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

Adopt this Resolution authorizing the Chairman to sign an order of the Board to reject Claim No. C96-16 in the amount of $327.90. Claimant contends that as a result of driving down a County road that was recently graveled and oiled, he picked up a rock which cracked his windshield. The County does not have any liability in this matter as driving on any road carries inherent risks.

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: CLAIM NO. C96-16; RES. 96-368

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on September 10, 1996

ACTION AND VOTE:

Approval of Consent Agenda (See End of Minutes)

BOARD ACTION: Jeff Green/County Counsel, pulled item 4 for the claimant to make a presentation to the Board. Supervisor Balmain pulled item 3. Supervisor Reilly pulled item 5. Supervisor Parker pulled item 11. Action was taken on these items later this date. Supervisor Stewart excused himself for item 4 due to a potential conflict.

- Discussion was held concerning item 4 - Johnnie Phillips/claimant, stated he does not feel that the road work was done in an acceptable manner, and he feels that people are getting cracked windshields from the pea gravel that is left on the roadway. Mike Edwards/Public Works Director, advised of the process the Department uses for chip seals and patching. (M)Parker, (S)Reilly, item 4 was approved/Ayes: Reilly, Balmain, Parker: Excused: Stewart, Pickard.
- (M)Parker, (S)Reilly, balance of consent agenda was approved/Ayes: Reilly, Balmain, Stewart, Parker; Excused: Pickard.

CA-4 Resolution Authorizing the Chair to Sign an Order of the Board to Reject Claim No. C96-16 in the Amount of $327.90 (County Counsel); Res. 96-368

cc: File
COUNTY OF MARIPOSA CLAIM FORM

CLAIM OF Johnnie Phillips 
(Claimant) 

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: (PLEASE TYPE OR PRINT)

Claimant: Johnnie Phillips 

Whose address is: P.O. Box 69 

City and State: Catheys Valley CA Zip: 95306 

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

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

< X > Property Damage < > Other (LIST)

< > Personal Injury

< > Contract 

which occurred on 8-1-96, 1996, in the vicinity of:

Hornitos Rd. By County Yard 

(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.)

Rock Cracked Windshield 

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 ROAD HAS RECENTLY BEEN GRAVIELD

AND

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)

CRACKED WINDSHIELD $327 90

$__________

Other damages (ITEMIZE)

$__________

$__________

**TOTAL DAMAGES INCURRED TO DATE:** $327 90

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:** $327 90

All notices or other communications with regard to this claim should be sent to claimant at: P.O. BOX 629 CATHEDRAL VALLEY CA

(ADDRESS TO WHICH NOTICES ARE TO BE SENT)

**Dated:** 8-19-96 **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.
Mariposa Auto Glass
& Tinting
5008 Fairgrounds Drive
Mariposa, CA 95338

Daves Mountain Detail
& Auto Glass
Waxing • Polishing • Oxidation Removal
Interior Cleaning • Engine Degreasing
Scotch Guard • Paint Seal
Stereo Sales & Installation

5176 "E" Highway 49 North
742-4418

NAME: _______________________

Estimate: Dodge Ram
11/17/76

$302.98  327.90
w/masking

Total: $300.00

Tybor 35

DW1174 6/614
JEFFREY G. GREEN
County Counsel
P. O. Box 189
5100 Bullion St.
Mariposa, CA 95338

BEFORE THE BOARD OF SUPERVISORS

OF

MARIPOSA COUNTY, STATE OF CALIFORNIA

In the Matter of: )
CLAIM FOR DAMAGES PURSUANT ) CLAIM NO. C96-16
TO GOVERNMENT CODE § 911.6 ) )

Johnnie Phillips
P.O. Box 69
Catheys Valley, CA 95306

having filed with this Board on August 19, 1996 a claim for damages in the amount of
$327.90.

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, and Parker
NOES: None
ABSENT: Stewart and Pickard
ABSTAINED: None

Dated this 15th day of October, 1996.

DOUG BALMAIN, Chairman
Board of Supervisors

ATTEST:

MARGIE WILLIAMS, Clerk of the Board
TO:  Johnnie Phillips  
P.O. Box 69  
Catheys Valley, CA  95306

RE:  CLAIM FOR DAMAGES (Claim No. C96-16)  
AMOUNT OF CLAIM:  $327.90  
NOTICE OF REJECTION

NOTICE IS HEREBY GIVEN that the claim, which you presented to the Board of 
Supervisors of Mariposa County on August 19, 1996 was rejected by action of the Board on 
____September 10, 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 ______October 21, 1996_____. I served 
the within Notice of Rejection of Claim No. C96-16 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:

Johnnie Phillips  
P. O. Box 69  
Catheys Valley, CA  95306

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

Executed on ______October 21, 1996_____ at Mariposa, California.                 

Sandra V. Adams