

REVISED

Special Meeting of the
BOARD OF TRUSTEES
SANTA YNEZ RIVER WATER CONSERVATION DISTRICT, IMPROVEMENT DISTRICT NO. 1
will be held at **3:00 P.M., Thursday, August 30, 2018**
at 1070 Faraday Street, Santa Ynez, Ca. - Conference Room

- I. CALL TO ORDER AND ROLL CALL**
- II. PLEDGE OF ALLEGIANCE**
- III. REPORT BY THE SECRETARY TO THE BOARD REGARDING COMPLIANCE WITH THE REQUIREMENTS FOR POSTING OF THE AGENDA**
- IV. PUBLIC COMMENT -** Any member of the public may address the Board relating to any non-agenda matter within the District's jurisdiction. The total time for all public participation shall not exceed fifteen (15) minutes and the time allotted for each individual shall not exceed three (3) minutes. The District is not responsible for the content or accuracy of statements made by members of the public. No Action will be taken by the Board on any public comment item.
- V. DISTRICT ADMINISTRATION – STATUS AND DISCUSSION ON THE FOLLOWING SUBJECTS:**
 - 1. Consider Tort Claim for Money or Damages – Frances Komoroske vs. SYRWCD, ID No.1
- VI. CLOSED SESSION -** The Board will hold a closed session to discuss the following items:
 - A. CONFERENCE WITH LEGAL COUNSEL – POTENTIAL LITIGATION**
 - 1. Tort Claim for Money or Damages - Frances Komoroske vs. SYRWCD, ID No.1 [Subdivision (d)(3) of Section 54956.9 of the Government Code – 1 case]
- VII. RECONVENE INTO OPEN SESSION - POSSIBLE BOARD ACTION ON TORT CLAIM**
 - 1. Tort Claim for Money or Damages – Frances Komoroske vs. SYRWCD, ID No.1
- VIII. CLOSED SESSION -** The Board will hold a closed session to discuss the following items:
 - A. CONFERENCE WITH LEGAL COUNSEL – POTENTIAL LITIGATION**
 - 1. Potential initiation of litigation by the agency [Subdivision (d)(4) of Section 54956.9 of the Government Code – 1 case]
- IX. ADJOURNMENT**

This Agenda was posted at 3622 Sagunto Street, Santa Ynez, California and notice was delivered in accordance with Government Code Section 54954. This Agenda contains a brief general description of each item to be considered. The Board reserves the right to change the order in which items are heard. Copies of the staff reports or other written documentation relating to each item of business on the Agenda are on file with the District and available for public inspection during normal business hours. A person who has a question concerning any of the agenda items may call the District's General Manager at (805) 688-6015. Written materials relating to an item on this Agenda that are distributed to the Board of Trustees within 72 hours (for Regular meetings) or 24 hours (for Special meetings) before it is to consider the item at its regularly or special scheduled meeting(s) will be made available for public inspection at 3622 Sagunto Street, during normal business hours. Such written materials will also be made available on the District's website, subject to staff's ability to post the documents before the regularly scheduled meeting. If you challenge any of the Board's decisions related to the agenda items above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence to the Board prior to the public hearing. In compliance with the Americans with Disabilities Act, if you need special assistance to review agenda materials or participate in this meeting, please contact the District Secretary at (805) 688-6015. Notification 72 hours prior to the meeting will enable the District to make reasonable arrangements to ensure accessibility to this meeting.

Gary M. Kvistad
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Memorandum

DATE: August 30, 2018

TO: Board of Directors
Santa Ynez River Water Conservation District, Improvement District No. 1

COPY TO: Chris Dahlstrom, General Manager
Paeter Garcia, Legal Affairs and Policy Manager

FROM: Gary M. Kvistad and Jessica L. Diaz

RE: Frances Komoroske Tort Claim

I. INTRODUCTION

On July 30, 2018, Frances Komoroske ("Claimant") filed a Tort Claim for Money or Damages ("Claim") against the Santa Ynez River Water Conservation District, Improvement District No. 1 ("District") for damage to her real property located at 1710 Still Meadow Road ("Property"). The amount claimed is \$5,527.25. A copy of the Claim is attached to this memorandum.

II. FACTUAL BACKGROUND

On Sunday July 23, 2017, the District was informed of a leak in one of its water mainlines. That same day and within 2 hours of the notification, District staff turned off the water mainline valve isolating the leak which was at the blow-off valve end cap at the end of the water mainline. The water mainline is located within a District easement that terminates on vacant property at 2675 Via La Silva. There was no visible erosion or other damage to the ground in the vicinity of the leak, although District staff noticed what appeared to be a small hand-dug trench by others leading from near the blow-off valve box toward a creek bank located on an adjacent property to the west. The repair was not an emergency since it was a minor leak and no customers or fire protection services were interrupted. The leak repair was prioritized and sequenced for work over the following several weeks when District staff had available time.

After the leak was discovered and repaired, Claimant purchased the Property in October 2017. The Property is located west of and adjacent to the property on which the District's water mainline and easement are located. The District's waterline does not extend onto the Claimant's Property. Approximately 50 feet west of the easterly property line of the Property is a large natural creek that traverses the Property and drains surface water run-off from the north to the south during heavy rain events.

III. CLAIM SUMMARY

Claimant asserts, based on information from a neighbor, that the District's water mainline "burst or somehow exploded, sending large amounts of water into the dry streambed." Claimant also asserts that "water gushing from the pipe gouged out a ravine and caused the banks of the stream to collapse in

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several places.” Claimant asserts that she initially thought the damage was caused by a natural condition, but based on information from her neighbor, now asserts that the District caused the damage. Claimant is seeking \$5,527.25 in damages for out-of-pocket expenses in remedying the problem.

IV. PROCEDURAL BACKGROUND.

Claimant filed a Public Records Act (“PRA”) request on June 10, 2018 seeking maintenance and repair records related to the leak. On June 20, 2018, the District responded to her PRA request and provided responsive documents. In subsequent correspondence with Claimant, the District located additional documents and provided a supplemental response to Claimant on July 9, 2018. During this time, Board President Walsh discussed the situation with Claimant since she is a customer of the District. In an attempt to discuss the dispute, Claimant was offered, but refused, the opportunity to meet with District staff and instead filed the Claim.

V. PROCEDURE TO CONSIDER THE CLAIM

- A. Introduction of Agenda Item by Board President and General Counsel
- B. Claimant to Present the Claim and Evidence
- C. District to Present Staff Report and Evidence
- D. Questions by District Board
- E. District Board to Adjourn to Closed Session to Deliberate
- F. District Board Reconvenes to Open Session
- G. District Legal Counsel to Recommend Action on the Claim
- H. District Board to Discuss Recommendation and Vote

TORT CLAIM FOR MONEY OR DAMAGES

Claim of FRANCES KOMOROSKE,)
)
 FRANCES KOMOROSKE)
)
 vs.)
)
 Santa Ynez River Water Conservation)
 District, Improvement District #1)
 _____)

No. _____

**CLAIM FOR MONEY OR DAMAGES
(GOVERNMENT CODE SEC. 810 et seq.)**

Section 1: Claimant Information

Frances Komoroske 805 350 4124
1710 Still Meadow Road,
Solvang, CA 93463

S.Y.R.W.C.D.ID. #1

JUL 30 2018

Section 2: Claim Information

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Sometime during the summer of 2017, a temporary or permanent cap on a water main owned, operated, and maintained by ID1 "blew off", releasing water into the soil above a dry stream bed located below 2701 Via La Selva, adjacent to property at 1710 Still Meadow Road. The actual date of the incident is unknown, as is the identity of the ID1 employee who first reported it, but work by ID1 to repair it lasted from July 23 to September 6, 2017. Claimant has been unable to obtain more information about the incident from ID1.

Water gushing from the pipe gouged out a ravine and caused the banks of the stream to collapse in several places. This in turn uprooted several large eucalyptus trees growing along the bank which fell in the stream and blocked it. Neighbors saw the water running in the stream and assumed it was from the annual release of water from Lake Cachuma. There was no other source of this water because there was little, if any, rain during that period so the water could only have come from the ID1 pipe.

In October of 2017, claimant and her husband moved into the property at 1710 Still Meadow Road. They had assumed that the damage to the streambed had been caused by a ravine near the bottom of their property that had flooded from excessive rainwater, and therefore was attributable to 'natural causes'. There was nothing to indicate that the damage was caused by any other source. Claimant and her husband began work to remedy the situation so that their land, which is on both sides of the stream, could be fenced off for their horses.

While this work was going on in April of 2018, claimant's neighbor Brian Schultz at 2701 Via La Selva told her and her husband that the damage had instead been caused by an ID1 water main on his property that had burst or somehow exploded, sending large amounts of water into the dry streambed. Claimant informed ID on April 30, 2018 that she and her husband had already been undertaking repairs to fix the problem caused by ID1 and were seeking compensation of their out-of-pocket expenses in doing so. ID1

denied responsibility for the damage and implied that ID1 would report claimant to the County and Fish & Game for illegal excavation if they pursued their claim.

Claimant is seeking \$5,527.25, the amount of most her out-of-pocket expenses in remedying the problem caused by ID1. This consists of: \$2,977 for an excavator, \$290 for pipe, \$940.25 for boulders, \$290 to transport the boulders to the site, and \$500 to chop up and remove the downed eucalyptus trees. Claimant also paid \$24,000 to install a horse fence, part of which was for moving and sawing up eucalyptus trees that were in the way of the fence. Claimant is not seeking compensation for that amount.

Despite best efforts of claimant and her husband, they have been unable to remove the huge root balls of the fallen eucalyptus trees, but may have to do so in the future if they impede stream flow or further erode the stream banks. Claimant conducted this work in good faith to return the stream to the condition it was prior to the "blow off" so that water can flow freely within its banks again.

Section 3 - Insurance Information

The claim does not involve a motor vehicle.

Section 4 - Representative Information

Claimant is a retired California lawyer, State Bar No. 108811. All official notices should be sent to her at the address above.

Section 5 - Notice and Signature



Frances Komoroske

July 30, 2018
Date

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