - Replacement of
    - Two tires: $ 188.65
  - $ __________
  - $ __________
  - $ __________
- Other damages (ITEMIZE)
  - $ __________
  - $ __________
  - $ __________

**TOTAL DAMAGES INCURRED TO DATE:** $188.65

Estimated future damages as far as known from this incident:

- Total estimated prospective damages: $ __________

**TOTAL AMOUNT CLAIMED AS OF DATE OF PRESENTATION OF THIS CLAIM:** $188.65

All notices or other communications with regard to this claim should be sent to claimant at: P.O. Box 5009, Mariposa, CA 95338

(Address to which notices are to be sent)

Dated: _10/15/98_ 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.
<table>
<thead>
<tr>
<th>PART NO</th>
<th>DESCRIPTION</th>
<th>QTY</th>
<th>PARTS</th>
<th>LABOR</th>
</tr>
</thead>
<tbody>
<tr>
<td>W</td>
<td>Quarts Oil</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>W</td>
<td>Oil Filter Replace</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>W</td>
<td>Air Cleaner</td>
<td></td>
<td>Clean</td>
<td>Replace</td>
</tr>
<tr>
<td>W</td>
<td>Gazo. Filter</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>W</td>
<td>Front Wheel Bearings</td>
<td>1</td>
<td>Inspect</td>
<td>Repack</td>
</tr>
<tr>
<td>W</td>
<td>Transmission</td>
<td></td>
<td>Manual</td>
<td>Auto</td>
</tr>
<tr>
<td>W</td>
<td>Differential</td>
<td></td>
<td>Drain</td>
<td>Add</td>
</tr>
<tr>
<td>W</td>
<td>U Joints &amp; Spline</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>W</td>
<td>Drive Belt</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>W</td>
<td>Power Steer</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>W</td>
<td>Coolant</td>
<td></td>
<td>Inspect</td>
<td>Add</td>
</tr>
<tr>
<td>W</td>
<td>Brake Cylinder</td>
<td>1</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Tire Condition — P.S.I.**
- LF /32
- RF /32
- LR /32
- RR /32
- Size:
- □ Repair
- □ Switch
- Shock Absorbers
- Battery Condition:
  - □ Good
  - □ Needed Water
  - □ Maintenance Free
  - □ Needs Recharge
  - □ Recharged

**Sub-total Parts**

<table>
<thead>
<tr>
<th>P.N. No.</th>
<th>Sublet Repairs By</th>
</tr>
</thead>
</table>

**Total Sublet Repairs**

**Estimated Cost of Above Repairs $**

**Do you want the old parts?**
- □ Yes
- □ No

**Estimated Cost of additional repairs $**

**Additional AND/OR SUBLET REPAIR AUTHORIZATION**

**SAFETY POINTS DOUBLE CHECKED & INITIATED FOR YOUR PROTECTION**
- Crankcase Drain Plug
- Radiator Level
- Transmission Plugs & Level
- Brake Cylinder
- Differential Plugs & Level
- Wheel Lugs
- Crankcase Filled By
- Warranty & Door Record
- Filter Test

**EMISSION CONTROL REPAIR AUTHORIZATION**

**CERTIFICATION**
- □ YES
- □ NO

**CERTIFICATE COST $**

**INSPECTION COST $**

**POSSIBLE WARRANTY COVERAGE**
- □ YES
- □ NO

**Signature**

**CUSTOMER'S INVOICE COPY**
9/24/98

Bob Johnson
Dept. of Public Works
4639 Ben Hur Rd.
Mariposa, CA 95338

Re: Mt. Bullion Cut Off Rd.

Dear Mr. Johnson,

On 9/5/98 at approx. 9:45 a.m., I was travelling on Mt. Bullion Cut Off Rd. heading towards Hwy. 140. As I was approaching the road marker 1125, a rain gutter in my lane split open the two right tires on my 1990 Ford Bronco. I was not speeding and I did not go off the road. Clearly, the rain gutter did not belong there, and
had MT Bullion cut off Rd. been maintained, this would not have happened. After my tires were split open, I carefully pulled to the side of the road just past marker #1135, and was given a ride by a passerby to the nearest pay phone to call AAA. The cost of replacing the two tires was $188.65. This incident occurred through no fault of my own and it is the County's responsibility to pay for this repair. Enclosed are pictures of the rain gutter that had been in the road, as well as a copy of my receipt from the work order.
Please contact me regarding this matter at (209) 966-7156, or write to me at P.O. Box 5008, Mariposa, CA 95338. Thank you for your attention to this matter.

Sincerely,
Antigone Foreman

Enclosures
Front right tire

Bearing right tire
Rain gutter which had been in my lane at the time I ran over it.
JEFFREY G. GREEN
County Counsel
P. O. Box 189
5100 Bullion Street
Mariposa, CA 95338

BEFORE THE BOARD OF SUPERVISORS

OF

MARIPOSA COUNTY, STATE OF CALIFORNIA

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

Antigone Foreman
P.O. Box 5008
Mariposa, CA 95338

having filed with this Board on October 16, 1998, a claim for damages in the amount of

$188.65.

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: Reilly, Balmain, Stewart, Parker, Pickard
NOES: None
ABSENT: None
ABSTAINED: None

Dated this 24th day of November, 1998.

PATTI A. REILLY, Chair
Board of Supervisors

ATTEST:

MARGIE WILLIAMS, Clerk of the Board
TO: Antigone Foreman  
P.O. Box 5008  
Mariposa, CA  95338

RE: CLAIM FOR DAMAGES (Claim No. C98-21)  
AMOUNT OF CLAIM: $188.65
NOTICE OF REJECTION

NOTICE IS HEREBY GIVEN that the claim, which you presented to the Board of Supervisors of Mariposa County on October 16, 1998 was rejected by action of the Board on November 24, 1998.

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."

JEFFREY G. GREEN  
Mariposa County Counsel

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

STATE OF CALIFORNIA, COUNTY OF MARIPOSA:

I am a citizen of the United States 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 189), Mariposa, CA 95338. On December 8, 1998, I served the within Notice of Rejection of Claim No. C98-21 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 Counsel's office:

Antigone Foreman  
P.O. Box 5008  
Mariposa, CA  95338

I declare, under penalty of perjury, that the foregoing is true and correct.  

Executed on December 8, 1998 at Mariposa, California.  

Sandra V. Adams