### Santa Clara Valley Water District



File No.: 22-0004 Agenda Date: 1/11/2022

Item No.: 3.4.

### **BOARD AGENDA MEMORANDUM**

#### SUBJECT:

Claim of Alie Hussein Saad. Claim of David and Annette Batey. Claim of Roga Gabucan. Claim of Nan Li.

#### **RECOMMENDATION:**

Deny the claims.

#### SUMMARY:

### The Claims

The Santa Clara Valley Water District (Valley Water) received three claims in October 2021 and one claim in November 2021 from Morgan Hill residents asserting property damage as a result of boars accessing their property allegedly due to the draining of Anderson Reservoir (District 1):

- 1. Claim of Alie Hussein Saad. Claim received 10/13/21. Claimant is seeking \$5,500 in damages for sod and lawn.
- 2. Claim of David and Annette Batey. Claim received 10/18/21. Claimant is seeking \$4,499 in damages for sod, yard bench, potted plants and labor.
- 3. Claim of Roga Gabucany. Claim received 10/20/21. Claimant is seeking \$10,000 in damages for 4,000 square ft of grass area.
- 4. Claim of Nan Li. Claim received 11/01/21. Claimant is seeking \$3,000 in damages for broken water pipes and 20 plants)

According to claimants, Anderson Reservoir acted as a natural barrier, preventing wild boars from entering their property. However, now that the reservoir has been effectively drained, wild boars are allegedly crossing the dry reservoir and causing property damage to their property, including rooting up their lawns.

### **Claim Analysis**

File No.: 22-0004 Agenda Date: 1/11/2022

Item No.: 3.4.

The Office of the District Counsel in collaboration with Risk Management investigated these claims and recommends their denial. As explained in greater detail below, the District Counsel is of the opinion that Valley Water does not bear legal liability for these claims for several reasons.

As an initial matter, there is no indication that Valley Water has done anything negligent or unreasonable to cause the boars to enter onto the claimants' property. On the contrary, Valley Water lowered the water level in Anderson Reservoir because the Federal Energy Regulatory Commission (FERC) ordered Valley Water to do so. Because Valley Water did not have any discretion on whether to lower the water level, there is no voluntary action or inaction by Valley Water on which a claimant could base a legal claim.

In addition, California law holds that a landowner is not responsible for the acts of wild animals except under very limited circumstances, none of which apply here.

Also, California is in the midst of an historic drought. It is not unusual for wild animals to seek out new food and water sources as old sources dry up. In other words, it may be the drought and not the draining of Anderson that is causing the wild boars to forage in more developed areas.

There are also various statutory immunities and other legal theories that could protect Valley Water from liability related to its operation of the reservoir and its compliance with the FERC order.

In summary, there is no apparent legal basis on which the claimants base their claims. As such, staff recommends that these claims be denied. Staff has advised the claimants of this recommendation and of their right to speak to the Board at its consideration of this item.

### **ENVIRONMENTAL JUSTICE IMPACT:**

There are no Environmental Justice impacts associated with this item.

#### FINANCIAL IMPACT:

There is no financial impact associated with this item.

#### CEQA:

The recommended action does not constitute a project under CEQA because it does not have a potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

#### ATTACHMENTS:

Attachment 1: Claim, Alie Saad

Attachment 2: Claim, David and Annette Batey

Attachment 3: Claim, Roga Gabucan

Attachment 4: Claim, Nan Li

File No.: 22-0004 Agenda Date: 1/11/2022 item No.: 3.4.

### **UNCLASSIFIED MANAGER:**

Carlos Orellana, 408-630-2755

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### **CLAIM AGAINST THE SANTA CLARA VALLEY WATER DISTRICT** California Government Code Sections 900 and following

				Clerk of the Board's Date Stamp 10/13/21 8:09am				1 8:09am	
The completed form can be maile		electronically		For SCVWD Use Only					
or hand delivered. Mail or deliver  Clerk of the Board	to:			Date Received:			ROUTING		
Santa Clara Valley Water District-HQ 5700 Almaden Expressway				☐ Via U.S. Mai	:		CEO:		
San Jose, CA 95118				☐ Hand Delivered:			□ District (	Counsel	
Or submit the completed form electronically to:				▼ E-mail:			💢 Risk Ma	nagement Org	
clerkoftheboard@valleywater.org				Other:			COB		
							⊠ BOD (□	District #):1_	
With certain exceptions, claims for rise to the claim. Claimant must couse additional pages if necessary. It believe will be helpful to process you	omplete Please a	each section. If in attach itemized red	nforma eipts,	tion is unknown, w witness statement:	rite "unknos, photos a	own' and a	in the approp	riate box. Please	
Name of Claimant: Alie Hussein	Saad								
Address of Claimant: 3441 Oak Lane			City:				ate: CA	Zip: 95037	
Mailing Address to Which Notices Should be Sent if Different From Above:			City:	St		Sta	ate:	Zip:	
Home Phone Number: N/A		Cell Phone Number: 4089217729			Work Phone Number: N/A				
Is this claim being filed on behalf of a minor? ☐ Yes ☒ No				If so, please indicate minor's date of birth: Relationship to the minor:					
Date and time of incident or	Locati	on of incident or	r loss (address): Is ther			there a police report?			
loss:		41 Oak Lane, M	organ	Hill, CA 95037	☐ Yes	lf	Yes, Police	Report #:	
During the months of September					_				
and October 2021					X No				
Describe how the incident or loss responsible for your damages ( <i>P</i> My newly replaced lawn at the b have been destroyed by two here. The dried lake bed has allowed t grubs from the lawn.	lease a ack of t ds of Bo	attach additional the house facing pars. I paid 5500	sheets the la dolla	s <i>if necessary</i> ): ke and to the we: rs for the lawn ar	st side of d sod.	the I	house		



## CLAIM AGAINST THE SANTA CLARA VALLEY WATER DISTRICT California Government Code Sections 900 and following

Page 2 of 2

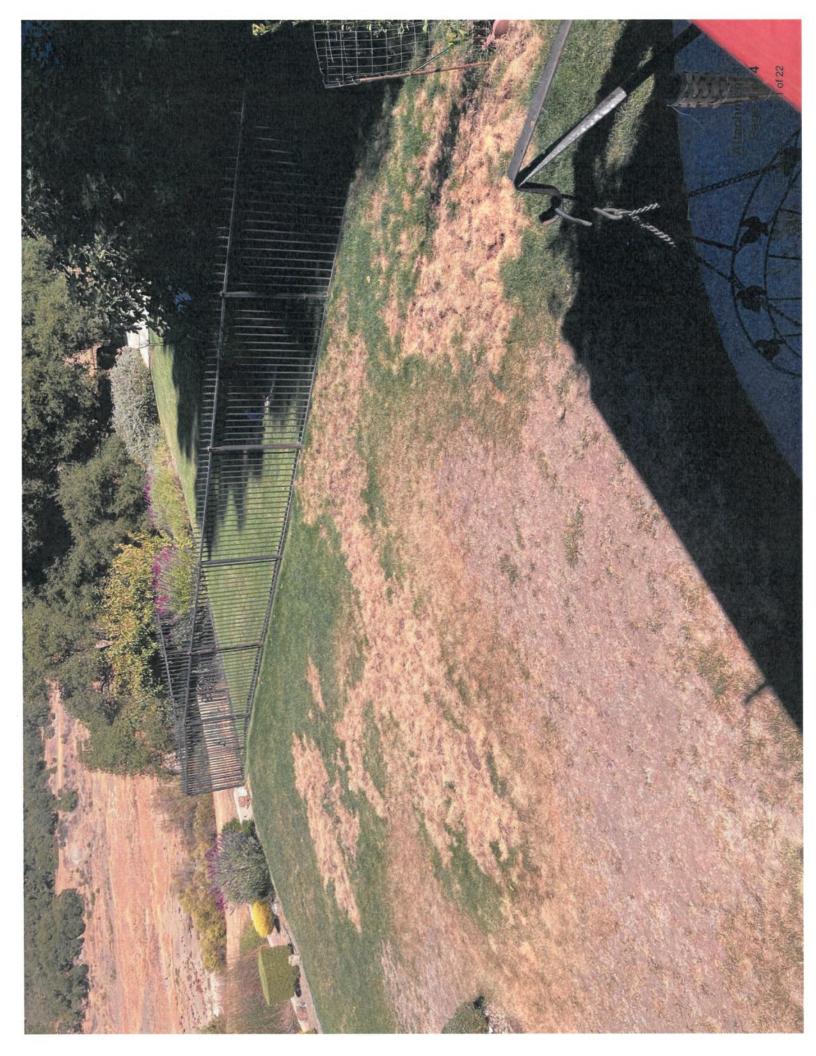
In detail, des	cribe the d	amage or	njury <i>(Please</i>	attach ad	ditional s	heets if I	necessary):		
The grass h	as been co	mpletely r	ipped apart be	yond repa	ir. The s	od is gor	ne.		
List Name(s)	and conta	ct informat	ion of any witr	ness(es) o	r District	employe	ee involved (if any):	!	
All the neigh	nbors are v	itnesses a	s well as my h	aving pos	ted on N	ext Door	pictures of the Boa	ırs.	
							copies of bills, invo		
							than \$10,000, you mited Jurisdiction (		
Unlimited juri	isdiction of	the Super	ior Court.				Ì	•	
Is the amoun			510,000?	☐ Yes	ited Civil		<ul><li>☐ No</li><li>☐ Unlimited Civil</li></ul>		
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2.						-	•		\$
3.									\$
4.									\$
							TOTAL AMOI		\$ 5,500.00
MARNING, IT	IS A CRIM	INAL OFF	ENCE TO EILE	A FALSE	OD ED	UDIII E	NT CLAIM (Penal C	ada S	notion 72 and EEO\
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except to thos	se matters	stated upo	n information	and belief	and as t	o such n			to be true. I certify
under penalty	of perjury	that the fo	regoing is TRI	JE and Co	URREC1				
Signed this	12th	day of	Ootobar	, 20	21	Alie I	H Saad		
Signed this	1201	day of	October	, 20			nt's signature		
_									

Government Code Section 945.6 provides that, with limited exceptions, any suit brought against a public entity must be commenced:

- (1) If written notice is given of a denial of claim in accordance with <u>Section 913</u>, not later than six months after the date such notice is personally delivered or deposited in the mail.
- (2) If written notice is not given of a denial of claim in accordance with <u>Section 913</u>, within two years from the accrual of the cause of action.

  Attachment 1





Santa Clara Valley Water District

### **CLAIM AGAINST THE SANTA CLARA VALLEY WATER DISTRICT** California Government Code Sections 900 and following

	Clerk of the Board's	Date Stamp 1	0/18/21 7:45am			
The completed form can be mailed, sent electronically	F	or SCVWD Use	Only			
or hand delivered. Mail or deliver to:	Date Received:	RO	UTING			
Clerk of the Board Santa Clara Valley Water District-HQ	☐ Via U.S. Mail:	X	CEO:			
5700 Almaden Expressway San Jose, CA 95118	☐ Hand Delivered:	x	District Counsel			
Or submit the completed form electronically to:	E-mail: Clerk of	the Board X	Risk Management			
clerkoftheboard@valleywater.org	☐ Other:	X	СОВ			
		x	BOD (District #):1			
With certain exceptions, claims for personal injury or property or rise to the claim. Claimant must complete each section. If inform use additional pages if necessary. Please attach itemized receipts, believe will be helpful to process your claim. Claimant MUST sign a	ation is unknown, write , witness statements, pl	"unknown" in th notos and all oth	e appropriate box. Please			
Name of Claimant: David + Annett	e Bate	<b>u</b>				
Address of Claimant: City 3275 Butterfly Lane W	<i>y</i> :	State:	Zip:			
		Charles	95037			
Mailing Address to Which Notices Should Be Sent if Different From Above:	<i>y</i> . 0	State:	Zip:			
Home Phone Number: Cell Phone Number 408 - 660		Work Phone N	lumber:			
	o, please indicate min ationship to the mino		rth:			
Date and time of incident or loss loss: 2021 3775 Butter September-October	fly lane					
Describe how the incident or loss happened, and the reason you believe the Santa Clara Valley Water District is responsible for your damages (Please attach additional sheets if necessary):  Wild pigs have invaded or wieighbour head. This coincides with the draining of the lake Anderson Rescrucively the Souta Clara Valley Water District. The pigs now week across the any lakebed and into our neighbourhood.						

Santa Clara Valley Water District

### **CLAIM AGAINST THE SANTA CLARA VALLEY WATER DISTRICT** California Government Code Sections 900 and following

Page 2 of 2

In detail, describe the damage or injury (Please attach additional sheets if necessary):	
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nopped open biggs allows ellowers	/ . /
This happens dievre the day and at night and a danger to any one out side as well as des	LIS WOO
a danger to anyone out side as well as des	structive
List Name(s) and contact information of any witness(es) or District employee involved (if any):	
DAMAGES CLAIMED: Basis for computation of amounts claimed (include copies of bills, invoices, estimat photos, police case # or other documentation.) Note: If your claim is more than \$10,000, you need not fill amount, but must state whether jurisdiction for the claim would be in the Limited Jurisdiction (up to \$25,000).	in an
	III OF
	u) or
Unlimited jurisdiction of the Superior Court.	u) or
Unlimited jurisdiction of the Superior Court.	u) or
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Unlimited jurisdiction of the Superior Court.  Is the amount of the claim under \$10,000?  Court Jurisdiction: (Check One)  ITEMS  CLAIM  1. 1500 Sq. 4 Sod (u) delvey)  \$  3. Yard beach  \$  \$  \$  \$  \$  \$  \$  \$  \$  \$  \$  \$  \$	M AMOUNT 1199.00 400.00
Unlimited jurisdiction of the Superior Court.  Is the amount of the claim under \$10,000?  Court Jurisdiction: (Check One)  ITEMS  CLAIM  1. 1,500 Sq. 4 Sod (w.l. delucy)  2. compost (w.l. delucy)  \$ 3. Vard beach  \$ \$ \$ \$ \$ \$	M AMOUNT 1199.06 400.00
Unlimited jurisdiction of the Superior Court.  Is the amount of the claim under \$10,000?  Court Jurisdiction: (Check One)  ITEMS  CLAIM  1. 1,500 Sq. (+ sod (w) delvery)  2. compost (w) delvery)  \$ 3. Yard beach  4. potted plants  \$ 5. Lobor - landscape reconstruction, sod TOTAL AMOUNT \$	M AMOUNT  1 99.06  400.00  500.00  200.00  1200.00
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Unlimited jurisdiction of the Superior Court.  Is the amount of the claim under \$10,000?  Court Jurisdiction: (Check One)  ITEMS  CLAIM  1. 1,500 Sq. 4 Sod (u) delvery  \$ 2. corgan compost (u) delvery  \$ 3. Yard beach  4. potted plants  \$ 5. Labor - landscape reconstruction, Sod TOTAL AMOUNT \$	M AMOUNT  1 99.06  400.00  200.00  1200.00  1499.00  172 and 550)  n knowledge,
Unlimited jurisdiction of the Superior Court.  Is the amount of the claim under \$10,000?  Court Jurisdiction: (Check One)  ITEMS  CLAIM  1.   5000 Sq. Ct. Sood (unl deduced)  2.   3.   4.   70 Hed   70 MeV.   5	M AMOUNT  1 99.06  400.00  200.00  1200.00  1499.00  172 and 550)  n knowledge,
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Unlimited jurisdiction of the Superior Court.  Is the amount of the claim under \$10,000?  Court Jurisdiction: (Check One)  ITEMS  CLAIM  1.   5000 Sq. Ct. Sood (unl deduced)  2.   3.   4.   90 Hed   910005   \$  SARNING: IT IS A CRIMINAL OFFENSE TO FILE A FALSE OR FRAUDULENT CLAIM (Penal Code Section Inave read the matters and statements made in the above claim and I know the same to be true of my own except to those matters stated upon information and belief and as to such matters I believe the same to be under penalty of perjury that the foregoing is TRUE and CORRECT.	M AMOUNT  1 99.06  400.00  200.00  1200.00  1499.00  172 and 550)  n knowledge,
Unlimited jurisdiction of the Superior Court.  Is the amount of the claim under \$10,000?  Court Jurisdiction: (Check One)  ITEMS  CLAIM  1.   500 Sq. Ct. Scale (unl deluce)  2.   3   4   10 Heal plants  S   4   10 Heal plants  S   5   10   10   10   10   10   10   10	M AMOUNT  1199.06  400.00  200.00  1200.00  1499.00  172 and 550)  n knowledge, true. I certify

(1) If written notice is given of a denial of claim in accordance with Section 913, not later than six months after the date

such notice is personally delivered or deposited in the mail.

(2) If written notice is not given of a denial of claim in accordance with Section 913, within two years from the accrual of the cause of action.

# Santa Clara Valley Water District

### CLAIM AGAINST THE SANTA CLARA VALLEY WATER DISTRICT California Government Code Sections 900 and following

To view video, click here to download: https://fta.valleywater.org/dl/luPTQZkoq4

			Clerk of the Board's Date Stamp 10/20/21 3:20pm				
The completed form can be mail	ed. seni	electronically		For SCV	WD Use Only	1	
or hand delivered. Mail or deliver	to:		Date Received:	10/20/21	ROUTING	G	
Clerk of the Board Santa Clara Valley Water District-HQ 5700 Almaden Expressway San Jose, CA 95118				☐ Via U.S. Mail:			
			☐ Hand Deliver	red:	□ District     □ District	ct Counsel	
Or submit the completed form electronically to:			E-mail: Cleri	k of the Bo	oard 🛛 Risk I	Management	
clerkoftheboard@valleywater.org			Other:	-	☑ COB		
						(District #):	
With certain exceptions, claims for rise to the claim. Claimant must of use additional pages if necessary, believe will be helpful to process you	omplete Please a	each section. If it attach itemized rec	nformation is unknown, w eipts, witness statements	nte "unkno s, photos ai	wn in the app nd all other do	rupriale bux. Flease	
Name of Claimant: Roga	Gabuca	n				·	
Address of Claimant:  /// CAC OAK VIEW CIR			City: Mozgan H	://	State:	Zip: 95037	
Mailing Address to Which Notice Different From Above:	s Shou	ld be Sent if	City:		State:	Zip:	
Home Phone Number: 408 439 4177		Cell Phone Nur 408)43		Work F	Phone Numbe	er:	
Is this claim being filed on behalf of a minor?  No			If so, please indicate minor's date of birth: Relationship to the minor:				
Date and time of incident or	Locati	on of incident or	loss (address):	Is there a	police repor	t?	
loss: /0-18-2/	Car	wt Yara		☐ Yes	If Yes, Police	e Report #:	
10-18-21 A 1:30 A.M.	rice			No No			
Describe how the incident or loss responsible for your damages (F	lease a	ttach additional	sheets if necessary):		-		
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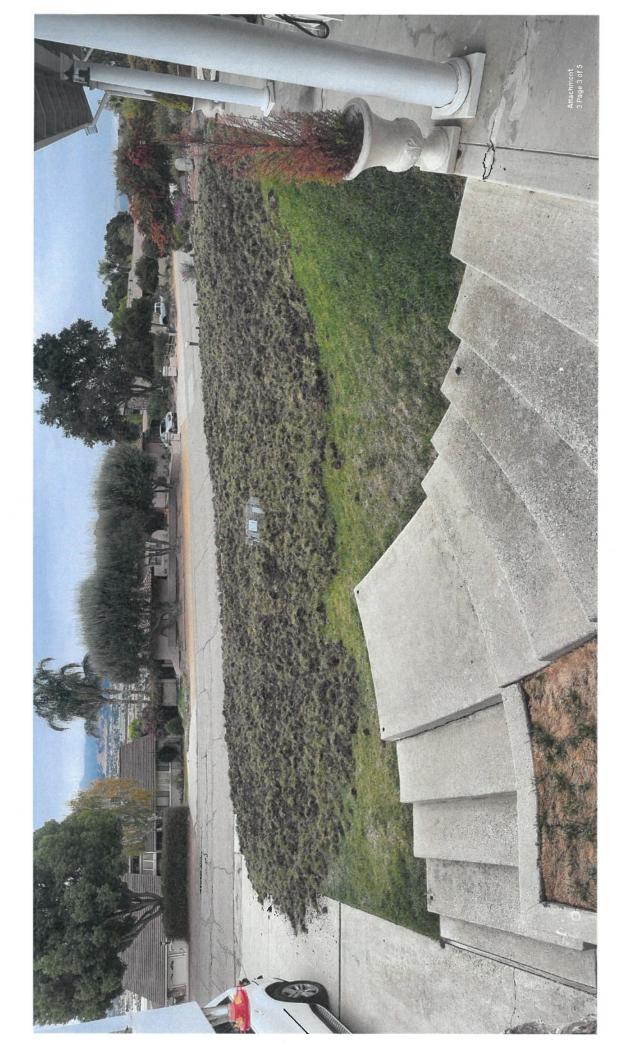
Santa Clara Valley Water District

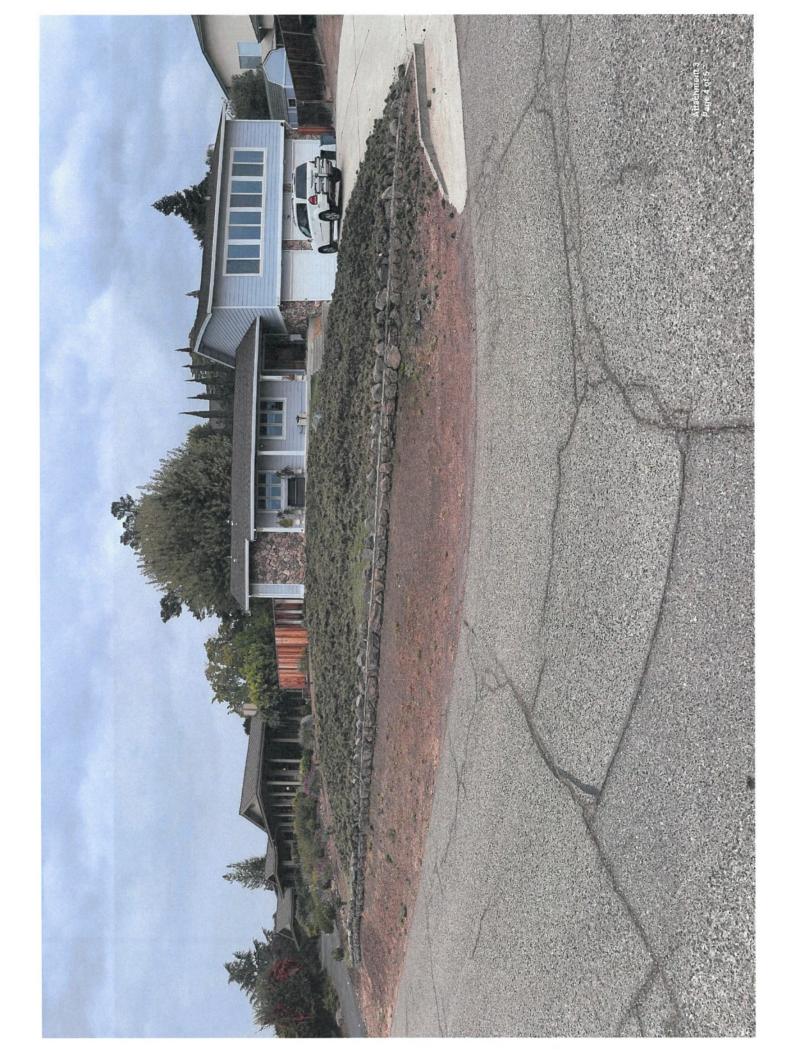
the cause of action.

### **CLAIM AGAINST THE SANTA CLARA VALLEY WATER DISTRICT** California Government Code Sections 900 and following

In detail, describe the damage or injury (Please attach additional sheets if necessary):	
A pac of Wild Bones destroy my Yard a had installed About 4 yours Ago. I ?	hich I
had installed About 4 yours Ago. I s	pend so
much Putting this GRASS IN and Mainta	ing 17
to be dostroyed in Just 2 hours.	
List Name(s) and contact information of any witness(es) or District employee involved (if any):	
I had king Video and the Community Jackson Oaks & Holiday lake whos have	of
Jackson Oaks & Holiday lake whos have	ing this
Issues.	
DAMAGES CLAIMED: Basis for computation of amounts claimed (include copies of bills, invoices, photos, police case # or other documentation.) Note: If your claim is more than \$10,000, you need amount, but must state whether jurisdiction for the claim would be in the Limited Jurisdiction (up to Unlimited jurisdiction of the Superior Court.	d not fill in an
Is the amount of the claim under \$10,000?  Court Jurisdiction: (Check One)  Yes  Unlimited Civil	
ITEMS	CLAIM AMOUNT
1. ONER 4,000 SQF OF GRASS AREA	\$ 10,000
2.	\$
3.	\$
4.	s
TOTAL AMOUNT	\$ 10,000
WARNING: IT IS A CRIMINAL OFFENSE TO FILE A FALSE OR FRAUDULENT CLAIM (Penal Code	Section 72 and 550)
I have read the matters and statements made in the above claim and I know the same to be true of except to those matters stated upon information and belief and as to such matters I believe the sam under penalty of perjury that the foregoing is TRUE and CORRECT.	my own knowledge, ne to be true. I certify
Signed this 20th day of October , 20 21 Claimant's signature	
Government Code Section 945.6 provides that, with limited exceptions, any suit brought against a pu commenced:	blic entity must be
(1) If written notice is given of a denial of claim in accordance with <u>Section 913</u> , not later than six mosuch notice is personally delivered or deposited in the mail.	onths after the date

(2) If written notice is not given of a denial of claim in accordance with Section 913, within two years from the accrual of







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Sonla Gara Valley Water District

### CLAIM AGAINST THE SANTA CLARA VALLEY WATER DISTRICT California Government Code Sections 900 and following

The completed form can be maited, sent electronically or hand delivered. Mail or deliver to:  Card of the Board Exists Clark Visitiny Water Descripting Sign Jose, CA 195118  Or subset the congressed form electronically to: cales and serve places. Call 118  Or subset the completed form electronically to: cales and serve places. Call 118  Or subset the completed form electronically to: cales and serve places. Call 118  Or subset the completed form electronically to: cales and e	7:30a				
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It so, please indicate minor's date of birth:  Relationship to the minor:  It so, please indicate minor's date of birth:  Relationship to the minor:  Is there a police report?  Is there a police report?  In thiple (authors Front yare) (2236 Via Pres II yes Police Reports times within had be made,  South Arm.) X No  secrete how the incount or loss happened, and the reason you believe the Santa Clara Valley Water Date possible to your damages (Please attach additional sheets if necessary).  The distinity of Andrew Lake has allowed wild bears to the the distinity of Andrew Lake has allowed wild bears to the the distinity of Andrew Lake has allowed wild bears to the the distinity of Andrew Lake has allowed wild bears to the the distinity of Andrew Lake has allowed wild bears to the the distinity of Andrew Lake has allowed wild bears to the content of the distinity of Andrew Lake has allowed wild bears to the content of the distinity of Andrew Lake has allowed wild bears to the content of the distinity of Andrew Lake has allowed wild bears to the content of the distinity of Andrew Lake has allowed wild bears to the content of the distinity of Andrew Lake has allowed wild bears to the content of the distinity of Andrew Lake has allowed wild bears to the content of the distinity of Andrew Lake has allowed will be an all the distinity of Andrew Lake has allowed will be an all the distinity of Andrew Lake has allowed with the content of the conte	1771				
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his Highe Contless Front year (2235 inc Pros # Year Police Red times within half be mades Sente Eleme) X No House to be hardens and the reason you believe the Same Clara Valley Waser Date consider to your demandes (Presse attech additional sheets it recessary).  The draining of Andrew Lake has allowed wild bears to no the dry lake bed and invide afforded Reach where and					
times within but be mades South Elena) X No secretor how the incoment or loss happened and the reason you believe the Sarra Chara Valley Waser Dear soons to your damages (Presse attach accidental sheets of necessary): The draining of Andrew Lake has allowed wild bears to the the dry lake bed and invide affords Reach where and					
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Santa Gara Valley Water District

# CLAIM AGAINST THE SANTA CLARA VALLEY WATER DISTRICT California Government Code Sections 900 and following

In detail, describe the damage or injury (Please attach additional sheets if necessary):	
The will bous have broken our water pipes of our	· la · a ·
	drip symm,
dealinged 20 plants, dag up All ar match.	
1 ,	
List Name(s) and contact information of any witness(es) or District employee involved (if any):	
Stiden Feb 680-861-1057	
Zhrishi Li 715-531-7632	
DAMAGES CLAIMED: Basis for computation of amounts claimed (include copies of bills, invoices, photos, police case # or other documentation.) Note: If your claim is more than \$10,000, you need amount, but must state whether jurisdiction for the claim would be in the Limited Jurisdiction (up to	not fill in an
Unlimited jurisdiction of the Superior Court.	
Is the amount of the claim under \$10,000?  Court Jurisdiction: (Check One)  Yes   No   Unlimited Civil   Unlimited Civil	
ITEMS	CLAIM AMOUNT
1. 20 plats	\$ 3000
2	5
3	\$
	\$
TOTAL AMOUNT	\$ 3.000

### WARNING: IT IS A CRIMINAL OFFENSE TO FILE A FALSE OR FRAUDULENT CLAIM (Penal Code Section 72 and 550)

I have read the matters and statements made in the above claim and I know the same to be true of my own knowledge, except to those matters stated upon information and belief and as to such matters I believe the same to be true. I certify under penalty of perjury that the foregoing is TRUE and CORRECT.

Signed this 39 day of October 20 21 Mount

Government Code Section 945.6 provides that, with limited exceptions, any suit brought against a public entity must be commenced:

- (1) If written notice is given of a denial of claim in accordance with <u>Section 913</u>, not later than six months after the date such notice is personally delivered or deposited in the mail.
- (2) If written notice is not given of a denial of claim in accordance with <u>Section 913</u>, within two years from the accrual of the cause of action.

Attachment 4
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