

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

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

Pass and adopt this Resolution authorizing the Chairman to sign an order of the Board to reject Claim No. C94-18 in the amount of \$5,000,000 in general damages and \$2,000,000 in special damages. The County of Mariposa does not own the property identified in the claim, therefore, the County does not have any liability 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:

Claim would 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. C94-18.
Notice of Rejection.

CLERK'S USE ONLY:

Res. No.: 94-411 Ord. No. _____

Vote - Ayes: _____ Noes: _____

Absent: _____ Abstained: _____

Approved: _____ () Denied

() Minute Order Attached () No Action Necessary

ADMINISTRATIVE OFFICER'S RECOMMENDATION:
This item on agenda as:

Recommended

Not Recommended

For Policy Determination

Submitted with Comment

Returned for Further Action

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

Comment: _____

A.O. Initials: JD

1 JEFFREY G. GREEN
2 County Counsel
3 P. O. Box 189
4 5100 Bullion St.
5 Mariposa, CA 95338

6 BEFORE THE BOARD OF SUPERVISORS

7 OF

8 MARIPOSA COUNTY, STATE OF CALIFORNIA

9 In the Matter of:)
10 CLAIM FOR DAMAGES PURSUANT)
11 TO GOVERNMENT CODE § 911.6)
12 Claim No. C94-18)

13 Clarence William Rogers, III
14 c/o John K. Courtney, Esq.
15 GIRARDI and KEESE
16 1126 Wilshire Blvd.
17 Los Angeles, CA 90017

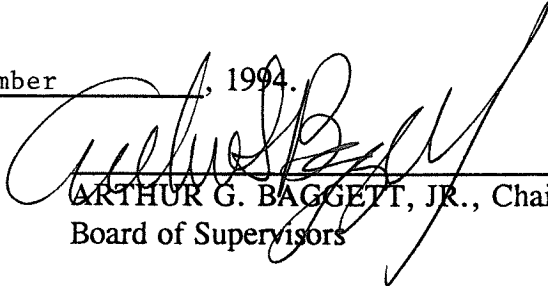
18 having filed with this Board on 9/15/94 a claim for damages in the amount of
19 \$5,000,000/general damages
20 \$2,000,000/special damages

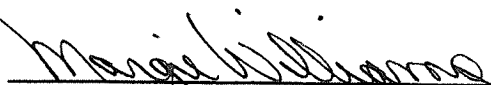
21 NOW, THEREFORE, it is ordered by the Board of Supervisors that the claim is
22 hereby REJECTED.

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

- 24 AYES: BAGGETT, BALMAIN, ERICKSON, PARKER
25 NOES: NONE
26 ABSENT: TABER
27 ABSTAINED: NONE

28 Dated this 27th day of September, 1994.


ARTHUR G. BAGGETT, JR., Chairman
Board of Supervisors

29 ATTEST:
30 
31 MARGIE WILLIAMS, Clerk of the Board

TO: Clarence William Rogers, III
c/o John K. Courtney, Esq.
GIRARDI and KEESE
1126 Wilshire Blvd.
Los Angeles, CA 90017

\$5,000,000/general damages

RE: CLAIM FOR DAMAGES
NOTICE OF REJECTION

AMOUNT OF CLAIM \$2,000,000/special damages

NOTICE IS HEREBY GIVEN that the claim which you presented to the Board of Supervisors of Mariposa County on 9/15/94 was rejected by action of the Board on September 27, 1994.

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 Section 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.)

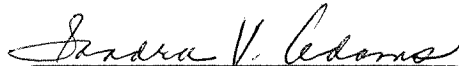
STATE OF CALIFORNIA, COUNTY OF MARIPOSA:

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 4, 1994 I served the within Notice of Rejection of Claim No. C94-18 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:

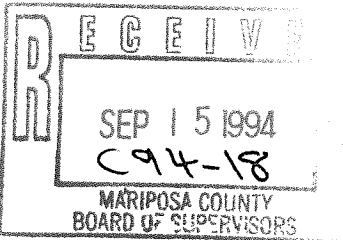
Clarence William Rogers, III
c/o John K. Courtney, Esq.
GIRARDI and KEESE
1126 Wilshire Blvd.,
Los Angeles, CA 90017

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

Executed on October 4, 1994 at Mariposa, California.



Sandra V. Adams



1 GIRARDI AND KEESE
1126 Wilshire Boulevard
2 Los Angeles, California, 90017
(213) 977-0211
3 JOHN K. COURTNEY, ESQ., Bar No. 136720
4 Attorneys for Claimant

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8 UNVERIFIED CLAIM FOR DAMAGES
9

10 CLARENCE WILLIAM ROGERS, III,)
11)
12 Claimant,)
13 vs.)
14)
15 COUNTY OF MARIPOSA)
16 Respondent.)
17

18 TO: COUNTY OF MARIPOSA
19

20 1. NAME AND ADDRESS OF CLAIMANT:
21

22 Clarence William Rogers, III
23 43348 Bucklyn Road
Ahwahnee, CA

24 2. NOTICES TO BE SENT TO:
25

26 Girardi and Keese
27 1126 Wilshire Boulevard
Los Angeles, CA 90017
28

1 3. DATE AND PLACE OF ACCIDENT:

2 The accident occurred on March 13, 1994, at the B Golden Bell Mine, near Highway 49,
3 north, approximately two miles north of Bear Valley, in the City of Mariposa, County of Mariposa,
4 State of California.

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7 4. NATURE OF CLAIM:

8 (a) Claimant was severely injured when he fell approximately 120 feet into an abandoned
9 mine shaft.

10 (b) Claimant maintains that the above-described mine and its entrance was owned,
11 maintained, controlled, designed, constructed, serviced, altered, inspected and tended by the County of
12 Mariposa and was in a dangerous condition that created substantial risk of injury to claimant and others
13 in that the mine was not clearly marked and/or capped off, such that it presented a trap condition.

14 (c) Claimant maintains that the County of Mariposa had a mandatory duty to warn
15 and/or cap off the subject shaft.

16 (d) Claimant maintains that the County of Mariposa had actual notice of the existence of
17 the above-described conditions and knew, or should have known, of its character prior to March 13,
18 1994.

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21 (e) Claimant maintain that jurisdiction over his claim rests in Superior Court.
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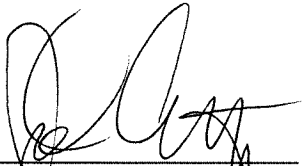
1 5. DAMAGES CLAIMED:

2 General damages in the amount of \$5,000,000.00 in general damages and \$2,000,000.00 in
3 special damages.

4
5
6 DATED: September 13, 1994

GIRARDI AND KEESE

7
8
9 By:



JOHN K. COURTNEY
Attorneys for Claimant

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12
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14 94197\pld\verified.clm

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 1126 Wilshire Boulevard, Los Angeles, California 90017.

On September 13, 1994, I served the foregoing document described as: UNVERIFIED CLAIM FOR DAMAGES on interested parties in this action by placing a true and correct copy thereof, enclosed in a sealed envelope addressed as follows:

BOARD OF SUPERVISORS
5100 Bullion Street
Mariposa, CA 95338

(BY MAIL)

I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with U.S. Postal Service on that day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

(BY FAX)

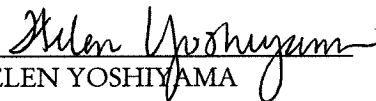
Executed on September 13, 1994, at Los Angeles, California.

(BY PERSONAL SERVICE) I delivered such envelope by hand to the office of the addressee.

Executed on _____, 1994, at Los Angeles, California.

(STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

(FEDERAL) I declare that I am employed in the office of a member of the bar of this court at those direction the service was made.


HELEN YOSHIYAMA