RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes___ No__)

Adopt this Resolution authorizing the Chairman to sign an order of the Board to reject Claim No. C96-6 for $760. Claimant alleges that an oak tree was cut down as a result of the transport of a mobile home along her road. Claimant believes that the County is liable as the Public Works Department issued the permit to the transport company to move the mobile home. However, staff at Public Works specifically informed the transport company, prior to issuing the permit, to meet and confer with the property owner and make arrangements for moving the mobile before leaving the County right-of-way. According to the claimant, the movers did not do so. The County does not have any liability in this matter. The claimant does have a cause of action against the transport company.

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:

Claim would automatically be denied if no action was taken.
MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: JEFF GREEN, County Counsel
FROM: MARGIE WILLIAMS, Clerk of the Board
SUBJECT: RESOLUTION NUMBER 96-208

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,
ADOPTED THIS Order on May 14, 1996

ACTION AND VOTE:

Jeff Green, County Counsel;
Resolution Authorizing Chairman to Sign an Order of the Board to Reject Claim No. C96-6 for $760

BOARD ACTION: Discussion was held. Cathi Ragghianti/claimant, advised that Sgt. Green of the Sheriff’s Department was the first person to see the damage cited in this claim; referred to her previous requests to the Board for assistance in regulating permits for transporting mobile homes that are too wide and too long to travel down the road without causing damage to their property - this subject home was too high; advised that she was not notified before the home was moved; and advised that the claim process was used to bring this matter to the Board’s attention. Rick Jarrett stated he purchased the modular home and had offered to repair the cattleguard and clean up the wood; does not feel that Russell’s Transport should be penalized by not being able to obtain transport permits as he feels they do a good job. Mike Edwards provided input relative to the width of the subject road and advised that they have added language to the transport permits in an attempt to resolve the issues being raised. Bob Johnson/PWD-Deputy Director-Roads, commented on authorization to remove the flare rails from the cattleguards for wide loads; and further advised that he requested that Mrs. Jarrett contact Mrs. Ragghianti if they needed to get on private property when moving the home. (M)Parker, (S)Taber, Res. 96-208 adopted denying the claim; directing Public Works to proceed with refining the permit process to deal with the issues raised; and directing that Public Works contact Cathi Ragghianti personally to advise her of any permits issued for Trower Road. Motion was amended, agreeable with maker and second, to include direction for Public Works to send a letter to local authorities relative to checking permits for oversize and overweight vehicles/Ayes: Unanimous.

cc: Mike Edwards, Public Works Director
    Cathi Ragghianti
    File
COUNTY OF MARIPOSA CLAIM FORM

CLAIM OF CATHARINE PIERCE-RAGHIANI
(Claimant) CO-TRUSTEE

v.

COUNTY OF MARIPOSA

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

TO THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY:

YOU ARE HEREBY NOTIFIED that:

Claimant: CATHARINE PIERCE-RAGHIANI CO-TRUSTEE

Whose address is: P.O. BOX 175

City and State: CATHEYS VLY, CA Zip: 95306

claims damages from the COUNTY OF MARIPOSA in the amount, computed as of the date of presentation of this claim, of $700.00.

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

<< Property Damage  <> Other (LIST)

<> Personal Injury

<> Contract

which occurred on January 12, 1996, in the vicinity of:

TROWER ROAD & PIERCE RANCH

(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.)

Permits are being issued to allow mobile homes to come in on Trower Road that do not fit. They are too long, too high and too wide. The first thing to go is the cattle guard because the mobiles are too wide. The last incident cost the county tax payers $330.30 to repair.

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

Robert A. Johnson - Deputy Director, Roads
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)

PROPERTY DAMAGE. OAK TREE CUT DOWN. USE "GUIDE FOR ESTABLISHING VALUES OF TREES AND OTHER PLANTS" BY COUNCIL OF TREE & LANDSCAPE APPRAISERS.

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)
  LOSS OF OAK TREE ____________________________________________ $760.00
  ____________________________________________ $___________
Other damages (ITEMIZE)
_________________________________________________________ $___________
  ____________________________________________ $___________

TOTAL DAMAGES INCURRED TO DATE: $760.00

Estimated future damages as far as known from this incident:

Total estimated prospective damages: $none at this time

TOTAL AMOUNT CLAIMED AS OF DATE OF PRESENTATION OF THIS CLAIM: $760.00

All notices or other communications with regard to this claim should be sent to claimant at: P.O. BOX 175 CATHEYS ULY, CA 95306

ADDRESS TO WHICH NOTICES ARE TO BE SENT

Dated: 2-16-94 Signed: _______ (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.
The cattle guard, per letter of February 1, 1994 to Russell Transport from Robert Johnson, Deputy Director, Roads. This cattle guard was left damaged, the side flairs unsecured and a fence post propped up in an empty hole for 7 days even after Supervisor Stewart requested its repair the morning of Saturday January 18th.

The mobiles next cannot make the first turn past the cattle guard. They continue to back up on our private property until they can make the turn. As in this particular case it was still too long, too high and too wide so they cut our oak tree down to make the turn. Various other limbs off of other trees have also been cut. Damage is also being done to the ground by the weight of the mobiles on the soft ground.

In March of 1995 Robert Johnson and I discussed the situation of mobiles coming through our ranch on Trower Road due to an incident where the mobile became stuck on our property because they could not make it through. It remained on the ranch for 3 or 4 days. I came to a supervisor’s meeting and requested help at that time, but nothing was ever done. I also requested of Mr. Johnson that when permits were issued for Trower Road that I be notified in the future. He assured me he would do this.

Just this past fall Russell Transport was issued a permit to bring in a mobile. I was not notified by Mr. Johnson, as promised, and various limbs were cut off many oak trees running the entire distance of Trower Road through our ranch. Supervisor Stewart was
Notified by me of this and came down to look at the damage. Per my discussion with Supervisor Stewart January 12th he told me Mr. Johnson had assured him that these limbs had been cleaned up by the road department. By Supervisor Stewart's own knowledge of driving on the road he knew they hadn't.

This time we have lost something that cannot be replaced because it was cut down. Robert Johnson called me on January 16th and told me he was in the office when the permit was issued/picked up for this most recent mobile. He explained to the woman that actually picked up the permit that there had been damage to property while transporting mobiles on Trower Road in the past, but never bothered to call me because he had explained to her. I might add here that many of these mobiles, all but one in fact, are going to Elizabeth Lane. There are two other ways in besides going through our ranch.

I hold the Department of Public Works and Robert Johnson responsible for the damages as they continue to issue permits knowing full well these units are not capable of going over this road without doing damage to property as documented in the past. (Memo from Robert Johnson September 8, 1995 and a letter from Robert Johnson February 1, 1996.)
TRANSPORTATION PERMIT

IN COMPLIANCE WITH YOUR REQUEST AND SUBJECT TO ALL OF THE TERMS, CONDITIONS AND RESTRICTIONS WRITTEN BELOW AND THE ATTACHMENTS, PERMISION IS HEREBY GRANTED TO:

NAME: Russell Smith

CITY/STATE: Etna, CA 95320

PHONE: 209-380-5010

MAX. HEIGHT: 14'0"

MAX. WIDTH: 13'0"

MAX. OVERALL LENGTH: 25'0"

MAX. OVERHANG: Legal

AXLE NUMBER

1 2 3 4 5 6 7 8 9

NUMBER TIRES

AXLE SPACING

AXLE WIDTH

WEIGHT: Legal

LOAD OR EQUIPMENT AND MODEL NO.: Drywall

20 x 6x 12, 10x 6, 10x 10, 10x 6, 10x 4

SUNRISE 11/10/96

SUNSET 11/16/96

MONDAY THROUGH SATURDAY

SUNDAY

TELECOPIED PERMITS NOT VALID WITHOUT SEAL.

AUTHORIZED ROADS / STREETS / HIGHWAYS

*OTHER AGENCY PERMITS REQUIRED

3340 Elgin Ave

ATTACHMENTS

PERMIT CONDITIONS

Certified by:

Date: 11/16/96

AUTHORIZED AGENT SIGNATURE
BEFORE THE BOARD OF SUPERVISORS

OF

MARIPOSA COUNTY, STATE OF CALIFORNIA

In the Matter of: )

CLAIM FOR DAMAGES PURSUANT ) CLAIM NO. C96-6
TO GOVERNMENT CODE § 911.6 )

William Edward Pierce Trust
Catherine Pierce-Ragghianti, Co-Trustee
P.O. Box 175
Catheys Valley, CA 95306

having filed with this Board on February 22, 1996, a claim for damages in the amount of $760.00;

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, TABER
NOES: NONE
ABSENT: NONE
ABSTAINED: NONE

Dated this 14th day of May, 1996.

DOUG BALMAIN, Chairman
Board of Supervisors

MARGIE WILLIAMS, Clerk of the Board
TO: William Edward Pierce Trust/Catherine Pierce-Ragghianti, Co-Trustee
P.O. Box 175
Catheys Valley, CA 95306

RE: CLAIM FOR DAMAGES (Claim No. C96-6) AMOUNT OF CLAIM: $760.00
NOTICE OF REJECTION

NOTICE IS HEREBY GIVEN that the claim, which you presented to the Board of Supervisors of Mariposa County on February 22, 1996, was rejected by action of the Board on _____ May 14, 1996______.

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 _____ May 24, 1996______, I served the within Notice of Rejection of Claim No. C96-6 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:

William Edward Pierce Trust/Catherine Pierce-Ragghianti, Co-Trustee
P.O. Box 175
Catheys Valley, CA 95306

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

Executed on _____ May 24, 1996______ at Mariposa, California.

Sandra V. Adams