



# Santa Clara Valley Water District

**File No.:** 22-0004

**Agenda Date:** 1/11/2022

**Item No.:** 3.4.

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## 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**

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

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**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**

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<b>The completed form can be mailed, sent electronically or hand delivered. Mail or deliver to:</b>  Clerk of the Board Santa Clara Valley Water District-HQ 5700 Almaden Expressway San Jose, CA 95118  Or submit the completed form electronically to: <a href="mailto:clerkoftheboard@valleywater.org">clerkoftheboard@valleywater.org</a>	Clerk of the Board's Date Stamp <b>10/13/21 8:09am</b>	
	<b>For SCVWD Use Only</b>	
	Date Received:	<b>ROUTING</b>
	<input type="checkbox"/> Via U.S. Mail:	<input checked="" type="checkbox"/> CEO:
	<input type="checkbox"/> Hand Delivered:	<input checked="" type="checkbox"/> District Counsel
	<input checked="" type="checkbox"/> E-mail:	<input checked="" type="checkbox"/> Risk Management <b>Org</b>
<input type="checkbox"/> Other: _____	<input checked="" type="checkbox"/> COB	
	<input checked="" type="checkbox"/> BOD (District #): <b>1</b>	

**With certain exceptions, claims for personal injury or property damage MUST be filed within six months of the incident giving rise to the claim. Claimant must complete each section. If information is unknown, write "unknown" in the appropriate box. Please use additional pages if necessary. Please attach itemized receipts, witness statements, photos and all other documentation that you believe will be helpful to process your claim. Claimant MUST sign and date the form; see last page.**

Name of Claimant: <b>Alie Hussein Saad</b>			
Address of Claimant: <b>3441 Oak Lane</b>		City: <b>Morgan Hill</b>	State: <b>CA</b>
Mailing Address to Which Notices Should be Sent if Different From Above:		City:	State:
Home Phone Number: <b>N/A</b>	Cell Phone Number: <b>4089217729</b>	Work Phone Number: <b>N/A</b>	
Is this claim being filed on behalf of a minor? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		If so, please indicate minor's date of birth: _____ Relationship to the minor: _____	
Date and time of incident or loss:  <b>During the months of September and October 2021</b>	Location of incident or loss (address):  <b>3441 Oak Lane, Morgan Hill, CA 95037</b>	Is there a police report? <input type="checkbox"/> Yes If Yes, Police Report #:  <input checked="" type="checkbox"/> No	

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*):

My newly replaced lawn at the back of the house facing the lake and to the west side of the house have been destroyed by two herds of Boars. I paid 5500 dollars for the lawn and sod.

The dried lake bed has allowed the Boars to cross over seeking water from the pond at the back of my home and eat grubs from the lawn.



**CLAIM AGAINST THE SANTA CLARA VALLEY WATER DISTRICT**  
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In detail, describe the damage or injury (*Please attach additional sheets if necessary*):

The grass has been completely ripped apart beyond repair. The sod is gone.

List Name(s) and contact information of any witness(es) or District employee involved (if any):

All the neighbors are witnesses as well as my having posted on Next Door pictures of the Boars.

**DAMAGES CLAIMED:** Basis for computation of amounts claimed (include copies of bills, invoices, estimates, receipts, photos, police case # or other documentation.) Note: If your claim is more than \$10,000, you need not fill in an amount, but must state whether jurisdiction for the claim would be in the Limited Jurisdiction (up to \$25,000) or Unlimited jurisdiction of the Superior Court.

Is the amount of the claim under \$10,000? ☒ Yes ☐ No  
Court Jurisdiction: (Check One) ☐ Limited Civil ☐ Unlimited Civil

ITEMS	CLAIM AMOUNT
1. Sod and Lawn for the back of the house and the side of the house replaced in early 2021	\$ 5,500.00
2.	\$
3.	\$
4.	\$
<b>TOTAL AMOUNT</b>	<b>\$ 5,500.00</b>

**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 12th day of October, 20 21 Alie H Saad  
Claimant'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 **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.

**Attachment 1**  
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**CLAIM AGAINST THE SANTA CLARA VALLEY WATER DISTRICT**  
**California Government Code Sections 900 and following**

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<p><b>The completed form can be mailed, sent electronically or hand delivered. Mail or deliver to:</b></p> <p>Clerk of the Board Santa Clara Valley Water District-HQ 5700 Almaden Expressway San Jose, CA 95118</p> <p>Or submit the completed form electronically to: clerkoftheboard@valleywater.org</p>	Clerk of the Board's Date Stamp <b>10/18/21 7:45am</b>	
	<b>For SCVWD Use Only</b>	
	Date Received:	<b>ROUTING</b>
	<input type="checkbox"/> Via U.S. Mail:	<input checked="" type="checkbox"/> CEO:
	<input type="checkbox"/> Hand Delivered:	<input checked="" type="checkbox"/> District Counsel
<input checked="" type="checkbox"/> E-mail: <b>Clerk of the Board</b>	<input checked="" type="checkbox"/> Risk Management	
<input type="checkbox"/> Other: _____	<input checked="" type="checkbox"/> COB	
	<input checked="" type="checkbox"/> BOD (District #): <b>1</b>	

*With certain exceptions, claims for personal injury or property damage MUST be filed within six months of the incident giving rise to the claim. Claimant must complete each section. If information is unknown, write "unknown" in the appropriate box. Please use additional pages if necessary. Please attach itemized receipts, witness statements, photos and all other documentation that you believe will be helpful to process your claim. Claimant MUST sign and date the form; see last page.*

Name of Claimant: <b>David + Annette Batay</b>			
Address of Claimant: <b>3275 Butterfly Lane</b>		City: <b>Morgan Hill</b>	State: <b>CA</b>
Mailing Address to Which Notices Should be Sent if Different From Above:		City:	State:
Home Phone Number:		Cell Phone Number: <b>408-660-7125</b>	Work Phone Number:
Is this claim being filed on behalf of a minor? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		If so, please indicate minor's date of birth: _____ Relationship to the minor: _____	
Date and time of incident or loss: <b>2021 September-October</b>	Location of incident or loss (address): <b>3275 Butterfly Lane</b>	Is there a police report? <input type="checkbox"/> Yes If Yes, Police Report #: _____ <input type="checkbox"/> No	

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 our neighborhood. This coincides with the draining of the Lake Anderson Reservoir by the Santa Clara Valley Water District. The pigs now walk across the dry lakebed and into our neighborhood.



In detail, describe the damage or injury (Please attach additional sheets if necessary):

Wild pigs have dug up our grass in the backyard,  
churned down a bank of dirt, broken a lawn bench,  
ripped open bags of lawn clippings, scattering them (and wood piles)  
This happens during the day and at night and is  
a danger to anyone outside as well as destructive.

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, estimates, receipts, photos, police case # or other documentation.) Note: If your claim is more than \$10,000, you need not fill in an amount, but must state whether jurisdiction for the claim would be in the Limited Jurisdiction (up to \$25,000) or Unlimited jurisdiction of the Superior Court.

Is the amount of the claim under \$10,000?

☒ Yes

☐ No

Court Jurisdiction: (Check One)

☐ Limited Civil

☐ Unlimited Civil

ITEMS	CLAIM AMOUNT
1. 1,500 sq ft sod (w/ delivery)	\$ 1199.00
2. organic compost (w/ delivery)	\$ 400.00
3. yard bench	\$ 500.00
4. potted plants	\$ 200.00
5. Labor - landscape reconstruction, sod	\$ 1200.00
<b>TOTAL AMOUNT</b>	<b>\$ 4499.00</b>

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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

10

day of

October

20

21

*David Baty*  
Claimant's signature

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**CLAIM AGAINST THE SANTA CLARA VALLEY WATER DISTRICT**  
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To view video, click here to download: <https://fta.valleywater.org/dl/luPTQZkoq4>

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	For SCVWD Use Only	
	Date Received: 10/20/21	ROUTING
	<input type="checkbox"/> Via U.S. Mail:	<input checked="" type="checkbox"/> CEO:
	<input type="checkbox"/> Hand Delivered:	<input checked="" type="checkbox"/> District Counsel
	<input checked="" type="checkbox"/> E-mail: Clerk of the Board	<input checked="" type="checkbox"/> Risk Management
<input type="checkbox"/> Other:	<input checked="" type="checkbox"/> COB	
	<input checked="" type="checkbox"/> BOD (District #): 1	

With certain exceptions, claims for personal injury or property damage MUST be filed within six months of the incident giving rise to the claim. Claimant must complete each section. If information is unknown, write "unknown" in the appropriate box. Please use additional pages if necessary. Please attach itemized receipts, witness statements, photos and all other documentation that you believe will be helpful to process your claim. Claimant MUST sign and date the form; see last page.

Name of Claimant: Roga Gabucan			
Address of Claimant: 16620 OAKVIEW CIR		City: Morgan Hill	State: CA
Mailing Address to Which Notices Should be Sent if Different From Above:		City:	State: Zip:
Home Phone Number: 408 439 4177	Cell Phone Number: 408 439-4178	Work Phone Number:	
Is this claim being filed on behalf of a minor? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		If so, please indicate minor's date of birth: _____ Relationship to the minor: _____	
Date and time of incident or loss: 10-18-21 @ 1:30 A.M.	Location of incident or loss (address): Front Yard	Is there a police report? <input type="checkbox"/> Yes If Yes, Police Report #: _____ <input checked="" type="checkbox"/> No	

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):

The Problem started After draining Lake Anderson. Herds of wild boars could now cross the lake and expanding several square miles of their Habitat. I have lived here for about five years. Never once I had problems with wild boars until the lake was drained. I have neighbors that lived here for over 45 years and never once has this problem also.



CLAIM AGAINST THE SANTA CLARA VALLEY WATER DISTRICT  
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In detail, describe the damage or injury (Please attach additional sheets if necessary):

A PAC OF Wild Boars destroy my YARD which I had installed about 4 years ago. I spend so much putting this GRASS in and maintaining it to be destroyed in just 2 hours.

List Name(s) and contact information of any witness(es) or District employee involved (if any):

I had Ring Video and the Community of Jackson Oaks & Holiday Lake who's having this Issues.

DAMAGES CLAIMED: Basis for computation of amounts claimed (include copies of bills, invoices, estimates, receipts, photos, police case # or other documentation.) Note: If your claim is more than \$10,000, you need not fill in an amount, but must state whether jurisdiction for the claim would be in the Limited Jurisdiction (up to \$25,000) or Unlimited jurisdiction of the Superior Court.

Is the amount of the claim under \$10,000?

☒ Yes

☐ No

Court Jurisdiction: (Check One)

☐ Limited Civil

☐ Unlimited Civil

ITEMS	CLAIM AMOUNT
1. Over 4,000 SQF OF GRASS AREA	\$ 10,000
2.	\$
3.	\$
4.	\$
TOTAL AMOUNT	\$ 10,000

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Signed this 20<sup>th</sup> day of October, 20 21

Claimant's signature

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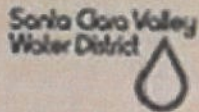






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	<b>For SCVWD Use Only</b>	
	Date Received: <b>11/1/21</b>	<b>ROUTING</b>
	<input type="checkbox"/> Via U.S. Mail:	<input checked="" type="checkbox"/> CEO:
	<input type="checkbox"/> Hand Delivered:	<input checked="" type="checkbox"/> District Counsel:
<input checked="" type="checkbox"/> E-mail: <b>COB</b>	<input checked="" type="checkbox"/> Risk Management:	
<input type="checkbox"/> Other: _____	<input checked="" type="checkbox"/> COO:	
	<input checked="" type="checkbox"/> EOD (District #): <b>1</b>	

With certain exceptions, claims for personal injury or property damage MUST be filed within six months of the incident giving rise to the claim. Claimant must complete each section. If information is unknown, write "unknown" in the appropriate box. Please use additional pages if necessary. Please attach itemized receipts, witness statements, photos and all other documentation that you believe will be helpful to process your claim. Claimant MUST sign and date the form; see last page.

Name of Claimant: <b>NAN LI</b>			
Address of Claimant: <b>2235 VIA SANTA ELENA</b>		City: <b>↑</b>	State: <b>↑</b>
Mailing Address to Which Notices Should be Sent if Different From Above:		City: <b>↑</b>	State: <b>↑</b>
		<b>MORGAN HILL</b>	<b>CA</b>
Home Phone Number:		Cell Phone Number: <b>650-804-8054</b>	Work Phone Number:
Is this claim being filed on behalf of a minor? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		If so, please indicate minor's date of birth: _____ Relationship to the minor: _____	
Date and time of incident or loss: <b>multiple countless times within last 6 months</b>	Location of incident or loss (address): <b>Front yard (2235 via Santa Elena)</b>		Is there a police report? <input type="checkbox"/> Yes If Yes, Police Report #: _____ <input checked="" type="checkbox"/> No

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):

The draining of Anderson Lake has allowed wild boars to cross the dry lake bed and invade Ybarra Ranch where our house is and completely destroy our front yard.





In detail, describe the damage or injury (Please attach additional sheets if necessary):

The wild boys have broken our water pipes of our drip system,  
destroyed 20 plants, dug up all our mulch.

List Name(s) and contact information of any witness(es) or District employee involved (if any):

Steven Felt 650-861-1057  
Zheng Li 719-531-7632

**DAMAGES CLAIMED:** (Basis for computation of amounts claimed (include copies of bills, invoices, estimates, receipts, photos, police case # or other documentation.) Note: If your claim is more than \$10,000, you need not fill in an amount, but must state whether jurisdiction for the claim would be in the Limited Jurisdiction (up to \$25,000) or Unlimited jurisdiction of the Superior Court.

Is the amount of the claim under \$10,000?  
Court Jurisdiction: (Check One)

☒ Yes

☐ Limited Civil

☐ No

☐ Unlimited Civil

ITEMS	CLAIM AMOUNT
1. 20 plants	\$ 3000
2.	\$
3.	\$
4.	\$
<b>TOTAL AMOUNT</b>	<b>\$ 3,000</b>

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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

29 day of October, 2021

*[Signature]*  
Claimant's signature

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**Attachment 4**  
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