

TO: BOARD OF DIRECTORS

FROM: MARIO IGLESIAS
GENERAL MANAGER



DATE: FEBRUARY 4, 2022



PRESENTATIONS AND REPORTS

The following presentations and reports are scheduled:

- C-1) QUARTERLY DISTRICT ENGINEER'S REPORT TO THE BOARD [RECOMMEND RECEIVE AND FILE]
- C-2) DIRECTORS' ANNOUNCEMENTS OF DISTRICT AND COMMUNITY INTEREST AND REPORTS ON ATTENDANCE AT PUBLIC MEETINGS, TRAINING PROGRAMS, CONFERENCES AND SEMINARS.
Receive Announcements and Reports from Directors
- C-3) RECEIVE PUBLIC COMMENT ON PRESENTATIONS AND REPORTS PRESENTED UNDER ITEM C AND BY MOTION RECEIVE AND FILE PRESENTATIONS AND REPORTS

TO: BOARD OF DIRECTORS

FROM: MARIO IGLESIAS
GENERAL MANAGER



DATE: February 4, 2022

**AGENDA ITEM
C-1
FEBRUARY 9, 2022**

QUARTERLY DISTRICT ENGINEER'S REPORT TO THE BOARD

ITEM

Engineering and Operations update for October through December 2021.

BACKGROUND

Director of Engineering and Operations, Peter Sevcik will overview his update (Attachment A) and discuss District projects for the October through December 2021 period.

RECOMMENDATION

Staff recommends that your Honorable Board receive the update.

ATTACHMENTS

- A. Engineering and Operations Update for October through December 2021.

FEBRUARY 9, 2022

ITEM C-1

ATTACHMENT A

Engineering and Operations Update

– October 2021 to December 2021

Peter V. Sevcik, P.E.
Director of Engineering and Operations
Nipomo Community Services District
January 26, 2022



Project Completed

Southland WWTF Screw Press

- Original contract cost - \$969,200
- Final Contract Cost – \$978,524
- Completed 12/2021



Projects in Construction

Supplemental Water Project Joshua Road Pump Station Pump #1-4 Improvements

- Contract cost - \$396,059
- Notice to proceed issued – 8/19/2020
- Revised projected completion date – 2/1/2022
- Work remaining - Painting



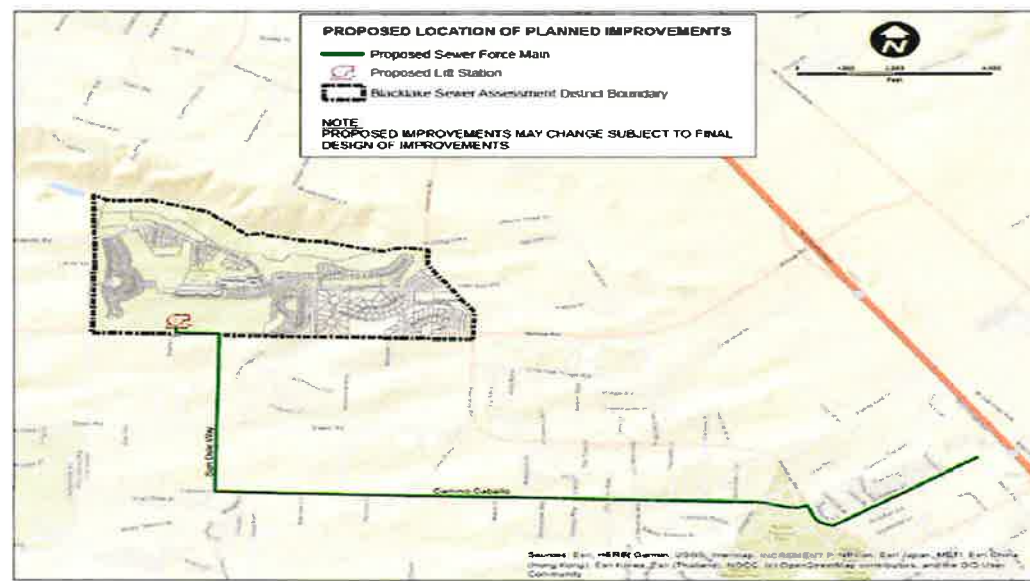
Projects in Construction

Nipomo Palms Lift Station Replacement

- Contract cost – \$918,368
- Notice to Proceed Issued – 5/17/2021
- Revised project completion date – 3/23/2022
- Pump and generator delivery impacted by COVID-19
- Construction in progress



Blacklake Sewer System Consolidation Project



- Construction of lift station and force main to pump wastewater to Southland Wastewater Treatment Facility
- Decommission existing Blacklake Water Reclamation Facility



Blacklake Sewer System Consolidation Project

Contracts to Date

- Permitting assistance contract approved – 7/2020
 - Southland WWTF and Blacklake WRF permitting in progress
- Design contract for lift station and force main approved – 8/2020
 - 90% design review in progress
- Flow monitoring contract approved – 10/2020
 - Completed
- CEQA contract approved – 12/2020
 - Preparation of Mitigated Negative Declaration (MND) in progress



Blacklake Sewer System Consolidation Project

Blacklake WRF Permit

- Current permit was issued in 1994 for 200,000 gallons per day
- Current maximum daily flow is less than 100,000 gallons per day
- RWQCB notified District that facility needs new permit and provided two options:
 - Option to enroll in general permit for facilities with flows 100,000 gallons per day
 - Option to enroll in general permit for facilities with flows greater than 100,000 gallons per day
- Currently planning to enroll facility in general order for facilities with flows less than 100,000 gallons per day to minimize compliance costs for existing facility



Blacklake Sewer System Consolidation Project

Southland WWTF Permit

- Current permit was issued in 2012 for 900,000 gallons per day based on average daily BOD of 250 mg/l and TSS of 250 mg/l
- Current daily flow is 500,000 gallons per day with average BOD of 400 mg/l and TSS of 300 mg/l
- Blacklake Sewer System Consolidation Project will use up most of existing available capacity
- RWQCB has advised District that facility needs new permit in order to accept flow from Blacklake Sewer Service area and suggested enrollment in general permit for facilities with flows greater than 100,000 gallons per day
- Currently preparing application package for submittal to RWQCB



Blacklake Sewer System Consolidation Project

California Environmental Quality Act (CEQA) Compliance

- Preparation of Mitigated Negative Declaration (MND) in progress
- California Red Legged Frog (CRLF) habitat assessment
 - Field survey identified CRLF in effluent discharge pond on golf course
 - District will need to obtain USFWS Section 10 Incidental Take Permit before construction can begin
 - Expected to delay bidding for 12 months
- Botanical surveys
 - Field surveys did not identify protected species
- Cultural resources
 - Native American Heritage Committee records search completed
 - Field survey did not identify cultural resources
 - Tribal consultation is pending



Blacklake Sewer System Consolidation Project

Schedule milestones	Original	New
• Design completion –	12/2021	12/2022
• Permitting completion –	12/2021	12/2022
• Board authorization to bid –	1/2022	1/2023
• Board construction contract award –	5/2022	5/2023
• Construction completion date –	3/2024	3/2025



Other Projects in Design

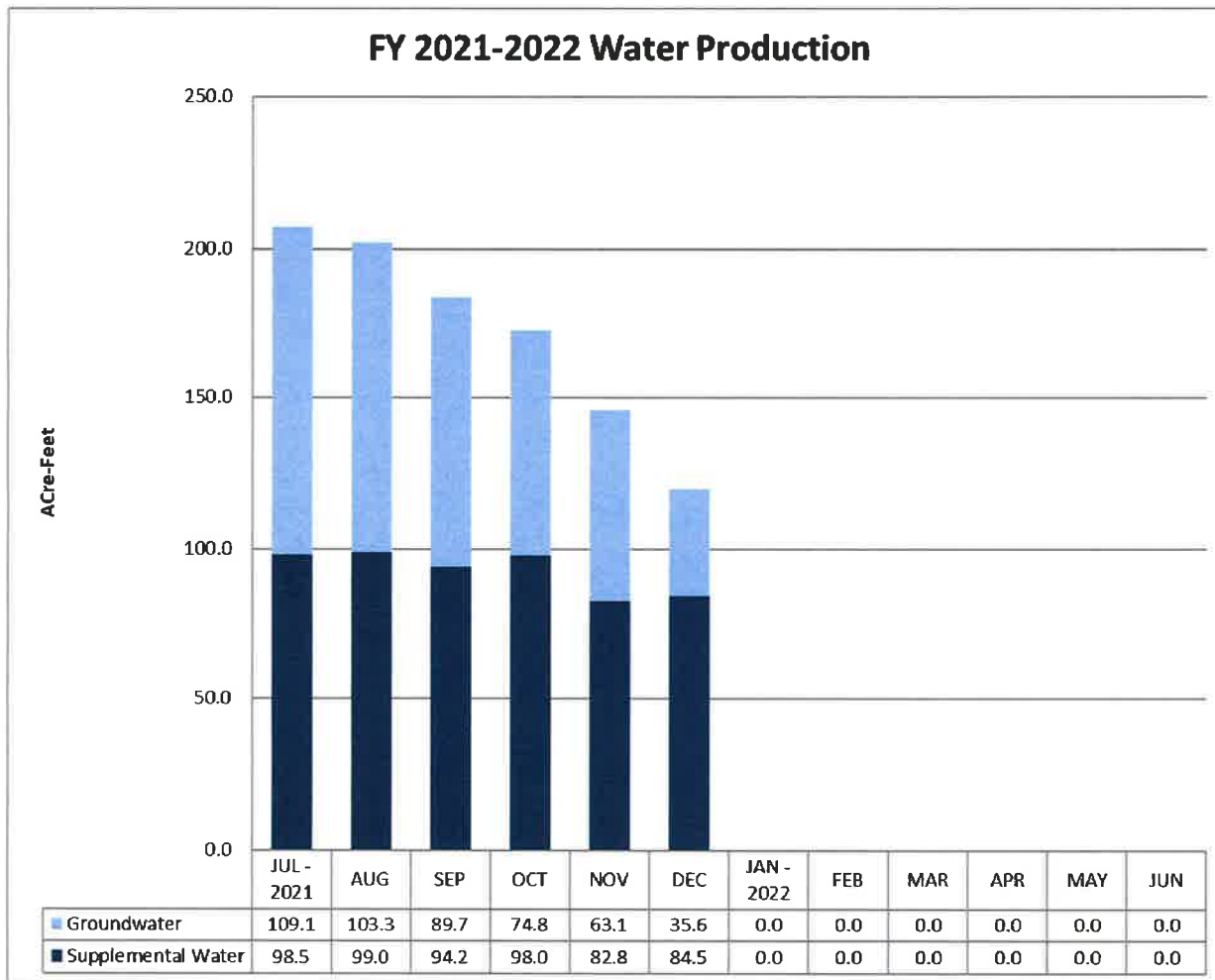
- Branch Street Watermain Replacement
 - 100% design in progress
- Eureka Well #2 Pump and Controls
 - 100% design in progress
- Woodgreen Lift Station
 - 90% design in progress



Other Projects in Design

- District Office Generator
 - 100% design in progress
- Supplemental Water Project Interconnects
 - Woodlands easement recorded
 - Design on hold
- Foothill Tank Land Acquisition
 - Preparation of Mitigated Negative Declaration (MND) in progress

Operations – Water System



Supplemental Water	556.9 AF
Groundwater	475.5 AF
FY 21-22 Total Production To Date	1032.4 AF



Operations – Water System

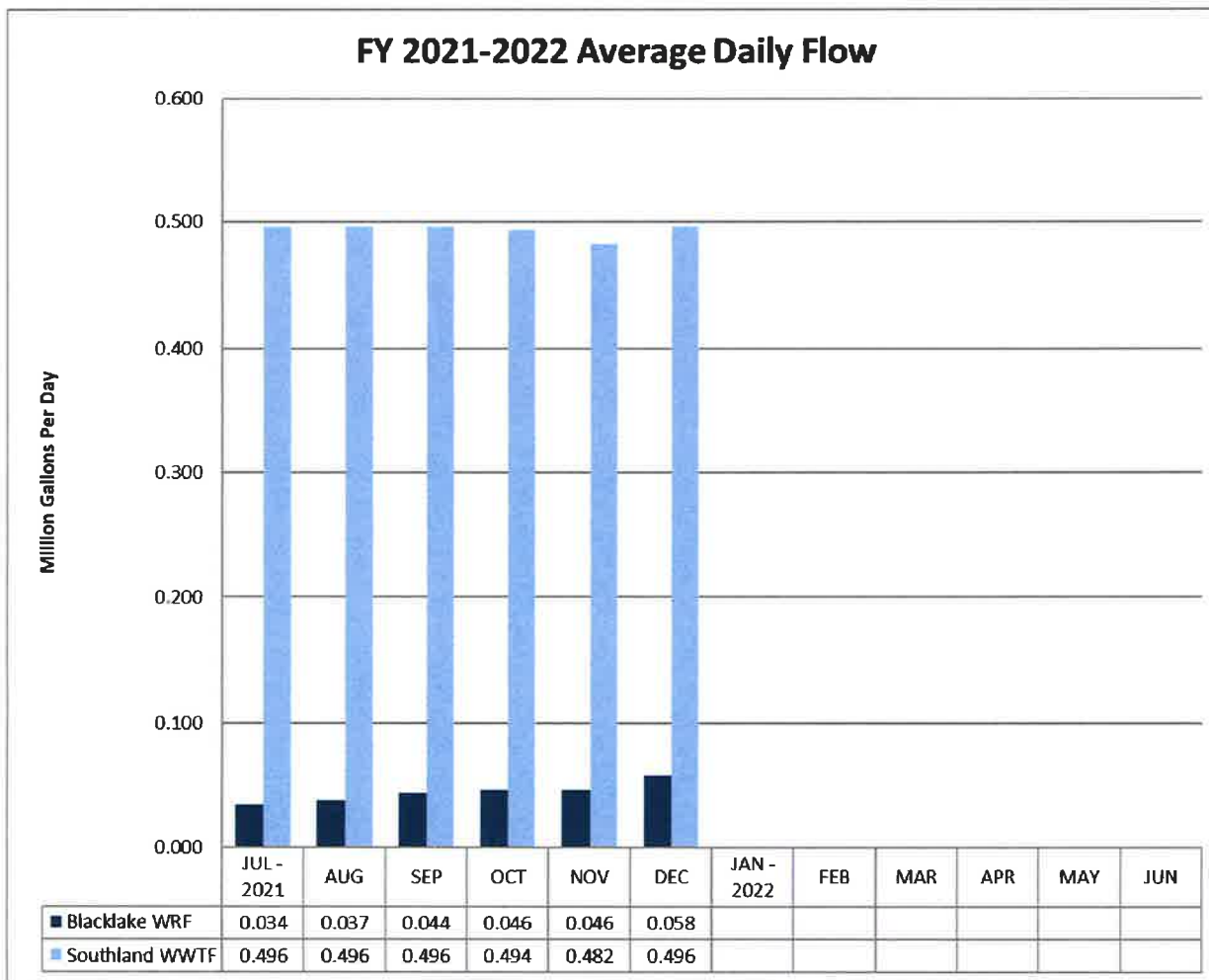
- **Regulatory**

- State Water Resources Control Board Division of Drinking Water
 - Submitted routine monthly coliform, quarterly raw water coliform, quarterly nitrate, quarterly disinfection byproducts

- **Other Water Operations**

- Completed annual electrical system preventive maintenance
- Sundale offline due to nitrate limit exceedance

Operations – Wastewater



Blacklake WRF	7.8 MG
Southland WWTF	90.8 MG
FY 21-22 Total Wastewater Flow Treated To Date	98.6 MG or 303 AF



Operations – Wastewater System

- **Regulatory**
 - State Water Resources Control Board
 - Routine monthly and quarterly reports submitted
- **Other Wastewater Operations**
 - Completed annual electrical system preventive maintenance
 - Blower #3 motor failed but still under warranty



COVID-19 Response Current Status

- Following CDC, state and local guidance
- All operations employees vaccinated
- Staff working normal schedule
- Performing normal operations and maintenance tasks
- Monitoring inventory and availability of critical services, materials and supplies
- Continuing work on construction projects but schedules are being impacted due to delivery delays of equipment



Engineering and Operations

Questions

TO: BOARD OF DIRECTORS
FROM: MARIO IGLESIAS
GENERAL MANAGER
DATE: FEBRUARY 4, 2022



CONSENT AGENDA

The following items are considered routine and non-controversial by staff and may be approved by one motion if no member of the Board wishes an item removed. If discussion is desired, the item may be removed from the Consent Agenda by a Board member and will be considered separately at the conclusion of the Administrative Items. Individual items on the Consent Agenda are approved by the same vote that approves the Consent Agenda, unless an item is pulled for separate consideration. The recommendations for each item are noted in bracket. Members of the public may comment on the Consent Agenda items.

**Questions or clarification may be made by the Board members
without removal from the Consent Agenda**

- D-1) WARRANTS [RECOMMEND APPROVAL]
- D-2) APPROVE JANUARY 26, 2022, REGULAR BOARD MEETING MINUTES
[RECOMMEND APPROVE MINUTES]
- D-3) LIABILITY CLAIMS OF ROBYN FLORES, JAMES POWELL, CHELSEA PUDWILL,
ESTATE OF PYONG YUN SONG RECEIVED JANUARY 31, 2022. [RECOMMEND
DENY ALL CLAIMS AND DIRECT STAFF TO PROVIDE NOTICE OF DENIAL]
- D-4) APPROVE TASK ORDER AMENDMENT WITH CANNON FOR ENGINEERING
SERVICES DURING CONSTRUCTION FOR NIPOMO PALMS LIFT STATION
REPLACEMENT PROJECT [RECOMMEND BY MOTION AND ROLL CALL
APPROVE TASK ORDER AMENDMENT WITH CANNON IN THE AMOUNT OF
\$29,830 AND AUTHORIZE STAFF TO EXECUTE TASK ORDER]

TO: BOARD OF DIRECTORS

REVIEWED: MARIO IGLESIAS
GENERAL MANAGER



FROM: LISA BOGNUDA
FINANCE DIRECTOR



DATE: FEBRUARY 4, 2022

AGENDA ITEM
D-1
FEBRUARY 9, 2022

WARRANTS

COMPUTER CHECKS GENERATED – SEE ATTACHED	\$117,602.57
HAND WRITTEN CHECKS	NONE
VOIDED CHECKS	NONE

Item D-1 Warrants February 9, 2022

Nipomo Community Services District

By Payment Number

Payment Dates 02/09/2022 - 02/09/2022

Vendor Name	Description (Payable)	Payable Number	Payment Date	Amount
Payment: 8073				
Abalone Coast Analytical, Inc.	Lab tests	5446	02/09/2022	7,319.80
Payment 8073 Total:				<u>7,319.80</u>
Payment: 8074				
Allweather Landscape	LMD	43074	02/09/2022	325.00
Payment 8074 Total:				<u>325.00</u>
Payment: 8075				
Amazon Capital Services, Inc.	Water filters	1JND-JG7V-WKRP	02/09/2022	33.23
Amazon Capital Services, Inc.	Operating supplies	1M69-9MJX-LT9T	02/09/2022	117.93
Amazon Capital Services, Inc.	KN95 Face Masks	1YRW-44G6-PNYL	02/09/2022	124.36
Payment 8075 Total:				<u>275.52</u>
Payment: 8076				
Applied Technology Group, Inc.	SCADA upgrades	23352	02/09/2022	2,178.77
Payment 8076 Total:				<u>2,178.77</u>
Payment: 8077				
Aqua-Metric Sales, Co.	Analytics training and annual	INV0085025	02/09/2022	7,900.00
Payment 8077 Total:				<u>7,900.00</u>
Payment: 8078				
AT&T	Telephone	000017655062	02/09/2022	29.15
AT&T	Telephone	000017655064	02/09/2022	296.68
AT&T	Telephone	000017655063	02/09/2022	221.31
Payment 8078 Total:				<u>547.14</u>
Payment: 8079				
Bognuda, Lisa	Mileage reimbursement	012722	02/09/2022	28.67
Payment 8079 Total:				<u>28.67</u>
Payment: 8080				
Brenntag Pacific, Inc.	Sodium Hypochlorite	BPI213160	02/09/2022	606.47
Payment 8080 Total:				<u>606.47</u>
Payment: 8081				
California Rural Water	Annual membership	2022	02/09/2022	1,435.00
Payment 8081 Total:				<u>1,435.00</u>
Payment: 8082				
California Water Environment	Annual Membership 2022-	324337-2022	02/09/2022	192.00
Payment 8082 Total:				<u>192.00</u>
Payment: 8083				
Central Coast Fence	Chain link fence	11162	02/09/2022	1,755.00
Payment 8083 Total:				<u>1,755.00</u>
Payment: 8084				
Clever Ducks	Computer expense	31900	02/09/2022	3,939.94
Payment 8084 Total:				<u>3,939.94</u>
Payment: 8085				
DataProse, LLC	Customer notice mailing	DPI3P58547	02/09/2022	314.42
DataProse, LLC	Mail Bills	DP2200015A	02/09/2022	917.77
DataProse, LLC	Postage	DPI2200015B	02/09/2022	2,855.96
Payment 8085 Total:				<u>4,088.15</u>
Payment: 8086				
Excel Personnel Services, Inc.	Employment agency	3893555	02/09/2022	396.80
Excel Personnel Services, Inc.	Employment agency	3889391	02/09/2022	496.00
Payment 8086 Total:				<u>892.80</u>

Item D-1 Warrants February 9, 2022

Payment Dates: 02/09/2022 - 02/09/2022

Vendor Name	Description (Payable)	Payable Number	Payment Date	Amount
Payment: 8087				
Famcon Pipe and Supply, Inc.	Meter parts	S100071095.001	02/09/2022	60.25
Famcon Pipe and Supply, Inc.	Meter parts	S100070995.001	02/09/2022	407.20
Payment 8087 Total:				467.45
Payment: 8088				
Farm Supply Company	Operating supplies	82657	02/09/2022	405.89
Payment 8088 Total:				405.89
Payment: 8089				
GLM Landscape Management	Landscape maintenance	JAN 2022	02/09/2022	910.00
Payment 8089 Total:				910.00
Payment: 8090				
Great Western Alarm and	Alarm monitoring service	220102062101	02/09/2022	70.00
Great Western Alarm and	Alarm monitoring service	220100640101	02/09/2022	37.00
Great Western Alarm and	Alarm monitoring service	220102107101	02/09/2022	70.00
Payment 8090 Total:				177.00
Payment: 8091				
Integrated Industrial Supply, Inc.	Hose assembly, flanges	81863	02/09/2022	1,872.31
Integrated Industrial Supply, Inc.	Gloves	81827	02/09/2022	470.83
Payment 8091 Total:				2,343.14
Payment: 8092				
M&M Backflow and Meter	Meter testing	INV-001410	02/09/2022	670.00
Payment 8092 Total:				670.00
Payment: 8093				
Miner's Ace Hardware	Supplies	JAN 2022	02/09/2022	672.59
Payment 8093 Total:				672.59
Payment: 8094				
Mission Uniform Service	Uniforms	516301315	02/09/2022	238.01
Mission Uniform Service	Uniforms	516343854	02/09/2022	178.40
Mission Uniform Service	Uniforms	516387393	02/09/2022	225.58
Payment 8094 Total:				641.99
Payment: 8095				
MNS Engineers, Inc.	Construction Management-	79673	02/09/2022	13,872.30
MNS Engineers, Inc.	Construction Management-	79672	02/09/2022	10,460.50
Payment 8095 Total:				24,332.80
Payment: 8096				
Office Depot	Office supplies	223488775001	02/09/2022	144.05
Office Depot	Office supplies	222704610001	02/09/2022	197.16
Office Depot	Office supplies	222706046001	02/09/2022	19.29
Office Depot	Office supplies	221278859001	02/09/2022	105.08
Payment 8096 Total:				465.58
Payment: 8097				
Polydyne, Inc.	Clarifloc	1611571	02/09/2022	2,597.49
Payment 8097 Total:				2,597.49
Payment: 8098				
Quinn Company	Catepillar Service	WON30003694	02/09/2022	1,229.02
Quinn Company	Credit Memo	PR030046402	02/09/2022	-99.66
Payment 8098 Total:				1,129.36
Payment: 8099				
R. Baker, Inc.	Sewer Repair on Thompson and	01212022	02/09/2022	15,148.00
Payment 8099 Total:				15,148.00
Payment: 8100				
ReadyRefresh by Nestle	Distilled water	Jan 2022	02/09/2022	35.47
Payment 8100 Total:				35.47
Payment: 8101				
Richards, Watson & Gershon	Legal services thru 12-31-21	23405	02/09/2022	6,806.75

Item D-1 Warrants February 9, 2022

Payment Dates: 02/09/2022 - 02/09/2022

Vendor Name	Description (Payable)	Payable Number	Payment Date	Amount
Payment: 8101				Payment 8101 Total: <u>6,806.75</u>
Payment: 8102				
Richards, Watson & Gershon	Eureka well site acquisition	235407	02/09/2022	59.00
Payment 8102 Total:				<u>59.00</u>
Payment: 8103				
Richards, Watson & Gershon	Water Rights Adjudication	235406	02/09/2022	1,244.50
Payment 8103 Total:				<u>1,244.50</u>
Payment: 8104				
Santa Maria Times	Public Notices	64602/66288	02/09/2022	587.50
Payment 8104 Total:				<u>587.50</u>
Payment: 8105				
Simplot Grower Solutions	CAN 17	780148406	02/09/2022	741.54
Payment 8105 Total:				<u>741.54</u>
Payment: 8106				
SLO County Air Pollution Control Permit #2267-1 trail-mounted		21677	02/09/2022	666.67
SLO County Air Pollution Control Permit #2236-1-Existing 68 HP		21678	02/09/2022	1,294.46
Payment 8106 Total:				<u>1,961.13</u>
Payment: 8107				
SLO County Environmental	Cross connection program	IN137531	02/09/2022	1,484.40
Payment 8107 Total:				<u>1,484.40</u>
Payment: 8108				
SLO County IWMA	Hazardous Waste Disposal Fee	148	02/09/2022	100.00
Payment 8108 Total:				<u>100.00</u>
Payment: 8109				
SoCalGas	Heat - shop/office	Jan 2022	02/09/2022	132.48
SoCalGas	Heat - shop/office	Jan 2022 a	02/09/2022	17.21
Payment 8109 Total:				<u>149.69</u>
Payment: 8110				
Terminix Commercial	Pest control	18377995837	02/09/2022	65.00
Payment 8110 Total:				<u>65.00</u>
Payment: 8111				
Tuckfield & Associates	2012 Sewer COPs Refinance	0646	02/09/2022	1,881.25
Payment 8111 Total:				<u>1,881.25</u>
Payment: 8112				
Tyler Technologies, Inc.	Billing software conversion	025-364877	02/09/2022	585.00
Payment 8112 Total:				<u>585.00</u>
Payment: 8113				
US Bank National Association	Board meeting supplies	JAN 2022A	02/09/2022	10.50
US Bank National Association	Zoom	JAN2022E	02/09/2022	14.99
US Bank National Association	Storage unit	JAN2022D	02/09/2022	218.50
US Bank National Association	Software subscription	JAN2022C	02/09/2022	26.00
US Bank National Association	CWEA Membership & CSM-2	JAN2022F	02/09/2022	288.00
US Bank National Association	Travel and meals	JAN 2022B	02/09/2022	188.45
US Bank National Association	Notary supplies- Cahua	JAN2022G	02/09/2022	24.90
Payment 8113 Total:				<u>771.34</u>
Payment: 8114				
USA Bluebook	Float switch	860203	02/09/2022	2,196.52
USA Bluebook	Float switch	856958	02/09/2022	264.02
USA Bluebook	Whatman pre-weighted filters	860633	02/09/2022	646.06
USA Bluebook	Hach Nitrite	855782	02/09/2022	614.11
USA Bluebook	Cap Kit for Hach	855409	02/09/2022	553.41
USA Bluebook	Electrode cleaning	856178	02/09/2022	107.99
USA Bluebook	Ammonia reagent	855718	02/09/2022	599.89
USA Bluebook	CHEMKEY	860642	02/09/2022	3,457.43
USA Bluebook	Float switch	841188	02/09/2022	1,192.72
Payment 8114 Total:				<u>9,632.15</u>

Item D-1 Warrants February 9, 2022

Payment Dates: 02/09/2022 - 02/09/2022

Vendor Name	Description (Payable)	Payable Number	Payment Date	Amount
Payment: 8115				
Verizon Wireless	Cell service	9897971188	02/09/2022	734.28
Payment 8115 Total:				<u>734.28</u>
Payment: 8116				
Waste Connections	Waste collection-Office	7555936U120	02/09/2022	53.60
Waste Connections	Waste collection-Southland	7557168U120	02/09/2022	232.79
Waste Connections	Waste collection-Old Town	7556817U120	02/09/2022	262.76
Payment 8116 Total:				<u>549.15</u>
Payment: 8117				
Xylem Water Solutions USA, Inc.	Repair kits	3556C08201	02/09/2022	8,768.87
Payment 8117 Total:				<u>8,768.87</u>

TO: BOARD OF DIRECTORS

FROM: MARIO IGLESIAS
GENERAL MANAGER

DATE: FEBRUARY 9, 2022

AGENDA ITEM
D-2
FEBRUARY 4, 2022

**APPROVE JANUARY 26, 2022
REGULAR BOARD MEETING MINUTES**

ITEM

Approve action minutes from previous Board meetings. [RECOMMEND APPROVE MINUTES]

BACKGROUND

The draft minutes are a written record of the previous Board Meeting action.

RECOMMENDATION

Approve Minutes

ATTACHMENT

- A. January 26, 2022 draft Regular Board Meeting Minutes

FEBRUARY 9, 2022

ITEM D-2

ATTACHMENT A

NIPOMO COMMUNITY SERVICES DISTRICT

Serving the Community since 1965

DRAFT REGULAR MINUTES

JANUARY 26, 2022 AT 9:00 A.M.

JON S. SEITZ BOARD ROOM 148 SOUTH WILSON STREET, NIPOMO, CA

BOARD of DIRECTORS

ED EBY, **PRESIDENT**
RICHARD MALVAROSE, **VICE PRESIDENT**
DAN ALLEN GADDIS, **DIRECTOR**
DAN WOODSON, **DIRECTOR**
CRAIG ARMSTRONG, **DIRECTOR**

PRINCIPAL STAFF

MARIO IGLESIAS, **GENERAL MANAGER**
LISA BOGNUDA, **FINANCE DIRECTOR**
PETER SEVCIK, **DIRECTOR OF ENG. & OPS.**
CRAIG STEELE, **GENERAL COUNSEL**

Mission Statement:

Provide our customers with reliable, quality, and cost-effective services now and in the future.

A. CALL TO ORDER AND FLAG SALUTE

President Eby called the Regular Meeting of January 26, 2022, to order at 9:00 a.m. and led the flag salute.

B. ROLL CALL AND PUBLIC COMMENT FOR ITEMS NOT ON AGENDA

At Roll Call, Director Armstrong, Woodson, Malvarose and Eby were present.

There were no public comments.

President Eby announced Item E-1 would be next.

- E-1) AUTHORIZATION OF THE NIPOMO COMMUNITY SERVICES DISTRICT WASTEWATER REVENUE CERTIFICATES OF PARTICIPATION SERIES 2022 [RECOMMEND ADOPT RESOLUTION OF THE BOARD AUTHORIZING THE EXECUTION AND DELIVERY BY THE DISTRICT OF AN INSTALLMENT PURCHASE AGREEMENT, A TRUST AGREEMENT, A CONTINUING DISCLOSURE AGREEMENT, AN ESCROW AGREEMENT AND A CERTIFICATE PURCHASE AGREEMENT IN CONNECTION WITH THE NIPOMO COMMUNITY SERVICES DISTRICT WASTEWATER REVENUE CERTIFICATES OF PARTICIPATION, SERIES 2022, AUTHORIZING THE EXECUTION AND DELIVERY OF SUCH CERTIFICATES OF PARTICIPATION EVIDENCING PRINCIPAL IN AN AGGREGATE AMOUNT OF NOT TO EXCEED \$11,500,000, APPROVING A NOTICE OF INTENTION TO SELL, AUTHORIZING THE DISTRIBUTION OF A NOTICE OF SALE AND AN OFFICIAL STATEMENT IN CONNECTION WITH THE OFFERING AND SALE OF SUCH CERTIFICATES OF PARTICIPATION AND AUTHORIZING THE EXECUTION OF NECESSARY DOCUMENTS AND RELATED ACTIONS]

Maryann Goodkind, Bond Counsel, Norton Rose Fulbright US LLP, and Curt de Crinis and Jim Prichard, Financial Advisors, Columbia Capital Management, LLC, presented the item and answered questions from the Board.

There were no public comments.

SUBJECT TO BOARD APPROVAL

Nipomo Community Services District
DRAFT REGULAR MEETING
MINUTES

Upon the motion of Director Armstrong, and seconded the Board unanimously approved the Resolution.

Vote 4-0.

YES VOTES	NO VOTES	ABSENT
Directors Armstrong, Woodson, Malvarose and Eby	None	Gaddis

RESOLUTION 2022-1611
RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AUTHORIZING THE EXECUTION AND DELIVERY BY THE DISTRICT
OF AN INSTALLMENT PURCHASE AGREEMENT, A TRUST AGREEMENT,
A CONTINUING DISCLOSURE AGREEMENT, AN ESCROW AGREEMENT AND
A CERTIFICATE PURCHASE AGREEMENT IN CONNECTION WITH THE
NIPOMO COMMUNITY SERVICES DISTRICT WASTEWATER REVENUE
CERTIFICATES OF PARTICIPATION, SERIES 2022, AUTHORIZING THE EXECUTION
AND DELIVERY OF SUCH CERTIFICATES OF PARTICIPATION EVIDENCING PRINCIPAL
IN AN AGGREGATE AMOUNT OF NOT TO EXCEED \$11,500,000, APPROVING A
NOTICE OF INTENTION TO SELL, AUTHORIZING THE DISTRIBUTION OF AN
OFFICIAL NOTICE OF SALE AND AN OFFICIAL STATEMENT IN CONNECTION
WITH THE OFFERING AND SALE OF SUCH CERTIFICATES OF PARTICIPATION AND
AUTHORIZING THE EXECUTION OF NECESSARY DOCUMENTS AND RELATED ACTIONS

ADJOURN TO PUBLIC FACILITIES CORPORATION

A) ROLL CALL

At Roll Call, Director Armstrong, Woodson, Malvarose and Eby were present.

B) AUTHORIZATION OF THE NIPOMO COMMUNITY SERVICES DISTRICT WASTEWATER REVENUE CERTIFICATES OF PARTICIPATION SERIES 2022 [RECOMMEND ADOPT RESOLUTION OF THE BOARD AUTHORIZING THE EXECUTION AND DELIVERY BY THE CORPORATION OF AN INSTALLMENT PURCHASE AGREEMENT AND A TRUST AGREEMENT IN CONNECTION WITH THE NIPOMO COMMUNITY SERVICES DISTRICT WASTEWATER REVENUE CERTIFICATES OF PARTICIPATION, SERIES 2022, AUTHORIZING THE EXECUTION AND DELIVERY OF SUCH CERTIFICATES OF PARTICIPATION EVIDENCING PRINCIPAL IN AN AGGREGATE AMOUNT OF NOT TO EXCEED \$11,500,000 AND AUTHORIZING THE EXECUTION OF NECESSARY DOCUMENTS AND RELATED ACTIONS]

There were no public comments.

Upon the motion of Director Armstrong, and seconded the Board unanimously approved the Resolution.

Vote 4-0.

YES VOTES	NO VOTES	ABSENT
Directors Armstrong, Woodson, Malvarose and Eby	None	Gaddis

RESOLUTION 2022-08
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
PUBLIC FACILITIES CORPORATION AUTHORIZING
THE EXECUTION AND DELIVERY BY THE CORPORATION
OF AN INSTALLMENT PURCHASE AGREEMENT AND A TRUST
AGREEMENT IN CONNECTION WITH THE NIPOMO COMMUNITY
SERVICES DISTRICT WASTEWATER REVENUE CERTIFICATES
OF PARTICIPATION, SERIES 2022, AUTHORIZING THE EXECUTION
AND DELIVERY OF SUCH CERTIFICATES OF PARTICIPATION
EVIDENCING PRINCIPAL IN AN AGGREGATE AMOUNT OF NOT
TO EXCEED \$11,500,000 AND AUTHORIZING THE EXECUTION OF
NECESSARY DOCUMENTS AND RELATED ACTIONS

ADJOURN TO NCSD REGULAR MEETING

SUBJECT TO BOARD APPROVAL

C. PRESENTATIONS AND REPORTS

- C-1) QUARTERLY DISTRICT ENGINEER’S REPORT TO THE BOARD [RECOMMEND RECEIVE AND FILE]

This item was tabled until February 9, 2022 meeting.

- C-2) DIRECTORS’ ANNOUNCEMENTS OF DISTRICT AND COMMUNITY INTEREST AND REPORTS ON ATTENDANCE AT PUBLIC MEETINGS, TRAINING PROGRAMS, CONFERENCES AND SEMINARS.
 Receive Announcements and Reports from Directors

Director Woodson

- January 19, attended Citizens Transportation Advisory Committee meeting.
- January 24, attended SCAC meeting.

Director Malvarose

- January 14, attended Board Officers’ meeting.

Director Eby

- January 14, attended Board Officers’ meeting.
- January 20, attended LAFCO meeting.
- February 2, there will be no WRAC meeting.

There were no public comments.

Upon the motion of Director Armstrong and seconded, the Board unanimously approved receiving and filing presentations and reports.

Vote4-0.

YES VOTES	NO VOTES	ABSENT
Directors Armstrong, Woodson, Malvarose and Eby	None	Gaddis

D. CONSENT AGENDA

- D-1) WARRANTS [RECOMMEND APPROVAL]
- D-2) APPROVE JANUARY 12, 2022, REGULAR BOARD MEETING MINUTES [RECOMMEND APPROVE MINUTES]
- D-3) INVESTMENT POLICY - FOURTH QUARTER REPORT [RECOMMEND ACCEPT AND FILE]
- D-4) ANNUAL REVIEW OF INVESTMENT POLICY [RECOMMEND ADOPT RESOLUTION]
- D-5) ANNUAL REVIEW OF DISTRICT CASH RESERVE POLICIES [RECOMMEND REVIEW AND REAFFIRM CASH RESERVE POLICIES]

SUBJECT TO BOARD APPROVAL

Nipomo Community Services District
DRAFT REGULAR MEETING
MINUTES

- D-6) AUTHORIZE STAFF TO ISSUE REQUEST FOR PROPOSALS FOR ENGINEERING SERVICES FRONTAGE ROAD TRUNK SEWER REPLACEMENT PROJECT [RECOMMEND AUTHORIZE STAFF TO ISSUE REQUEST FOR PROPOSALS]

There were no public comments.

Upon the motion of Director Malvarose and seconded, the Board approved the Consent Agenda.

Vote 4-0

YES VOTES	NO VOTES	ABSENT
Directors Malvarose, Armstrong, Woodson and Eby	None	Gaddis

2022-1613
A RESOLUTION OF THE
BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
ADOPTING DISTRICT INVESTMENT POLICY

- E-2) ADOPT ORDINANCE NO. 2022-134 AMENDING TITLE 3 AND 4 OF THE NIPOMO COMMUNITY SERVICES DISTRICT CODE TO AMEND BILLING PROCEDURES [RECOMMEND INTRODUCE ORDINANCE, WAIVE FURTHER READING AND READ BY TITLE ONLY ORDINANCE NO. 2022-134]

Mario Iglesias, General Manager, presented the item and answered questions from the Board.

There were no public comments.

Upon the motion of Director Armstrong and seconded, the Board unanimously adopted Ordinance 2022-134.

Vote 4-0.

YES VOTES	NO VOTES	ABSENT
Directors Armstrong, Woodson, Malvarose and Eby	None	Gaddis

RESOLUTION 2022-134
AN ORDINANCE OF THE BOARD OF DIRECTORS OF
THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING TITLE 3 AND 4 OF THE
NIPOMO COMMUNITY SERVICES DISTRICT CODE
TO AMEND BILLING PROCEDURES

- E-3) REVIEW AND AMEND DEBT MANAGEMENT POLICY AND CONTINUING DISCLOSURE UNDERTAKING POLICY [RECOMMEND ADOPT RESOLUTION]

Lisa Bognuda, Finance Director, presented the item and answered questions from the Board of Directors.

There were no public comments.

Upon the motion of Director Armstrong, and seconded, the Board unanimously approved the Resolution.

SUBJECT TO BOARD APPROVAL

**Nipomo Community Services District
DRAFT REGULAR MEETING
MINUTES**

Vote 4-0.

YES VOTES	NO VOTES	ABSENT
<i>Directors Armstrong, Woodson, Malvarose and Eby</i>	<i>None</i>	<i>None</i>

RESOLUTION 2022-1614
A RESOLUTION OF THE BOARD OF DIRECTORS OF
THE NIPOMO COMMUNITY SERVICES DISTRICT APPROVING
THE ADOPTION OF THE AMENDMENT TO THE DEBT MANAGEMENT
POLICY AND THE CONTINUING DISCLOSURE UNDERTAKING POLICY FOR THE DISTRICT

F. GENERAL MANAGER’S REPORT

Mario Iglesias, General Manager, presented the item and answered questions from the Board.

There were no public comments.

G. COMMITTEE REPORTS

None.

H. DIRECTORS’ REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Woodson asked about enforcement of the mask mandate at SCAC meetings.

Director Armstrong requested outreach and education be provided to our customers regarding the organic waste ordinance requirements.

I. CLOSED SESSION ANNOUNCEMENTS

Craig Steele, District Legal Counsel, announced that Closed Session was canceled.

1. CONFERENCE WITH DISTRICT LEGAL COUNSEL RE: PENDING LITIGATION PURSUANT TO GC §54956.9
 - i. SMVWCD V. NCSD (SANTA CLARA COUNTY CASE NO. CV 770214, SIXTH APPELLATE COURT CASE NO. H032750, AND ALL CONSOLIDATED CASES
2. CONFERENCE WITH LEGAL COUNSEL - INITIATION OF LITIGATION GOVERNMENT CODE SECTION 54956.9(D)4 ONE (1) POTENTIAL CASE

ADJOURN MEETING

President Eby adjourned the meeting at 9:58 a.m.

MEETING SUMMARY	HOURS & MINUTES
Regular Meeting	0 hour 58 minutes
Closed Session	0 hour 00 minutes
TOTAL HOURS	0 hour 58 minutes

Respectfully submitted,

Mario Iglesias, General Manager and Secretary to the Board Date

TO: BOARD OF DIRECTORS

FROM: MARIO IGLESIAS
GENERAL MANAGER



DATE: February 3, 2022

AGENDA ITEM

D-3

FEBRUARY 9, 2022

LIABILITY CLAIMS OF ROBYN FLORES, JAMES POWELL, CHELSEA PUDWILL, ESTATE OF PYONG YUN SONG RECEIVED JANUARY 31, 2022.

ITEM

LIABILITY CLAIMS OF ROBYN FLORES, JAMES POWELL, CHELSEA PUDWILL, ESTATE OF PYONG YUN SONG RECEIVED JANUARY 31, 2022. [RECOMMEND DENY ALL CLAIMS AND DIRECT STAFF TO PROVIDE NOTICE OF DENIAL]

BACKGROUND

The Nipomo Community Services District ("District") received four liability claim forms relating to the death of Pyong Yun Song on or about September 1, 2021 on the Willow Road exit ramp of Highway 101 in Nipomo, California. According to news reports attached to the claims, Pyong Yun Song was killed after a vehicle on Highway 101 lost its payload, a tractor, and the lost payload landed on the vehicle driven by Pyong Yun Song at said location. The relationship of the other claimants to this incident is not apparent from the claims.

The claims allege that the road facilities in the area were in a dangerous condition. However, the District has no role in owning or maintaining any of the road infrastructure. Further, the incident as described in the claims did not involve District personnel, facilities, or equipment. Thus, the District has no liability for this unfortunate incident.

The claim was forwarded to the District's legal representatives at RWG Law and to the Special District Risk Management Authority, the District's risk management agent. Both concur with staff's recommendation that the District deny all the claims.

FISCAL IMPACT

No fiscal impact to the FY 2021-22 Budget.

STRATEGIC PLAN

Goal 6. GOVERNANCE AND ADMINISTRATION. Conduct District activities in an efficient, equitable and cost-effective manner.

RECOMMENDATION

Staff recommends that the Board deny all claims and direct staff to provide notice of denial.

ATTACHMENTS

- A. Claim Forms – Robyn Flores, Estate of Pyong Yun Song, James Powell, Chelsea Pudwill

FEBRUARY 9, 2022

ITEM D-3

ATTACHMENT A

CLAIMS FORM

Agency: Nipomo Community Services District
P O Box 326, Nipomo, CA 93444

(805) 929-1133
FAX (805) 929-1932

Date Claim Received:

Please fill out below

This form is pursuant to Government Code Section 910.4.(a)

1. Claimant's Name: Robyn Flores Date of Birth: not a minor Daytime Phone: () see below
2. Claimant's Address: See Section 15 below for attorney contact information.
3. Email Address See Section 15 below for attorney contact information.
4. Claimant's SSN: not required Home Phone: () See Section 15 below.
5. Date of Loss: 9-1-2021 Time of Loss: see attachment
6. Location of Loss (Specify in as much detail as possible, example, 5 feet east of west corner of Elmira Road and Peabody):
See attachment.
7. Description of incident or accident which caused you to make this claim: See attachment.
8. What specific injury, damages or other losses did you incur? See attachment.
9. What amount of money or damages are you seeking to recover? See attachment.
Basis for computation: See attachment.
10. How was this amount calculated? (Itemize and attach bills, repair estimates, receipts, etc.; if claim is for vehicle damage, obtain and attach two (2) repair estimates): See attachment.
11. What is your basis for claiming that the District or District employee(s) are the cause of your injury, damages or loss? See attachment.
12. What are the name(s) of the District employee(s) whom you allege caused your injury, damages or loss, if known? See attachment.
13. Name, address and phone number of any witnesses who can substantiate your claim: See attachment.
14. Any additional information that you believe might be helpful to the District in considering this claim: See attachment.

RECEIVED

JAN 31 2022


NIPOMO COMMUNITY
SERVICES DISTRICT

CLAIMS FORM

15. All notices and communications with regard to this claim will be directed to the Claimant shown in lines 1 and 2 above unless you complete the following to identify to whom further communication should be directed:

Name: Steven Kronenberg, Esq., The Veen Firm
Relationship: attorney at law for claimants
Address: 20 Haight Street, San Francisco State: CA ZIP: 94102
Email Address: s.kronenberg@veenfirm.com
Daytime Phone: 415-673-4800 Home Phone: 415-673-4800

Section 72 of the Penal Code provides that "every person who, with intent to defraud, presents for allowance or for payment to any State Board or Officer, or to any county, town, city, district, board or officer, authorized to allow or pay the same of a felonv."

Steven Kronenberg  1-20-2022
Claimant Printed Name Claimant Signature Date Signed

(Note: If the claim is filed by someone on behalf of the claimant, the person making the claim on behalf of the claimant should sign above.)

Completed Claims Forms must be submitted by personal delivery or by United States mail.

Attachment to Tort Claim

Claimants

Robyn Flores
James Powell
Chelsea Pudwill
The Estate of Pyong Yun Song

Claimants' Attorneys:

Anthony Label
Steven A. Kronenberg
The Veen Firm, P.C.
20 Haight Street
San Francisco, CA 94102
415-673-4800 (phone)
415-771-5845 (fax)

I. Overview

The claim arises from the wrongful death of Pyong Yun Song on or about September 1, 2021 on the Willow Road exit ramp of Highway 101 in Nipomo, California as described in more detail below. The entirety of this claim is pleaded and alleged upon information and belief. Each allegation is likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.

The name(s) of the public employee(s) or contractor(s) causing claimants' injuries and damages under the described circumstances are not known to claimants. Public entities are responsible for the wrongful acts or omissions of their employees that occur within the course and scope of their employment and for their contractors regarding nondelegable duties under Gov. Code, secs. 815.2 *et seq.*, 815.4 *et seq.*, 840 *et seq.*, and related authority.

The injuries sustained by claimants, as far as known, as of the date of presentation of this claim, consist of economic and noneconomic damages. The claimants also respectfully request injunctive relief.

The claimants are within the class of persons protected by the authorities cited below. These authorities were enacted to protect against the class of risk that was the proximate cause of claimants' damages.

All notices or other communications regarding this claim should be sent to Anthony L. Label and Steven A. Kronenberg, The Veen Firm, P.C., 20 Haight Street, San Francisco, CA 94102, 415-673-4800.

II. Summary of Incident Facts

On or about September 1, 2021, Ms. Pyong Yun Song was killed when a piece of heavy construction equipment fell from a truck-and-trailer rig onto her vehicle. Ms. Song was stopped at the Willow Road exit ramp of Highway 101 in Nipomo, California, which was public property that was in a dangerous condition. The truck driver was heading northbound on Highway 101, towing a lowboy trailer loaded with an excavator, when dangerous conditions of public property caused a truck tire to blow out. As a result, the truck driver lost control of his vehicle. It traveled off the east side of the roadway and struck the guardrail, which were also dangerous conditions of public property.

Claimants understand that additional details of the incident were reported in this article, a copy of which is enclosed: https://santamariatimes.com/news/local/falling-heavy-equipment-kills-woman-on-highway-101-offramp-in-nipomo/article_91ed3ffd-5109-551d-899f-1ca0948d1bb7.html.

The collision dislodged the excavator. The excavator fell over the side of the highway and crushed the top of Ms. Song's vehicle, with her inside. Ms. Song suffered before succumbing to her injuries.

Liability for this collision rests with the State of California, the County of San Luis Obispo, and the Nipomo Community Services District, acting by and through their authorized agencies, agents, servants, employees, and contractors (collectively, "The Public Entities"), because the area of this incident (including but not limited to the pavement, shoulder, surrounding area, and guardrail of Highway 101, as well as the Willow Road off-ramp) presented a dangerous condition of public property. The configuration and physical condition of these areas are dangerous; traffic signs, markings, and lighting are inadequate and dangerous; conditions have changed in the incident area since the time of the original design, including but not limited to increased volume of motor vehicle traffic; the roadway, shoulder, guard rail, and surrounding area were not properly designed, installed, inspected, or maintained; and The Public Entities failed to provide any warning of these latent hazards/traps.

III. Dangerous Conditions of Public Property

The Public Entities, and Does 1 through 100, and each of them, were charged with the responsibility of designing, constructing, operating, maintaining, repairing and regulating Highway 101 and the Willow Road off-ramp, including but not limited to installing adequate lanes for motor vehicles, as well as guard rails, shoulders, traffic controls, markings, warnings, lighting, and signage. The Public Entities, through their acts and omissions, failed to meet these responsibilities and caused Ms. Song's death as follows:

A. The Public Entities Owned, Controlled, and Maintained the Property

The Public Entities owned, controlled, and maintained the area where the collision occurred.

B. The Public Entities Created, had Notice of, and Failed to Protect Against Dangerous Conditions of Public Property

The Public Entities created, had notice of, and failed to protect against the dangerous conditions of their property that resulted in the incident and Ms. Song's grueling death.

The Public Entities had actual notice of the conditions at issue and knew or should have known of their dangerous character. (Gov. Code, § 840.4(a).) The Public Entities created the conditions and/or those conditions existed for a long enough time for The Public Entities to have known of and protected against them. These dangerous conditions created a reasonably foreseeable risk of serious injury or death to persons using the areas with due care.

The Public Entities also had constructive notice of the dangerous conditions. (Gov. Code, § 840.4(b).) They had the authority, responsibility, and funds or other means immediately available to effect inspections of the property to determine whether dangerous conditions existed. The dangerous conditions had existed for such a period of time and were of such an obvious nature that in the exercise of due care, The Public Entities should have discovered and protected against them. The existence of these conditions and their dangerous character would have been discovered by an inspection system that was reasonably adequate to inform The Public Entities whether the property was safe for the uses for which The Public Entities used or intended others to use the public property and for uses that The Public Entities actually knew others were making of the public property.

These inspections include, but are not limited to, visual inspections, examination of readily-available traffic safety data, and responses to complaints of prior similar incidents and dangerous conditions near the areas at issue. During the course of any reasonably adequate

inspections, The Public Entities would have discovered these conditions and their dangerous character.

C. The Public Entities' Wrongful Acts Caused the Dangerous Conditions of Public Property

The Public Entities were charged with the responsibility of designing, constructing, operating, signing, maintaining, repairing and regulating Highway 101 and the Willow Road off-ramp, including but not limited to installing and maintaining adequate lanes, shoulders, guard rails, and surrounding areas for motor vehicles, as well as traffic controls, markings, lighting, warnings, and signage.

The Public Entities negligently and carelessly designed, warned, failed to warn, constructed, created, maintained, repaired, owned, operated, controlled, signed, lit, and regulated the dangerous conditions of Highway 101 and the Willow Road off-ramp by:

- Failing to warn of, prevent, or correct a "dangerous condition" on, or immediately adjacent to, public property (Gov. Code, secs. 830(a) *et seq.*, 835 *et seq.*);
- Failing to provide, maintain, control, or regulate Highway 101 and the Willow Road off-ramp in an adequate and safe condition and without providing sufficient width, signage, warnings, markings, lights, controls, speed limits, guard rails, shoulders, surrounding areas, or monitors;
- Failing to properly regulate or restrict traffic so as to prevent unreasonably dangerous motor vehicle conflicts like that which occurred here; and/or
- Failing to warn of, prevent, or correct a trap/latent hazard associated with normal use. The Public Entities had a duty to warn of this both to protect against the risk that Ms. Song or another member of the public could be crushed by falling equipment and the danger of third-party conduct, like a subsequent collision with a motor vehicle.

The acts and omissions of The Public Entities created and caused the dangerous conditions of public property that resulted in the incident at issue. The Public Entities provided no warning of the latent hazards of the roadway conditions that caused the excavator to fall and kill Ms. Song. Ms. Song did not reasonably assume the risk of these dangerous conditions, the existence of which represented an extreme departure from the ordinary standard of care, gross negligence, and an increased the risk of injury.

The dangerous conditions of Highway 101 and its off-ramp were directly attributable to the negligent or wrongful acts or omissions of The Public Entities and their employees, who had the authority, funds and other means immediately available to take action that would have eliminated the dangerous condition. (*See, e.g., Gov. Code, § 840.2(a) et seq.*)

D. The Risks of the Incident were Reasonably Foreseeable

The Public Entities could have, and should have, reasonably foreseen the risk of the incident and the catastrophic injuries to which Ms. Song succumbed. (*Gov. Code, § 840.2.*) The Public Entities created, caused, and had actual and constructive notice of the dangerous conditions and resulting serious and fatal injuries to motorists like Ms. Song.

E. The Public Entities' Dangerous Conditions of Public Property Proximately Caused Claimants' Injuries

The foregoing facts demonstrate that individually and collectively, the failure of The Public Entities to take modest steps toward safety were a substantial factor in causing Ms. Song's death.

F. Design Immunity Does Not Bar Liability Against The Public Entities

Design immunity does not bar liability against The Public Entities for six reasons. First, the injury-producing elements of The Public Entities' property were not part of an approved design. (*Grenier v. City of Irwindale (1997) 57 Cal.App.4th 931, 941 fn. 7.*)

Second, the construction of the real property did not adhere to the approved plan or design (if any) in a material respect regarding the dangerous conditions.

Third, the dangerous conditions were created in the course of construction of the real property.

Fourth, the approval of the design (if any) was unreasonable.

Fifth, The Public Entities failed to warn Ms. Song, the driver of the truck, and the general public regarding the dangerous conditions that caused the collision. (*See Gov. Code, § 830.8 et seq.*)

Finally, The Public Entities' plans or designs for the area where the collision occurred have become dangerous due to change in physical conditions. (*Gov. Code, § 830.6 et seq.*) The Public Entities had actual or constructive notice of these dangers and had a reasonable amount of time to obtain funds to perform remedial work that would have prevented the collision. The

type of collision and fatal injuries that Ms. Song sustained were also reasonably foreseeable consequences of the dangerous conditions at issue that resulted from The Public Entities' negligent or wrongful conduct.

IV. Claimant's Damages

As a legal result of the dangerous conditions created by The Public Entities, the claimants have necessarily suffered economic and noneconomic damages in amounts currently unknown. They pray for leave to amend this tort claim to assert the true amounts when they are ascertained.

A. Economic Damages

The claimants claim economic damages that include but are not limited to:

1. The costs of past medical expenses;
2. The past and future wage loss and loss of earning capacity; and
3. The reasonable value of household services that Ms. Song would have performed since the collision and will be unable to perform in the future.

The claimants estimate the value of these economic damages at no less than \$10,000,000 (ten million dollars).

B. Noneconomic Damages

The claimants' noneconomic damages include but are not limited to past and future physical pain, mental suffering, and emotional distress. The claimant estimates the value of these economic damages at no less than \$10,000,000 (ten million dollars).

Claimants reserve the right to pray for more types and greater amounts of damages according to proof.

V. Conclusion

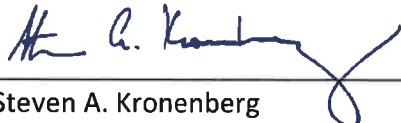
Claimants respectfully request that The Public Entities accept their claim for damages, repair the dangerous conditions of public property that caused the collision, and correct these policies, practices, procedures, acts, and omissions that resulted in claimants' damages.

I declare under penalty of perjury under the laws of the State of California that all the information I have provided is true and correct to the best of my information and belief. I

further understand that if I have provided information that is false, intentionally incomplete, or misleading I may be charged with a felony punishable by up to four years in state prison and/or a fine of up to \$10,000 (Pen. Code, sec.72).

DATED: January 20, 2022

THE VEEN FIRM, P.C.

By: 

Steven A. Kronenberg
Attorneys for Claimant



COVID-19:

A year that changed our world



A special 64-page book highlighting Santa Maria Times coverage of COVID-19 on the Central Coast



BREAKING

Falling heavy equipment kills woman on Highway 101 offramp in Nipomo

Santa Maria Times Staff Report Sep 2, 2021 Updated Sep 2, 2021



1 of 3

An excavator lies atop a Cadillac Escalade after it was dislodged from a semitruck-and-trailer rig on Highway 101 above the Willow Road offramp in Nipomo and went over the side, crushing the vehicle and killing the 60-year-old woman who was driving it late Wednesday afternoon. (Cal Fire/Santa Luis Obispo County Fire Department, Contributed)

Listen to this article now ~ 2 min Powered by Trinity Audio



A 60-year-old Nipomo woman was killed in a freak accident about 4:10 p.m. Wednesday when a piece of heavy equipment fell from a truck-and-trailer rig on Highway 101 onto her car stopped at an offramp, according to a California Highway Patrol report.

The woman, identified by the CHP as Pyong Yun Song, had driven her 2008 Cadillac Escalade down the northbound Willow Road offramp and was stopped behind a 2016 Mazda 6 driven by Eliodora Cardenas, 53, of Glendale.

At the same time, David Edmundson, 62, of Arroyo Grande, was driving a 2014 Peterbilt semitruck towing a lowboy trailer loaded with an excavator northbound on the freeway when his right front tire blew out, the CHP said.



Most Popular

- 1 Falling heavy equipment kills woman on Highway 101 offramp in Nipomo
- 2 Body found in Santa Maria's Waller Park pond identified as Arroyo Grande man
- 3 Santa Maria High School JV football coach, former player dead
- 4 Sheriff's dive team recovers body from Waller Park pond in Santa Maria
- 5 Police seek identity of those involved in altercation Saturday at Santa Maria High





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Edmundson lost control of the Peterbilt, which traveled off the east side of the roadway and struck a guardrail, dislodging the excavator — a piece of heavy equipment with a bucket for digging mounted on a boom connected to a rotating cab atop a frame and tracks.

The impact dislodged the excavator, sending it over the side and down on top of the Escalade, killing the driver, the CHP said.

Cardenas' Mazda was also struck by debris from the impact, but she was uninjured. Edmundson suffered minor injuries.

The accident closed the right lane of Highway 101 and the northbound offramp for about two hours as emergency crews recovered the victim and removed the debris, according to Cal Fire/Santa Barbara County Fire Department.

The CHP is asking anyone who witnessed the crash to contact Officer Mallory and the San Luis Obispo Area CHP office at 805-594-8700.



Tags

Local news | San Luis Obispo county | Hipocoma | Fatal Crashes | Highway 101 | Willow Road | Offramp | Peterbilt | Excavator | California Highway Patrol | CHP | Cadillac Escalade | Mazda 6 | Area CHP | David Edmondson | Motor Vehicle | Highway | Transports | Debris | Mazda | Mallory | Office

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VANDENBERG AIR FORCE BASE
In-person Veterans Stand Down returns to Santa Maria Fairpark Oct. 16



BUSINESS
Small businesses sought for Lompoc's Old Town Market trick-or-treat event on Oct. 30



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VANDENBERG AIR FORCE BASE
ALERT

In-person Veterans Stand Down returns to Santa Maria Fairpark Oct. 16

Dave Minsky dminsky@santamariatimes.com Updated 1 hr ago

The Santa Barbara County Veterans Stand Down — an annual event that brings together donations and service providers from across the region for local veterans in need — will return to Santa Maria as an in-person event on Oct. 16.



VANDENBERG AIR FORCE BASE
ALERT

Vanderberg firefighters pictured in

404: File not found

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PROOF OF SERVICE

Flores vs Does

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the City and County of San Francisco, State of California. My business address is 20 Haight Street, San Francisco, CA 94102.

On January 28, 2022, I served true copies of the following document(s) described as **TORT CLAIM FORM NIPOMO COMMUNITY SERVICES DISTRICT (CLAIMANT ROBYN FLORES)** on the interested parties in this action as follows:

CLERK
NIPOMO COMMUNITY SERVICES DISTRICT
P.O. Box 326
Nipoma, CA 93444

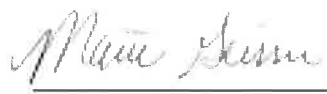
AND

CLERK
NIPOMO COMMUNITY SERVICES DISTRICT
148 South Wilson Street
Nipomo, CA 93444

BY CERTIFIED MAIL – RETURN RECEIPT REQUESTED: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed above and placed the envelope for collection and mailing via Certified Mail, Return Receipt Requested, following our ordinary business practices. I am readily familiar with the practice of The Veen Firm, P.C. for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid. I am a resident or employed in the county where the mailing occurred. The envelope was placed in the mail at San Francisco, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 28, 2022, at San Francisco, California.



Marie Geisser

CLAIMS FORM

Agency: Nipomo Community Services District (805) 929-1133
P O Box 326, Nipomo, CA 93444 FAX (805) 929-1932

Date Claim Received:

Please fill out below

This form is pursuant to Government Code Section 910.4.(a)

1. Claimant's Name: The Estate of Pyong Yun Song Date of Birth: not a minor Daytime Phone: (see below)
2. Claimant's Address: See Section 15 below for attorney contact information.
3. Email Address: See Section 15 below for attorney contact information.
4. Claimant's SSN: not required Home Phone: () See Section 15 below.
5. Date of Loss: 9-1-2021 Time of Loss: see attachment
6. Location of Loss (Specify in as much detail as possible, example, 5 feet east of west corner of Elmira Road and Peabody):
See attachment.
7. Description of incident or accident which caused you to make this claim: See attachment.
8. What specific injury, damages or other losses did you incur? See attachment.
9. What amount of money or damages are you seeking to recover? See attachment.
Basis for computation: See attachment.
10. How was this amount calculated? (Itemize and attach bills, repair estimates, receipts, etc.; if claim is for vehicle damage, obtain and attach two (2) repair estimates): See attachment.
11. What is your basis for claiming that the District or District employee(s) are the cause of your injury, damages or loss? See attachment.
12. What are the name(s) of the District employee(s) whom you allege caused your injury, damages or loss, if known? See attachment.
13. Name, address and phone number of any witnesses who can substantiate your claim: See attachment.
14. Any additional information that you believe might be helpful to the District in considering this claim: See attachment.

RECEIVED
JAN 31 2022
NIPOMO COMMUNITY
SERVICES DISTRICT

CLAIMS FORM

15. All notices and communications with regard to this claim will be directed to the Claimant shown in lines 1 and 2 above unless you complete the following to identify to whom further communication should be directed:

Name: Steven Kronenberg, Esq., The Veen Firm
Relationship: attorney at law for claimants
Address: 20 Haight Street, San Francisco State: CA ZIP: 94102
Email Address: s.kronenberg@veenfirm.com
Daytime Phone: 415-673-4800 Home Phone 415-673-4800

Section 72 of the Penal Code provides that "every person who, with intent to defraud, presents for allowance or for payment to any State Board or Officer, or to any county, town, city, district, board or officer, authorized to allow or pay the same of a felonv."

Steven Kronenberg  1-20-2022
Claimant Printed Name Claimant Signature Date Signed

(Note: If the claim is filed by someone on behalf of the claimant, the person making the claim on behalf of the claimant should sign above.)

Completed Claims Forms must be submitted by personal delivery or by United States mail.

Attachment to Tort Claim

Claimants

Robyn Flores
James Powell
Chelsea Pudwill
The Estate of Pyong Yun Song

Claimants' Attorneys:

Anthony Label
Steven A. Kronenberg
The Veen Firm, P.C.
20 Haight Street
San Francisco, CA 94102
415-673-4800 (phone)
415-771-5845 (fax)

I. Overview

The claim arises from the wrongful death of Pyong Yun Song on or about September 1, 2021 on the Willow Road exit ramp of Highway 101 in Nipomo, California as described in more detail below. The entirety of this claim is pleaded and alleged upon information and belief. Each allegation is likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.

The name(s) of the public employee(s) or contractor(s) causing claimants' injuries and damages under the described circumstances are not known to claimants. Public entities are responsible for the wrongful acts or omissions of their employees that occur within the course and scope of their employment and for their contractors regarding nondelegable duties under Gov. Code, secs. 815.2 *et seq.*, 815.4 *et seq.*, 840 *et seq.*, and related authority.

The injuries sustained by claimants, as far as known, as of the date of presentation of this claim, consist of economic and noneconomic damages. The claimants also respectfully request injunctive relief.

The claimants are within the class of persons protected by the authorities cited below. These authorities were enacted to protect against the class of risk that was the proximate cause of claimants' damages.

All notices or other communications regarding this claim should be sent to Anthony L. Label and Steven A. Kronenberg, The Veen Firm, P.C., 20 Haight Street, San Francisco, CA 94102, 415-673-4800.

II. Summary of Incident Facts

On or about September 1, 2021, Ms. Pyong Yun Song was killed when a piece of heavy construction equipment fell from a truck-and-trailer rig onto her vehicle. Ms. Song was stopped at the Willow Road exit ramp of Highway 101 in Nipomo, California, which was public property that was in a dangerous condition. The truck driver was heading northbound on Highway 101, towing a lowboy trailer loaded with an excavator, when dangerous conditions of public property caused a truck tire to blow out. As a result, the truck driver lost control of his vehicle. It traveled off the east side of the roadway and struck the guardrail, which were also dangerous conditions of public property.

Claimants understand that additional details of the incident were reported in this article, a copy of which is enclosed: https://santamariatimes.com/news/local/falling-heavy-equipment-kills-woman-on-highway-101-offramp-in-nipomo/article_91ed3ffd-5109-551d-899f-1ca0948d1bb7.html.

The collision dislodged the excavator. The excavator fell over the side of the highway and crushed the top of Ms. Song's vehicle, with her inside. Ms. Song suffered before succumbing to her injuries.

Liability for this collision rests with the State of California, the County of San Luis Obispo, and the Nipomo Community Services District, acting by and through their authorized agencies, agents, servants, employees, and contractors (collectively, "The Public Entities"), because the area of this incident (including but not limited to the pavement, shoulder, surrounding area, and guardrail of Highway 101, as well as the Willow Road off-ramp) presented a dangerous condition of public property. The configuration and physical condition of these areas are dangerous; traffic signs, markings, and lighting are inadequate and dangerous; conditions have changed in the incident area since the time of the original design, including but not limited to increased volume of motor vehicle traffic; the roadway, shoulder, guard rail, and surrounding area were not properly designed, installed, inspected, or maintained; and The Public Entities failed to provide any warning of these latent hazards/traps.

III. Dangerous Conditions of Public Property

The Public Entities, and Does 1 through 100, and each of them, were charged with the responsibility of designing, constructing, operating, maintaining, repairing and regulating Highway 101 and the Willow Road off-ramp, including but not limited to installing adequate lanes for motor vehicles, as well as guard rails, shoulders, traffic controls, markings, warnings, lighting, and signage. The Public Entities, through their acts and omissions, failed to meet these responsibilities and caused Ms. Song's death as follows:

A. The Public Entities Owned, Controlled, and Maintained the Property

The Public Entities owned, controlled, and maintained the area where the collision occurred.

B. The Public Entities Created, had Notice of, and Failed to Protect Against Dangerous Conditions of Public Property

The Public Entities created, had notice of, and failed to protect against the dangerous conditions of their property that resulted in the incident and Ms. Song's grueling death.

The Public Entities had actual notice of the conditions at issue and knew or should have known of their dangerous character. (Gov. Code, § 840.4(a).) The Public Entities created the conditions and/or those conditions existed for a long enough time for The Public Entities to have known of and protected against them. These dangerous conditions created a reasonably foreseeable risk of serious injury or death to persons using the areas with due care.

The Public Entities also had constructive notice of the dangerous conditions. (Gov. Code, § 840.4(b).) They had the authority, responsibility, and funds or other means immediately available to effect inspections of the property to determine whether dangerous conditions existed. The dangerous conditions had existed for such a period of time and were of such an obvious nature that in the exercise of due care, The Public Entities should have discovered and protected against them. The existence of these conditions and their dangerous character would have been discovered by an inspection system that was reasonably adequate to inform The Public Entities whether the property was safe for the uses for which The Public Entities used or intended others to use the public property and for uses that The Public Entities actually knew others were making of the public property.

These inspections include, but are not limited to, visual inspections, examination of readily-available traffic safety data, and responses to complaints of prior similar incidents and dangerous conditions near the areas at issue. During the course of any reasonably adequate

inspections, The Public Entities would have discovered these conditions and their dangerous character.

C. The Public Entities' Wrongful Acts Caused the Dangerous Conditions of Public Property

The Public Entities were charged with the responsibility of designing, constructing, operating, signing, maintaining, repairing and regulating Highway 101 and the Willow Road off-ramp, including but not limited to installing and maintaining adequate lanes, shoulders, guard rails, and surrounding areas for motor vehicles, as well as traffic controls, markings, lighting, warnings, and signage.

The Public Entities negligently and carelessly designed, warned, failed to warn, constructed, created, maintained, repaired, owned, operated, controlled, signed, lit, and regulated the dangerous conditions of Highway 101 and the Willow Road off-ramp by:

- Failing to warn of, prevent, or correct a "dangerous condition" on, or immediately adjacent to, public property (Gov. Code, secs. 830(a) *et seq.*, 835 *et seq.*);
- Failing to provide, maintain, control, or regulate Highway 101 and the Willow Road off-ramp in an adequate and safe condition and without providing sufficient width, signage, warnings, markings, lights, controls, speed limits, guard rails, shoulders, surrounding areas, or monitors;
- Failing to properly regulate or restrict traffic so as to prevent unreasonably dangerous motor vehicle conflicts like that which occurred here; and/or
- Failing to warn of, prevent, or correct a trap/latent hazard associated with normal use. The Public Entities had a duty to warn of this both to protect against the risk that Ms. Song or another member of the public could be crushed by falling equipment and the danger of third-party conduct, like a subsequent collision with a motor vehicle.

The acts and omissions of The Public Entities created and caused the dangerous conditions of public property that resulted in the incident at issue. The Public Entities provided no warning of the latent hazards of the roadway conditions that caused the excavator to fall and kill Ms. Song. Ms. Song did not reasonably assume the risk of these dangerous conditions, the existence of which represented an extreme departure from the ordinary standard of care, gross negligence, and an increased the risk of injury.

The dangerous conditions of Highway 101 and its off-ramp were directly attributable to the negligent or wrongful acts or omissions of The Public Entities and their employees, who had the authority, funds and other means immediately available to take action that would have eliminated the dangerous condition. (*See, e.g.*, Gov. Code, § 840.2(a) *et seq.*)

D. The Risks of the Incident were Reasonably Foreseeable

The Public Entities could have, and should have, reasonably foreseen the risk of the incident and the catastrophic injuries to which Ms. Song succumbed. (Gov. Code, § 840.2.) The Public Entities created, caused, and had actual and constructive notice of the dangerous conditions and resulting serious and fatal injuries to motorists like Ms. Song.

E. The Public Entities' Dangerous Conditions of Public Property Proximately Caused Claimants' Injuries

The foregoing facts demonstrate that individually and collectively, the failure of The Public Entities to take modest steps toward safety were a substantial factor in causing Ms. Song's death.

F. Design Immunity Does Not Bar Liability Against The Public Entities

Design immunity does not bar liability against The Public Entities for six reasons. First, the injury-producing elements of The Public Entities' property were not part of an approved design. (*Grenier v. City of Irwindale* (1997) 57 Cal.App.4th 931, 941 fn. 7.)

Second, the construction of the real property did not adhere to the approved plan or design (if any) in a material respect regarding the dangerous conditions.

Third, the dangerous conditions were created in the course of construction of the real property.

Fourth, the approval of the design (if any) was unreasonable.

Fifth, The Public Entities failed to warn Ms. Song, the driver of the truck, and the general public regarding the dangerous conditions that caused the collision. (*See* Gov. Code, § 830.8 *et seq.*)

Finally, The Public Entities' plans or designs for the area where the collision occurred have become dangerous due to change in physical conditions. (Gov. Code, § 830.6 *et seq.*) The Public Entities had actual or constructive notice of these dangers and had a reasonable amount of time to obtain funds to perform remedial work that would have prevented the collision. The

type of collision and fatal injuries that Ms. Song sustained were also reasonably foreseeable consequences of the dangerous conditions at issue that resulted from The Public Entities' negligent or wrongful conduct.

IV. Claimant's Damages

As a legal result of the dangerous conditions created by The Public Entities, the claimants have necessarily suffered economic and noneconomic damages in amounts currently unknown. They pray for leave to amend this tort claim to assert the true amounts when they are ascertained.

A. Economic Damages

The claimants claim economic damages that include but are not limited to:

1. The costs of past medical expenses;
2. The past and future wage loss and loss of earning capacity; and
3. The reasonable value of household services that Ms. Song would have performed since the collision and will be unable to perform in the future.

The claimants estimate the value of these economic damages at no less than \$10,000,000 (ten million dollars).

B. Noneconomic Damages

The claimants' noneconomic damages include but are not limited to past and future physical pain, mental suffering, and emotional distress. The claimant estimates the value of these economic damages at no less than \$10,000,000 (ten million dollars).

Claimants reserve the right to pray for more types and greater amounts of damages according to proof.

V. Conclusion

Claimants respectfully request that The Public Entities accept their claim for damages, repair the dangerous conditions of public property that caused the collision, and correct these policies, practices, procedures, acts, and omissions that resulted in claimants' damages.


I declare under penalty of perjury under the laws of the State of California that all the information I have provided is true and correct to the best of my information and belief. I

further understand that if I have provided information that is false, intentionally incomplete, or misleading I may be charged with a felony punishable by up to four years in state prison and/or a fine of up to \$10,000 (Pen. Code, sec.72).

DATED: January 20, 2022

THE VEEN FIRM, P.C.

By:



Steven A. Kronenberg
Attorneys for Claimant



COVID-19:

A year that changed our world



A special 64-page book highlighting Santa Maria Times coverage of COVID-19 on the Central Coast



BREAKING

Falling heavy equipment kills woman on Highway 101 offramp in Nipomo

Santa Maria Times Staff Report Sep 2, 2021 Updated Sep 2, 2021



An excavator lies atop a Cadillac Escalade after it was dislodged from a semitruck-and-trailer rig on Highway 101 above the Willow Road offramp in Nipomo and went over the side, crushing the vehicle and killing the 60-year-old woman who was driving it late Wednesday afternoon. (Santa Maria Times Obituary County Fire Department, Contributed)

Listen to this article now
Powered by Trinity Audio



A 60-year-old Nipomo woman was killed in a freak accident about 4:10 p.m. Wednesday when a piece of heavy equipment fell from a truck-and-trailer rig on Highway 101 onto her car stopped at an offramp, according to a California Highway Patrol report.

The woman, identified by the CHP as Pyong Yun Song, had driven her 2008 Cadillac Escalade down the northbound Willow Road offramp and was stopped behind a 2016 Mazda 6 driven by Eliodora Cardenas, 53, of Glendale.

At the same time, David Edmundson, 62, of Arroyo Grande, was driving a 2014 Peterbilt semitruck towing a lowboy trailer loaded with an excavator northbound on the freeway when his right front tire blew out, the CHP said.

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Edmundson lost control of the Peterbilt, which traveled off the east side of the roadway and struck a guardrail, dislodging the excavator — a piece of heavy equipment with a bucket for digging mounted on a boom connected to a rotating cab atop a frame and tracks.

The impact dislodged the excavator, sending it over the side and down on top of the Escalade, killing the driver, the CHP said.

Cardenas' Mazda was also struck by debris from the impact, but she was uninjured. Edmundson suffered minor injuries.

The accident closed the right lane of Highway 101 and the northbound offramp for about two hours as emergency crews recovered the victim and removed the debris, according to Cal Fire/Santa Barbara County Fire Department.

The CHP is asking anyone who witnessed the crash to contact Officer Mallory and the San Luis Obispo Area CHP office at 805-594-8700.

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ANNUAL ALERT
In-person Veterans Stand Down returns to Santa Maria Fairpark Oct. 16

Dave Minsky dminsky@santamanatimes.com Updated 1 hr ago
The Santa Barbara County Veterans Stand Down — an annual event that brings together donations and service providers from across the region for local veterans in need — will return to Santa Maria as an in-person event on Oct. 16.



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Vanderberg firefighters pictured in

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PROOF OF SERVICE

Flores vs Does

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the City and County of San Francisco, State of California. My business address is 20 Haight Street, San Francisco, CA 94102.

On January 28, 2022, I served true copies of the following document(s) described as **TORT CLAIM FORM NIPOMO COMMUNITY SERVICES DISTRICT (CLAIMANT THE ESTATE OF PYONG YUN SONG)** on the interested parties in this action as follows:

CLERK
NIPOMO COMMUNITY SERVICES DISTRICT
P.O. Box 326
Nipoma, CA 93444

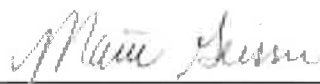
AND

CLERK
NIPOMO COMMUNITY SERVICES DISTRICT
148 South Wilson Street
Nipomo, CA 93444

BY CERTIFIED MAIL – RETURN RECEIPT REQUESTED: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed above and placed the envelope for collection and mailing via Certified Mail, Return Receipt Requested, following our ordinary business practices. I am readily familiar with the practice of The Veen Firm, P.C. for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid. I am a resident or employed in the county where the mailing occurred. The envelope was placed in the mail at San Francisco, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 28, 2022, at San Francisco, California.



Marie Geisser

CLAIMS FORM

Agency: Nipomo Community Services District
P O Box 326, Nipomo, CA 93444

(805) 929-1133
FAX (805) 929-1932

Date Claim Received:

Please fill out below

This form is pursuant to Government Code Section 910.4.(a)

1. Claimant's Name: Chelsea Pudwill Date of Birth: not a minor Daytime Phone: () see below
2. Claimant's Address: See Section 15 below for attorney contact information.
3. Email Address: See Section 15 below for attorney contact information.
4. Claimant's SSN: not required Home Phone: () See Section 15 below.
5. Date of Loss: 9-1-2021 Time of Loss: see attachment
6. Location of Loss (Specify in as much detail as possible, example, 5 feet east of west corner of Elmira Road and Peabody):
See attachment.
7. Description of incident or accident which caused you to make this claim: See attachment.
8. What specific injury, damages or other losses did you incur? See attachment.
9. What amount of money or damages are you seeking to recover? See attachment.
Basis for computation: See attachment.
10. How was this amount calculated? (Itemize and attach bills, repair estimates, receipts, etc.; if claim is for vehicle damage, obtain and attach two (2) repair estimates): See attachment.
11. What is your basis for claiming that the District or District employee(s) are the cause of your injury, damages or loss? See attachment.
12. What are the name(s) of the District employee(s) whom you allege caused your injury, damages or loss, if known? See attachment.
13. Name, address and phone number of any witnesses who can substantiate your claim: See attachment.
14. Any additional information that you believe might be helpful to the District in considering this claim: See attachment.

RECEIVED

JAN 31 2022

NIPOMO COMMUNITY
SERVICES DISTRICT

CLAIMS FORM

15. All notices and communications with regard to this claim will be directed to the Claimant shown in lines 1 and 2 above unless you complete the following to identify to whom further communication should be directed:

Name: Steven Kronenberg, Esq., The Veen Firm
Relationship: attorney at law for claimants
Address: 20 Haight Street, San Francisco State: CA ZIP: 94102
Email Address: s.kronenberg@veenfirm.com
Daytime Phone: 415-673-4800 Home Phone 415-673-4800

Section 72 of the Penal Code provides that "every person who, with intent to defraud, presents for allowance or for payment to any State Board or Officer, or to any county, town, city, district, board or officer, authorized to allow or pay the same of a felonv."

Steven Kronenberg  1-20-2022
Claimant Printed Name Claimant Signature Date Signed

(Note: If the claim is filed by someone on behalf of the claimant, the person making the claim on behalf of the claimant should sign above.)

Completed Claims Forms must be submitted by personal delivery or by United States mail.

Attachment to Tort Claim

Claimants

**Robyn Flores
James Powell
Chelsea Pudwill
The Estate of Pyong Yun Song**

Claimants' Attorneys:

**Anthony Label
Steven A. Kronenberg
The Veen Firm, P.C.
20 Haight Street
San Francisco, CA 94102
415-673-4800 (phone)
415-771-5845 (fax)**

I. Overview

The claim arises from the wrongful death of Pyong Yun Song on or about September 1, 2021 on the Willow Road exit ramp of Highway 101 in Nipomo, California as described in more detail below. The entirety of this claim is pleaded and alleged upon information and belief. Each allegation is likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.

The name(s) of the public employee(s) or contractor(s) causing claimants' injuries and damages under the described circumstances are not known to claimants. Public entities are responsible for the wrongful acts or omissions of their employees that occur within the course and scope of their employment and for their contractors regarding nondelegable duties under Gov. Code, secs. 815.2 *et seq.*, 815.4 *et seq.*, 840 *et seq.*, and related authority.

The injuries sustained by claimants, as far as known, as of the date of presentation of this claim, consist of economic and noneconomic damages. The claimants also respectfully request injunctive relief.

The claimants are within the class of persons protected by the authorities cited below. These authorities were enacted to protect against the class of risk that was the proximate cause of claimants' damages.

All notices or other communications regarding this claim should be sent to Anthony L. Label and Steven A. Kronenberg, The Veen Firm, P.C., 20 Haight Street, San Francisco, CA 94102, 415-673-4800.

II. Summary of Incident Facts

On or about September 1, 2021, Ms. Pyong Yun Song was killed when a piece of heavy construction equipment fell from a truck-and-trailer rig onto her vehicle. Ms. Song was stopped at the Willow Road exit ramp of Highway 101 in Nipomo, California, which was public property that was in a dangerous condition. The truck driver was heading northbound on Highway 101, towing a lowboy trailer loaded with an excavator, when dangerous conditions of public property caused a truck tire to blow out. As a result, the truck driver lost control of his vehicle. It traveled off the east side of the roadway and struck the guardrail, which were also dangerous conditions of public property.

Claimants understand that additional details of the incident were reported in this article, a copy of which is enclosed: https://santamariatimes.com/news/local/falling-heavy-equipment-kills-woman-on-highway-101-offramp-in-nipomo/article_91ed3ffd-5109-551d-899f-1ca0948d1bb7.html.

The collision dislodged the excavator. The excavator fell over the side of the highway and crushed the top of Ms. Song's vehicle, with her inside. Ms. Song suffered before succumbing to her injuries.

Liability for this collision rests with the State of California, the County of San Luis Obispo, and the Nipomo Community Services District, acting by and through their authorized agencies, agents, servants, employees, and contractors (collectively, "The Public Entities"), because the area of this incident (including but not limited to the pavement, shoulder, surrounding area, and guardrail of Highway 101, as well as the Willow Road off-ramp) presented a dangerous condition of public property. The configuration and physical condition of these areas are dangerous; traffic signs, markings, and lighting are inadequate and dangerous; conditions have changed in the incident area since the time of the original design, including but not limited to increased volume of motor vehicle traffic; the roadway, shoulder, guard rail, and surrounding area were not properly designed, installed, inspected, or maintained; and The Public Entities failed to provide any warning of these latent hazards/traps.

III. Dangerous Conditions of Public Property

The Public Entities, and Does 1 through 100, and each of them, were charged with the responsibility of designing, constructing, operating, maintaining, repairing and regulating Highway 101 and the Willow Road off-ramp, including but not limited to installing adequate lanes for motor vehicles, as well as guard rails, shoulders, traffic controls, markings, warnings, lighting, and signage. The Public Entities, through their acts and omissions, failed to meet these responsibilities and caused Ms. Song's death as follows:

A. The Public Entities Owned, Controlled, and Maintained the Property

The Public Entities owned, controlled, and maintained the area where the collision occurred.

B. The Public Entities Created, had Notice of, and Failed to Protect Against Dangerous Conditions of Public Property

The Public Entities created, had notice of, and failed to protect against the dangerous conditions of their property that resulted in the incident and Ms. Song's grueling death.

The Public Entities had actual notice of the conditions at issue and knew or should have known of their dangerous character. (Gov. Code, § 840.4(a).) The Public Entities created the conditions and/or those conditions existed for a long enough time for The Public Entities to have known of and protected against them. These dangerous conditions created a reasonably foreseeable risk of serious injury or death to persons using the areas with due care.

The Public Entities also had constructive notice of the dangerous conditions. (Gov. Code, § 840.4(b).) They had the authority, responsibility, and funds or other means immediately available to effect inspections of the property to determine whether dangerous conditions existed. The dangerous conditions had existed for such a period of time and were of such an obvious nature that in the exercise of due care, The Public Entities should have discovered and protected against them. The existence of these conditions and their dangerous character would have been discovered by an inspection system that was reasonably adequate to inform The Public Entities whether the property was safe for the uses for which The Public Entities used or intended others to use the public property and for uses that The Public Entities actually knew others were making of the public property.

These inspections include, but are not limited to, visual inspections, examination of readily-available traffic safety data, and responses to complaints of prior similar incidents and dangerous conditions near the areas at issue. During the course of any reasonably adequate

inspections, The Public Entities would have discovered these conditions and their dangerous character.

C. The Public Entities' Wrongful Acts Caused the Dangerous Conditions of Public Property

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DATED: January 20, 2022

THE VEEN FIRM, P.C.

By: 

Steven A. Kronenberg
Attorneys for Claimant



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BREAKING

Falling heavy equipment kills woman on Highway 101 offramp in Nipomo

Santa Maria Times Staff Report Sep 2, 2021 Updated Sep 2, 2021



An excavator lies atop a Cadillac Escalade after it was dislodged from a semitruck-and-trailer rig on Highway 101 above the Willow Road offramp in Nipomo and went over the side, crushing the vehicle and killing the 60-year-old woman who was driving it late Wednesday afternoon.

Cal File/Santa Luis Obispo County Fire Department. Contributed

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A 60-year-old Nipomo woman was killed in a freak accident about 4:10 p.m. Wednesday when a piece of heavy equipment fell from a truck-and-trailer rig on Highway 101 onto her car stopped at an offramp, according to a California Highway Patrol report.

The woman, identified by the CHP as Pyong Yun Song, had driven her 2008 Cadillac Escalade down the northbound Willow Road offramp and was stopped behind a 2016 Mazda 6 driven by Eliodora Cardenas, 53, of Glendale.

At the same time, David Edmundson, 62, of Arroyo Grande, was driving a 2014 Peterbilt semitruck towing a lowboy trailer loaded with an excavator northbound on the freeway when his right front tire blew out, the CHP said.

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Edmundson lost control of the Peterbilt, which traveled off the east side of the roadway and struck a guardrail, dislodging the excavator — a piece of heavy equipment with a bucket for digging mounted on a boom connected to a rotating cab atop a frame and tracks.

The impact dislodged the excavator, sending it over the side and down on top of the Escalade, killing the driver, the CHP said.

Cardenas' Mazda was also struck by debris from the impact, but she was uninjured. Edmundson suffered minor injuries.

The accident closed the right lane of Highway 101 and the northbound offramp for about two hours as emergency crews recovered the victim and removed the debris, according to Cal Fire/Santa Barbara County Fire Department.

The CHP is asking anyone who witnessed the crash to contact Officer Mallory and the San Luis Obispo Area CHP office at 805-594-8700.

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Tags: Local news, San Luis Obispo County, Nipomo, Fatal Crash, Highway 101, Willow Road, Offramp, Peterbilt, Excavator, California Highway Patrol, CHP, Cadillac Escalade, Mazda 6, Area Clip, David Edmundson, Motor Vehicle, Highway, Transports, Debris, Mazda, Mallory, Office

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Dave Minsky dminsky@santamariatimes.com Updated 1 hr ago
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VANDENBERG AIR FORCE BASE
Vandenberg firefighters pictured in

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PROOF OF SERVICE

Flores vs Does

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the City and County of San Francisco, State of California. My business address is 20 Haight Street, San Francisco, CA 94102.

On January 28, 2022, I served true copies of the following document(s) described as **TORT CLAIM FORM NIPOMO COMMUNITY SERVICES DISTRICT (CLAIMANT CHELSEA PUDWILL)** on the interested parties in this action as follows:

CLERK
NIPOMO COMMUNITY SERVICES DISTRICT
P.O. Box 326
Nipoma, CA 93444

AND

CLERK
NIPOMO COMMUNITY SERVICES DISTRICT
148 South Wilson Street
Nipomo, CA 93444

BY CERTIFIED MAIL – RETURN RECEIPT REQUESTED: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed above and placed the envelope for collection and mailing via Certified Mail, Return Receipt Requested, following our ordinary business practices. I am readily familiar with the practice of The Veen Firm, P.C. for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid. I am a resident or employed in the county where the mailing occurred. The envelope was placed in the mail at San Francisco, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 28, 2022, at San Francisco, California.



Marie Geisser

CLAIMS FORM

Agency: Nipomo Community Services District
P O Box 326, Nipomo, CA 93444

(805) 929-1133
FAX (805) 929-1932

Date Claim Received:

Please fill out below

This form is pursuant to Government Code Section 910.4.(a)

1. Claimant's Name: James Powell Date of Birth: not a minor Daytime Phone: (see below)
2. Claimant's Address: See Section 15 below for attorney contact information.
3. Email Address: See Section 15 below for attorney contact information.
4. Claimant's SSN: not required Home Phone: () See Section 15 below.
5. Date of Loss: 9-1-2021 Time of Loss: see attachment
6. Location of Loss (Specify in as much detail as possible, example, 5 feet east of west corner of Elmira Road and Peabody):
See attachment.
7. Description of incident or accident which caused you to make this claim:
See attachment.
8. What specific injury, damages or other losses did you incur?
See attachment.
9. What amount of money or damages are you seeking to recover? See attachment.
Basis for computation: See attachment.
10. How was this amount calculated? (Itemize and attach bills, repair estimates, receipts, etc.; if claim is for vehicle damage, obtain and attach two (2) repair estimates): See attachment.
11. What is your basis for claiming that the District or District employee(s) are the cause of your injury, damages or loss?
See attachment.
12. What are the name(s) of the District employee(s) whom you allege caused your injury, damages or loss, if known?
See attachment.
13. Name, address and phone number of any witnesses who can substantiate your claim:
See attachment.
14. Any additional information that you believe might be helpful to the District in considering this claim:
See attachment.

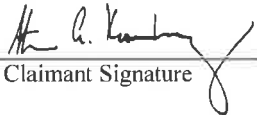
RECEIVED
JAN 31 2022
NIPOMO COMMUNITY
SERVICES DISTRICT

CLAIMS FORM

15. All notices and communications with regard to this claim will be directed to the Claimant shown in lines 1 and 2 above unless you complete the following to identify to whom further communication should be directed:

Name: Steven Kronenberg, Esq., The Veen Firm
Relationship: attorney at law for claimants
Address: 20 Haight Street, San Francisco State: CA ZIP: 94102
Email Address: s.kronenberg@veenfirm.com
Daytime Phone: 415-673-4800 Home Phone 415-673-4800

Section 72 of the Penal Code provides that "every person who, with intent to defraud, presents for allowance or for payment to any State Board or Officer, or to any county, town, city, district, board or officer, authorized to allow or pay the same of a felonv."

Steven Kronenberg  1-20-2022
Claimant Printed Name Claimant Signature Date Signed

(Note: If the claim is filed by someone on behalf of the claimant, the person making the claim on behalf of the claimant should sign above.)

Completed Claims Forms must be submitted by personal delivery or by United States mail.

Attachment to Tort Claim

Claimants

Robyn Flores
James Powell
Chelsea Pudwill
The Estate of Pyong Yun Song

Claimants' Attorneys:

Anthony Label
Steven A. Kronenberg
The Veen Firm, P.C.
20 Haight Street
San Francisco, CA 94102
415-673-4800 (phone)
415-771-5845 (fax)

I. Overview

The claim arises from the wrongful death of Pyong Yun Song on or about September 1, 2021 on the Willow Road exit ramp of Highway 101 in Nipomo, California as described in more detail below. The entirety of this claim is pleaded and alleged upon information and belief. Each allegation is likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.

The name(s) of the public employee(s) or contractor(s) causing claimants' injuries and damages under the described circumstances are not known to claimants. Public entities are responsible for the wrongful acts or omissions of their employees that occur within the course and scope of their employment and for their contractors regarding nondelegable duties under Gov. Code, secs. 815.2 *et seq.*, 815.4 *et seq.*, 840 *et seq.*, and related authority.

The injuries sustained by claimants, as far as known, as of the date of presentation of this claim, consist of economic and noneconomic damages. The claimants also respectfully request injunctive relief.

The claimants are within the class of persons protected by the authorities cited below. These authorities were enacted to protect against the class of risk that was the proximate cause of claimants' damages.

All notices or other communications regarding this claim should be sent to Anthony L. Label and Steven A. Kronenberg, The Veen Firm, P.C., 20 Haight Street, San Francisco, CA 94102, 415-673-4800.

II. Summary of Incident Facts

On or about September 1, 2021, Ms. Pyong Yun Song was killed when a piece of heavy construction equipment fell from a truck-and-trailer rig onto her vehicle. Ms. Song was stopped at the Willow Road exit ramp of Highway 101 in Nipomo, California, which was public property that was in a dangerous condition. The truck driver was heading northbound on Highway 101, towing a lowboy trailer loaded with an excavator, when dangerous conditions of public property caused a truck tire to blow out. As a result, the truck driver lost control of his vehicle. It traveled off the east side of the roadway and struck the guardrail, which were also dangerous conditions of public property.

Claimants understand that additional details of the incident were reported in this article, a copy of which is enclosed: https://santamariatimes.com/news/local/falling-heavy-equipment-kills-woman-on-highway-101-offramp-in-nipomo/article_91ed3ffd-5109-551d-899f-1ca0948d1bb7.html.

The collision dislodged the excavator. The excavator fell over the side of the highway and crushed the top of Ms. Song's vehicle, with her inside. Ms. Song suffered before succumbing to her injuries.

Liability for this collision rests with the State of California, the County of San Luis Obispo, and the Nipomo Community Services District, acting by and through their authorized agencies, agents, servants, employees, and contractors (collectively, "The Public Entities"), because the area of this incident (including but not limited to the pavement, shoulder, surrounding area, and guardrail of Highway 101, as well as the Willow Road off-ramp) presented a dangerous condition of public property. The configuration and physical condition of these areas are dangerous; traffic signs, markings, and lighting are inadequate and dangerous; conditions have changed in the incident area since the time of the original design, including but not limited to increased volume of motor vehicle traffic; the roadway, shoulder, guard rail, and surrounding area were not properly designed, installed, inspected, or maintained; and The Public Entities failed to provide any warning of these latent hazards/traps.

III. Dangerous Conditions of Public Property

The Public Entities, and Does 1 through 100, and each of them, were charged with the responsibility of designing, constructing, operating, maintaining, repairing and regulating Highway 101 and the Willow Road off-ramp, including but not limited to installing adequate lanes for motor vehicles, as well as guard rails, shoulders, traffic controls, markings, warnings, lighting, and signage. The Public Entities, through their acts and omissions, failed to meet these responsibilities and caused Ms. Song's death as follows:

A. The Public Entities Owned, Controlled, and Maintained the Property

The Public Entities owned, controlled, and maintained the area where the collision occurred.

B. The Public Entities Created, had Notice of, and Failed to Protect Against Dangerous Conditions of Public Property

The Public Entities created, had notice of, and failed to protect against the dangerous conditions of their property that resulted in the incident and Ms. Song's grueling death.

The Public Entities had actual notice of the conditions at issue and knew or should have known of their dangerous character. (Gov. Code, § 840.4(a).) The Public Entities created the conditions and/or those conditions existed for a long enough time for The Public Entities to have known of and protected against them. These dangerous conditions created a reasonably foreseeable risk of serious injury or death to persons using the areas with due care.

The Public Entities also had constructive notice of the dangerous conditions. (Gov. Code, § 840.4(b).) They had the authority, responsibility, and funds or other means immediately available to effect inspections of the property to determine whether dangerous conditions existed. The dangerous conditions had existed for such a period of time and were of such an obvious nature that in the exercise of due care, The Public Entities should have discovered and protected against them. The existence of these conditions and their dangerous character would have been discovered by an inspection system that was reasonably adequate to inform The Public Entities whether the property was safe for the uses for which The Public Entities used or intended others to use the public property and for uses that The Public Entities actually knew others were making of the public property.

These inspections include, but are not limited to, visual inspections, examination of readily-available traffic safety data, and responses to complaints of prior similar incidents and dangerous conditions near the areas at issue. During the course of any reasonably adequate

inspections, The Public Entities would have discovered these conditions and their dangerous character.

C. The Public Entities' Wrongful Acts Caused the Dangerous Conditions of Public Property

The Public Entities were charged with the responsibility of designing, constructing, operating, signing, maintaining, repairing and regulating Highway 101 and the Willow Road off-ramp, including but not limited to installing and maintaining adequate lanes, shoulders, guard rails, and surrounding areas for motor vehicles, as well as traffic controls, markings, lighting, warnings, and signage.

The Public Entities negligently and carelessly designed, warned, failed to warn, constructed, created, maintained, repaired, owned, operated, controlled, signed, lit, and regulated the dangerous conditions of Highway 101 and the Willow Road off-ramp by:

- Failing to warn of, prevent, or correct a "dangerous condition" on, or immediately adjacent to, public property (Gov. Code, secs. 830(a) *et seq.*, 835 *et seq.*);
- Failing to provide, maintain, control, or regulate Highway 101 and the Willow Road off-ramp in an adequate and safe condition and without providing sufficient width, signage, warnings, markings, lights, controls, speed limits, guard rails, shoulders, surrounding areas, or monitors;
- Failing to properly regulate or restrict traffic so as to prevent unreasonably dangerous motor vehicle conflicts like that which occurred here; and/or
- Failing to warn of, prevent, or correct a trap/latent hazard associated with normal use. The Public Entities had a duty to warn of this both to protect against the risk that Ms. Song or another member of the public could be crushed by falling equipment and the danger of third-party conduct, like a subsequent collision with a motor vehicle.

The acts and omissions of The Public Entities created and caused the dangerous conditions of public property that resulted in the incident at issue. The Public Entities provided no warning of the latent hazards of the roadway conditions that caused the excavator to fall and kill Ms. Song. Ms. Song did not reasonably assume the risk of these dangerous conditions, the existence of which represented an extreme departure from the ordinary standard of care, gross negligence, and an increased the risk of injury.

The dangerous conditions of Highway 101 and its off-ramp were directly attributable to the negligent or wrongful acts or omissions of The Public Entities and their employees, who had the authority, funds and other means immediately available to take action that would have eliminated the dangerous condition. (*See, e.g., Gov. Code, § 840.2(a) et seq.*)

D. The Risks of the Incident were Reasonably Foreseeable

The Public Entities could have, and should have, reasonably foreseen the risk of the incident and the catastrophic injuries to which Ms. Song succumbed. (Gov. Code, § 840.2.) The Public Entities created, caused, and had actual and constructive notice of the dangerous conditions and resulting serious and fatal injuries to motorists like Ms. Song.

E. The Public Entities' Dangerous Conditions of Public Property Proximately Caused Claimants' Injuries

The foregoing facts demonstrate that individually and collectively, the failure of The Public Entities to take modest steps toward safety were a substantial factor in causing Ms. Song's death.

F. Design Immunity Does Not Bar Liability Against The Public Entities

Design immunity does not bar liability against The Public Entities for six reasons. First, the injury-producing elements of The Public Entities' property were not part of an approved design. (*Grenier v. City of Irwindale* (1997) 57 Cal.App.4th 931, 941 fn. 7.)

Second, the construction of the real property did not adhere to the approved plan or design (if any) in a material respect regarding the dangerous conditions.

Third, the dangerous conditions were created in the course of construction of the real property.

Fourth, the approval of the design (if any) was unreasonable.

Fifth, The Public Entities failed to warn Ms. Song, the driver of the truck, and the general public regarding the dangerous conditions that caused the collision. (*See Gov. Code, § 830.8 et seq.*)

Finally, The Public Entities' plans or designs for the area where the collision occurred have become dangerous due to change in physical conditions. (Gov. Code, § 830.6 *et seq.*) The Public Entities had actual or constructive notice of these dangers and had a reasonable amount of time to obtain funds to perform remedial work that would have prevented the collision. The

type of collision and fatal injuries that Ms. Song sustained were also reasonably foreseeable consequences of the dangerous conditions at issue that resulted from The Public Entities' negligent or wrongful conduct.

IV. Claimant's Damages

As a legal result of the dangerous conditions created by The Public Entities, the claimants have necessarily suffered economic and noneconomic damages in amounts currently unknown. They pray for leave to amend this tort claim to assert the true amounts when they are ascertained.

A. Economic Damages

The claimants claim economic damages that include but are not limited to:

1. The costs of past medical expenses;
2. The past and future wage loss and loss of earning capacity; and
3. The reasonable value of household services that Ms. Song would have performed since the collision and will be unable to perform in the future.

The claimants estimate the value of these economic damages at no less than \$10,000,000 (ten million dollars).

B. Noneconomic Damages

The claimants' noneconomic damages include but are not limited to past and future physical pain, mental suffering, and emotional distress. The claimant estimates the value of these economic damages at no less than \$10,000,000 (ten million dollars).

Claimants reserve the right to pray for more types and greater amounts of damages according to proof.

V. Conclusion


Claimants respectfully request that The Public Entities accept their claim for damages, repair the dangerous conditions of public property that caused the collision, and correct these policies, practices, procedures, acts, and omissions that resulted in claimants' damages.

I declare under penalty of perjury under the laws of the State of California that all the information I have provided is true and correct to the best of my information and belief. I

further understand that if I have provided information that is false, intentionally incomplete, or misleading I may be charged with a felony punishable by up to four years in state prison and/or a fine of up to \$10,000 (Pen. Code, sec.72).

DATED: January 20, 2022

THE VEEN FIRM, P.C.

By: 

Steven A. Kronenberg
Attorneys for Claimant



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READING

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Santa Maria Times Staff Report Sep 2, 2021 Updated Sep 2, 2021



1 of 3

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At the same time, David Edmundson, 62, of Arroyo Grande, was driving a 2014 Peterbilt semitruck towing a lowboy trailer loaded with an excavator northbound on the freeway when his right front tire blew out, the CHP said.

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VANDENBERG AIR FORCE BASE
Vandenberg firefighters pictured in

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Nipoma, CA 93444

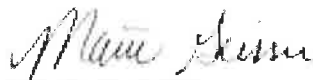
AND

CLERK
NIPOMO COMMUNITY SERVICES DISTRICT
148 South Wilson Street
Nipomo, CA 93444


BY CERTIFIED MAIL – RETURN RECEIPT REQUESTED: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed above and placed the envelope for collection and mailing via Certified Mail, Return Receipt Requested, following our ordinary business practices. I am readily familiar with the practice of The Veen Firm, P.C. for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid. I am a resident or employed in the county where the mailing occurred. The envelope was placed in the mail at San Francisco, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 28, 2022, at San Francisco, California.



Marie Geisser

TO: BOARD OF DIRECTORS
REVIEWED: MARIO IGLESIAS
GENERAL MANAGER 
FROM: PETER V. SEVCIK, P.E.
DIRECTOR OF
ENGINEERING & OPERATIONS
DATE: FEBRUARY 4, 2022

**AGENDA ITEM
D-4
FEBRUARY 9, 2022**

**APPROVE TASK ORDER AMENDMENT WITH CANNON FOR
ENGINEERING SERVICES DURING CONSTRUCTION FOR
NIPOMO PALMS LIFT STATION REPLACEMENT PROJECT**

ITEM

Approve Task Order Amendment with Cannon for engineering services during construction for Nipomo Palms Lift Station Replacement Project [RECOMMEND BY MOTION AND ROLL CALL APPROVE TASK ORDER AMENDMENT WITH CANNON IN THE AMOUNT OF \$29,830 AND AUTHORIZE STAFF TO EXECUTE TASK ORDER].

BACKGROUND

The Nipomo Palms Lift Station Replacement Project involves construction of a replacement lift station next to the existing lift station and demolition of the existing lift station once the replacement lift station is operational.

Cannon was selected by the Board to provide design services for the Nipomo Palms Lift Station Replacement Project. The District subsequently contracted with Cannon to provide engineering services during construction for the Nipomo Palms Lift Station Replacement Project for an amount not to exceed \$35,850.

The project is currently underway but the schedule has been extended due to delays in equipment availability. In addition, the reviews of the contractor's submittals, requests for information (RFI), and progress meetings have been greater in number than was originally anticipated. Cannon has submitted an amendment request for providing the services necessary to complete the project.

FISCAL IMPACT

Funding in the amount of \$1,251,000 is available for the project in the FY 2021-2022 budget. The cost of the proposed Task Order Amendment is \$29,830.

STRATEGIC PLAN

Goal 2. FACILITIES THAT ARE RELIABLE, ENVIRONMENTALLY SENSIBLE AND EFFICIENT. Plan, provide for and maintain District facilities and other physical assets to achieve reliable, environmentally sensible, and efficient District operations.

Goal 5. OPERATIONS. Maintain a proactive program to ensure readiness of systems and cost-effectiveness of operations.

RECOMMENDATION

Staff recommends that the Board, by motion and roll call vote, approve a Task Order Amendment for Nipomo Palms Lift Station Replacement Project Engineering Services During Construction with Cannon in the amount of \$29,830 and authorize the General Manager to execute the Task Order.

ATTACHMENTS

- A. Cannon proposal dated January 20, 2022

FEBRUARY 9, 2022

ITEM D-4

ATTACHMENT A



January 20, 2022

Peter V. Sevcik, P.E.
Director of Engineering and Operations
Nipomo Community Services District
148 South Wilson Street
Nipomo, CA 93444

**PROJECT: NIPOMO PALMS LIFT STATION REPLACEMENT PROJECT
ENGINEERING SERVICES DURING CONSTRUCTION ASA #1**

Dear Mr. Sevcik:

In light of the extended duration of the preliminary construction phase for this project, as well as weekly meetings, and more submittals and RFIs than originally anticipated, we are requesting additional budget for assistance in providing engineering services during construction of the Nipomo Palms Lift Station Replacement Project. The work includes coordination with the project resident engineer and attendance at meetings as requested; being on-site to observe activities and take photos at critical stages of construction; review submittals and shop drawings; respond to requests for information (RFIs); review change orders; prepare and issue plan revisions as necessary; observe start up testing and commissioning as requested; and prepare record drawings.

Attached are the Scope of Services and the estimated budget needed for these additional services. If this meets your approval, please prepare an amendment to the current Task Order for our review and signature.

If you have any questions or comments, please do not hesitate to call me.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Kielborn".

Mike Kielborn, P.E.
Sr. Principal Engineer, Public Infrastructure Division
C 70112



PROJECT UNDERSTANDING AND APPROACH

In general, the work entails continuing to support the District and its construction manager (MNS Inc.) during the construction phase of the project. Work includes coordination with the project resident engineer and attendance at meetings as needed; being on-site to observe activities and take photos at critical stages of construction; review submittals and shop drawings; respond to requests for information (RFIs); review change orders; prepare and issue plan revisions as necessary; observe start up testing and commissioning as requested; and prepare record drawings. Long lead times on materials has pushed the start of construction out, and the attendance at the weekly meetings has exhausted our budget. In order to continue to facilitate the District in this phase of the project, we are requesting additional budget for the following work items.

SCOPE OF WORK

Descriptions of our proposed involvement and proposed deliverables are summarized below within each corresponding project task.

Phase III – Construction Phase Services

Task 12 – Weekly Meetings

We will continue to attend weekly meetings with the Contractor, Construction Manager, District staff, and other appropriate utility agency representatives. This meeting will take place either virtually, or at the project site, depending on project activities occurring. We have assumed weekly meetings will still take place through April 2022, for a total of 12 additional meetings.

Task 13 – Periodic Site Visits

We will perform field visits approximately once a month during construction. These visits can be to review project progress or clarify design intent of the project. The field visits will be documented after each visit, listing what we observed and noting any issues that should be addressed by the District. We have assumed 4 monthly site visits, plus an additional 2 site visits for inspection during closeout (specifically for electrical and controls).

Task 14 – Submittal Reviews

We originally assumed review of 21 submittals total, including resubmittals. To date, we have reviewed 62 submittals, plus additional resubmittals. Our budget for submittal review has been exhausted, and additional submittals still need to be reviewed. We are budgeting for another 10 submittals or re-submittal reviews.

Task 15 – RFI Review and Responses

We originally assumed review of 10 RFIs total. To date, we have reviewed 21 RFIs, plus additional clarification responses. Our budget for RFI review has been exhausted, and additional RFIs are still anticipated. We are budgeting for an additional 10 RFIs.

Task 16 – Review Change Orders

In addition to the RFI reviews, we will provide a recommendation of approval or denial as to our opinion of whether our RFI responses warrant a change order to the contractor. If they are warranted, we will review for completeness and accuracy, and provide the District with our recommendation on approval of the requested amount. We are budgeting for 2 change order reviews.



Task 17 – Record Drawings

At the end of the project, we will prepare record drawings based on redline information provided by the contractor and the field inspection crew. We will include observed deviations noted during our field visits, as well as modifications made through the RFI or change order process. The changes will be compiled and noted on the plans to record the final installed facility.

EXCLUSIONS

The following exclusions apply to this proposal:

- Field verification and/or determination of property boundaries, easements, and public right-of-way, right-of-way dedications, and easement acquisitions.
- Survey monumentation, records of survey, and legal descriptions and exhibits.
- NPDES compliance reporting, Storm Water Pollution Prevention Plans (SWPPP), and erosion and sediment control drawings.
- Archeological, botanical, biological, geotechnical, and landscaping project services.

FEES

Estimated Fees are based on the rates per the enclosed fee schedule and do not include Agency checking or recording fees, or title company fees. It is our understanding that this project qualifies for California Prevailing Wages.

<i>Task 12 – 16, Construction Support</i>	\$ 24,280
<i>Task 17 Record Drawings</i>	\$ 5,050
<i>Reimbursables</i>	\$ 500
<i>T&M Not to Exceed (without prior written approval):</i>	\$ 29,830



Nipomo Community Services District
 Nipomo Palms Lift Station Replacement Project
 Engineering Support during Construction

Cannon
 1050 Southwood Drive
 San Luis Obispo, CA 93401
 805.544.7407

Staffing Plan and Cost Estimate

20-Jan-22

Task	Name	Rate	2022												Est. Hours	Estimated Cost	
			Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec			
Tasks 12 through 16 - Engineering Support during Construction																	
	Larry Kraemer, P.E.	\$232	1	1	1	1										4	\$928
	Michael Kielborn, P.E.	\$223	8	8	8	8										32	\$7,136
	Anthony Severy, P.E.	\$188	4	16	16	8										44	\$8,272
	Jeff Spannbauer, P.E.	\$210	2	2	2	8										14	\$2,940
	Derek Romer, P.E.	\$210	2	2	2	8										14	\$2,940
	Alex Maestre, E.I.T.	\$145	2	2	2											6	\$870
	Marshall Pihl, P.E.	\$199	2	2	2											6	\$1,194
Task 12 - 16 Estimated Hours			21	33	33	33										120	\$24,280
Task 17 - Record Drawings																	
	Michael Kielborn, P.E.	\$223					4									4	\$892
	Anthony Severy, P.E.	\$188					6									6	\$1,128
	Foster Campbell, E.I.T.	\$135					10									10	\$1,350
	Alex Maestre, E.I.T.	\$145					6									6	\$870
	Brandon Apfel	\$135					6									6	\$810
Task 17 Estimated Hours							32									32	\$5,050
Total Estimated Hours			21	33	33	33	32									152	
															Total Estimated Cost of Labor		\$29,330
Direct Expenses																	
Description															Estimated Cost		
Mileage Budget for Site Visits															\$500		
															Total Estimated Direct Expenses		\$500
															Total Estimated Additional Cost of Engineering Support During Construction		\$29,830

TO: BOARD OF DIRECTORS
 FROM: MARIO IGLESIAS
 GENERAL MANAGER
 DATE: February 4, 2022



**AGENDA ITEM
 F
 FEBRUARY 9, 2022**

GENERAL MANAGER'S REPORT

ITEM

Standing report to your Honorable Board -- *Period covered by this report is January 23, 2022 through February 5, 2022.*

DISTRICT BUSINESS

Administrative

The District encourages residents to provide reports of any observed water waste. The District also keeps an accounting of leak adjustments as a measure of non-revenue water lost to leaks as well as tracking late fee waivers. The table below provides January and Calendar Year-to-date data of these items. Data for the month of January is provided below.

OFFICE ACTIVITIES

	Jan 22	Jan 22 - Dec 22
Reports of Water Waste	0	0
Leak Adjustments	2	2
Leak Adjustment Amount	\$982	\$982
Late Fee Waivers	22	22
Late Fee Waiver Adjustment Amount	\$758	\$758

Water Resources

	Jan - 22	Jul 21 - Jan 22
Groundwater Production	34.8	510.3
Supplemental Water Imported	<u>85.6</u>	<u>642.4</u>
Total Production	120.3	1,152.7

The District's total combined production, including groundwater production wells and supplemental water imported through the Joshua Road Pump Station, registered 120.2 AF for the month of January 2022.

NCSD imported 85.6 AF of water over the 31 day period in January, averaging 625 gallons per minute for an average total just under .9 million gallons per day. For fiscal year 2021-22 the District must import at least 1,000 AF (84 AF per month on average) of supplemental water to meet the contractual obligation it has with the City of Santa Maria. The District has imported 642.4 AF of water for the first seven months of the 12 month period, July 2021 through June 2022. Compared to the District's required 1,000 AF [Contract Amount], the District is 54 AF over the minimum water import requirement for the seven month period July 2021 through January 2021.

NCSD GW Reduction

The District’s purveyor customers, Golden State Water Company and Woodlands Mutual Water Company, each claim 16.66% (cumulatively 33.33%) of the imported water NCSD brings onto the basin through the NSW. Of the 1,000 AF minimum imported water from the City of Santa Maria, 333 AF or 33.33% of the total imported water – whichever is greater – will be credited to these two purveyor customers. The credited amount must be added to the District’s groundwater pumping total every month to reflect the groundwater pumped by these customers in-lieu of taking imported water from the District. Table 2 below demonstrates the calculus for determining the District’s adjusted groundwater pumping reduction.

	Jan-22	Jul 21 – Jan 22
NCSD GW Well Production	34.8	510.3
Purveyor Customer Credit (33.3% of Import Water)	28.5	214.0
NCSD Total Calculated GW Production	63.3	724.3
Average GW Production for 2009-2013	142.1	1,384.6
NCSD Percentage of GW Reduction	55%	48%

2022 Fiscal Year Groundwater Pumping Forecast

Table 3 projects the District’s groundwater pumping reduction for the 2022 Fiscal Year. Under the current Stage 4 of the NMMA Water Shortage Response Stages, the targeted groundwater pumping reduction goal is to pump a total of 1,266 AFY (50% of 2009-2013 average District GW Pumping). July 2021 through January 2022 actual production and February 2022 through June 2021 historic production are combined in this table to provide a projected estimate year end status.

Table 3. Projected Groundwater Pumping

	Jan-22	Year-to-Date Jul-Jun 2022	Target	Over/(Under)
NCSD GW Well Production	34.8	908.2		
Purveyor Customer Credit (33.3% of Import Water)	28.5	358.5		
NCSD Total Calculated GW Production	63.3	1,266.7	1,266.0	(1)
Average GW Production for 2009-2013	142.1	2,533.4	2,533.4	
NCSD Percentage of GW Reduction	55%	50%	50.0%	AcFt

Each year water demand trends slightly different depending upon the weather, a major factor that drives water consumption. As actual data replaces projected data, the value of the table to provide year-end groundwater reduction targets becomes more reliable and aids staff in recognizing opportunities for shifting water production strategies. Table 3 shows the District falling short of its pumping reduction goals for fiscal year 2022 by approximately 1 acft.

Table 4 compares the previous year's groundwater pumping with the current year's groundwater pumping for the same period.

	Jan-22	Jul 21 -Jan 22	Jan-21	Jul 20-Jan 21
NCSO GW Well Production	34.8	510.3	61.4	618.7
Purveyor Customer Credit (33.3% of Import Water)	28.5	214.0	24.5	214.2
NCSO Total Calculated GW Production	63.3	724.4	85.9	833.0
Average GW Production for 2009-2013	141.4	1,384.6	141.4	1,384.6
NCSO Percentage of GW Reduction	55.2%	47.7%	39.3%	39.8%

Table 4 is showing an improving trend towards reducing groundwater pumping when compared to the same period last year.

Rainfall Gauge

(Reported in inches)	Nipomo East (Dana Hills Reservoirs)	Nipomo South (Southland Plant)
Jan 2022 Total	0.08	0.07
July-2021 through June-2022 (Season Total)	8.69	6.82
Feb 1, 2022 – Feb 4, 2022	0.00	0.00
Total Rainfall to date	8.77	6.89
County Reported Avg. Ann. Year Rainfall	18.0 ¹	14.0 ²
2006 - 2020 Avg. Ann. Year Rainfall*	15.39	13.30
2006 - 2020 Median Ann. Rainfall*	12.64	11.30

*Data from County website

Connection Report

Nipomo Community Services District Water and Sewer Connections	END OF MONTH REPORT											
	Jan-22	Feb-22	Mar-22	Apr-22	May-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Nov-22	Dec-22
Water Connections (Total)	4500											
Sewer Town connections	2734											
Sewer Blacklake connections	559											
Subtotal	3293											
Galaxy and PSSH at Orchard and Division Sewer connections billed to the County	480											
Sewer Connections (Total)	3773											
New Water Connections	4											
New Sewer Connection	4											

The Connection Report is current to February 5, 2022

Safety Program

No Safety Incidents to Report

Supplemental Water Capacity Accounting

Summary Since January 25, 2008

	Number of Equivalent Meters	AFY
Supplemental Water Available for Allocation	947	500.0
Supplemental Water Reserved (Will Serve Letter Issued)	130	-68.6
Subtotal Net Supplemental Water Available for Allocation	817	431.4
Supplemental Water Assigned (Intent-to-Serve Issued)	177	-93.4
Total Remaining Supplemental Water Available for Allocation	640	338.0

As of February 1, 2022

Other Items

- COVID19 NCSD Response Plan Update [Attachment A]
- 2012 COP Refinance Completed – All objects reached

Meetings (January 23 through February 5)

Meetings Attended (telephonically or in person):

- Jan 24, Staff Mtg. - Admin Supervisor Mtg.
- Jan 25, Eng/Admin Coordination Meeting
- Jan 25, Omnistruct Cybersecurity Presentation
- Jan 26, NCSD Regular Board Meeting
- Jan 26, NCSD After-Board Exec. Team Meeting
- Jan 27, NMMA-TG Meeting
- Jan 28, Staff Mtg. - Cust. Service Specialist
- Jan 28, NMMA Manager's Meeting
- Jan 31, Staff Mtg. - Admin Supervisor Mtg.
- Jan 31, Financial Advisor
- Jan 31, Arrearage Plan – State Program Mtg.
- Jan 31, NCSD Board Officers Mtg.
- Feb 1, GSWC – Site Meeting Lyn Road
- Feb 1, NCSD Management Team Mtg.
- Feb 1, Solid Waste Rate Consultant
- Feb 2, Western Exterminators – Admin Bldg Fumigation
- Feb 2, IRWM Meeting
- Feb 2, CSDA General Manager's Meeting
- Feb 2, Achievement House – Clean Streets Program
- Feb 2, Pre-pricing – 2022 COPs , Raymond James
- Feb 3, MKN – Dana Reserve Eng. Report
- Feb 3, LMUSD – Nipomo Elementary Service Location Review

- Feb 3, Final Pricing – 2022 COPs, Raymond James
- Feb 3, Blacklake Golf – EIR Strategy Meeting

Meetings Scheduled (February 6 through February 12):

Upcoming Meetings (telephonically or in person):

- Feb 7, Staff Mtg. - Admin Supervisor Mtg.
- Feb 7, Eng/Admin Coordination Meeting
- Feb 8, CSDA Quarterly Meeting
- Feb 9, NCSD Regular Board Meeting
- Feb 9, After-Board Exec. Team Meeting
- Feb 10, Blacklake/NCSD Oversight Committee
- Feb 11, Staff Mtg. - Cust. Service Specialist
- Feb 11, Ad-hoc Committee – Dana Reserve Report
- Feb 11, NCSD Board Officer Meeting

Upcoming Water Resource and Other Meetings

Upcoming Standing Meetings:

- NMMA-TG: February 27 (Thursday) @ 10:00 AM, Conf. Call
- RWMG: March 2nd (Wednesday) @ 10:00 AM, Zoom Meeting
- WRAC: March 2nd (Wednesday) @ 1:30 PM, Zoom Meeting
- NMMA Manager's Meeting: March 4th (Friday) @ 10:00 AM, Zoom Meeting
- NCSD Board Officer Meeting: February 11th @ 11:30 am, NCSD Conf. Rm.

RECOMMENDATION

Staff seeks direction and input from your Board

ATTACHMENTS

- A. COVID19 - NCSD Response Plan

FEBRUARY 9, 2022

ITEM F

ATTACHMENT A

Date: February 9, 2022 Board Meeting
Response Activities to COVID19 Health Emergency
Prepared by: Mario Iglesias, General Manager

DISTRICT RESPONSE TO COVID-19, Updated February 4, 2022

New Actions

No new Actions

Personnel on Quarantine

Office Personnel: 1 (close contact quarantine – 5 days)

Operational Personnel: 1 (Contracted COVID – 10 days)

Vaccine Update: (No Change)

Ongoing Actions

1. Unvaccinated Employees testing at least once per week
2. Following SLO Co. Masking guidelines
3. Following Cal/OSHA guidelines
4. Participate in SLO County EOC Briefings
5. Review SLO County EOC Status Reports
6. Practicing Social Distancing
7. Face coverings are required when employees are in District Buildings when they are away from their work stations
8. Office Rules for Safe Customer Management – CDC Guidance Enforced

Previous Actions

1. For the Month of September, District Staff Tested 44 times (all negative results)
2. Mask Mandate Requirement Update – As of September 1, 2021, masks must be worn indoors at public facilities.
3. COVID19 Rapid Test Kits secured from SLO County at no cost to provide weekly work-place testing.
4. NCSO Board Passes Resolution Declaring Emergency in District [Res. 2020-1550, Mar. 24, 2020]
5. Admin Office Closed to the Public
 - a. Meetings are virtual – Conference Calls
6. Discontinued: Split staff into two teams
 - a. See schedule on Response Plan
7. Received directions for FEMA Public Assistance – Cost Tracking Guidance
8. Governor's Executive Order – No Water Turn-offs
 - a. District instituted this policy as well as a No Late Fee – No Penalty Fees
9. Wipe-down between shifts
10. Each operator in separate designated vehicle.
11. Received additional PPE. Administration Staff will be on normal schedule 8-4:30 starting Monday May 18th
12. Operations Staff are on normal 7:00 am to 3:30 pm work schedule as of Monday, May 4th. County opened up construction sites.

Date: February 9, 2022 Board Meeting
Response Activities to COVID19 Health Emergency
Prepared by: Mario Iglesias, General Manager

13. Expanded Customer Service Work to include site visits for investigations (high bills, meter issues) week of May 11
14. Trailers for quarantine have been returned – May 1
15. District to begin wastewater sampling in conjunction with County effort to determine presence of COVID19 in communities – May 11
16. Temporary Admin Support Workers brought back to Office (Provider incentivized due to PPP Funds) – June 1
17. Lobby Modifications: Glass is equipped with speaker plates to allow the communication between customer and clerk without opening the sliding window.
18. Board Meetings open to the public.
19. County Offices Continued Closed with Appointments provided to some departments as needed.
20. June 18, 2020, Governor Order issued requiring face masks be worn in public places. District management purchased disposable face masks for staff, Board Members, and any public that attends District Board Meetings and lack a face mask.
21. The customer counter window modifications at the office are completed.
22. Capital Improvement Projects continue to be impacted and schedules for completion continue to be pushed back due to material delivery delays.
23. Administrative Office open to public – April 19, 2021
24. Mask Mandate in SLO County (reinstated on September 1st) will be lifted when:
 - a. The county reaches the yellow, “moderate” level of COVID-19 community transmission, as defined by the Centers for Disease Control and Prevention (CDC), and stay there for at least 10 days, and
 - b. Public Health Officer Dr. Penny Borenstein determines that COVID-19 hospitalizations are low and stable and area hospitals are able to meet the needs of patients.
25. County Health provided COVID19 Rapid Test that will get us through January 2022. NCSO requesting additional tests for February and March. The District has sufficient tests to sustain routine testing practices through January 2022.
- 26.