

County of Santa Cruz

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GOVERNMENT TORT CLAIM

RECOMMENDED ACTION

Agenda August 3, 1999

To: Board of Supervisors

Re: Claim of State Farm General Insurance Company, No. 899-164

Original document and associated materials are on file at the Clerk to the Board of Supervisors.

In regard to the above-referenced claim, this is to recommend that the Board take the following action:

- 1. Deny the claim of _____ and refer to County Counsel.
- 2. Deny the application to file a late claim on behalf of State Farm General Insurance Company, No. 899-164 and refer to County Counsel.
- 3. Grant the application to file a late claim on behalf of _____ and refer to County Counsel.
- 4. Approve the claim of _____ in the amount of _____ and reject the balance, if any, and refer to County Counsel.
- 5. Reject the claim of _____ as insufficiently filed and refer to County Counsel.

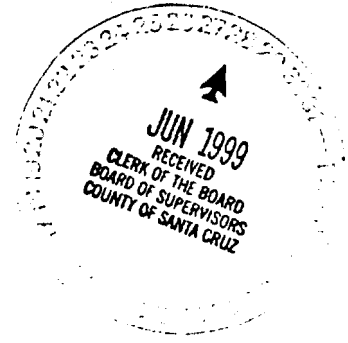
cc: John Fantham, Director
Department of Public Works

RISK MANAGEMENT

By Janet McKinley

COUNTY COUNSEL

By Ellen Aldridge



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5 Attorneys for Claimant STATE FARM GENERAL
 INSURANCE COMPANY

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 9 COUNTY OF SANTA CRUZ

11
 12 In the Matter of the Claim of STATE FARM
 GENERAL INSURANCE COMPANY
 13 against COUNTY OF SANTA CRUZ

**APPLICATION FOR LEAVE TO PRESENT
 LATE CLAIM**
 [Gov. Code § 911.41]

16 **TO COUNTY OF SANTA CRUZ:**

17 1. Application is hereby made for leave to present a late claim under Section 9 11.4 of the
 18 Government Code. The claim is founded on a cause of action for general negligence, premises
 19 liability, trespass, and nuisance, which accrued on December 5, 1998, and for which a claim was not
 20 timely presented. For additional circumstances relating to the cause of action, reference is made to the
 21 proposed claim attached hereto as Exhibit "A" and made a part hereof.


22 2. The reason for the delay in presenting this claim is the mistake and inadvertence of the
 23 claimant and Robert E. Wall, Esquire, as is more particularly shown in the Declaration of Robert E.
 24 Wall, Esquire, attached hereto and made a part hereof. COUNTY OF SANTA CRUZ was not
 25 prejudiced in the defense of the claim by the failure to file the claim in a timely manner, as shown by
 26 the Declaration of Robert E. Wall.

27 3. This application is presented within a reasonable time after the accrual of the cause of
 28 action as shown by the declaration of Robert E. Wall.

1 WHEREFORE, it is respectfully requested that this application be granted and that the
 2 attached claim be received and acted on in accordance with Sections 912.4-912.8 of the Government
 3 Code.

4 DATED: June 25, 1999

GRUNSKY, EBHEY, FARRAR & HOWELL

6 By 
 7 Robert E. Wall, Attorneys for Claimant

8 **DECLARATION OF ROBERT E. WALL**

9 I, Robert E. Wall, declare:

10 1. I am a shareholder at the law firm of Grunsky, Ebey, Farrar & Howell, APC, duly
 11 admitted to practice before all the courts of the State of California, and am the attorney of record
 12 herein for plaintiff STATE FARM GENERAL INSURANCE COMPANY.

13 2. On June 24, 1999, the delay in presenting this claim against the COUNTY OF SANTA
 14 CRUZ was discovered.


15 3. The purpose of the statute requiring presentation of claims against a governmental
 16 entity (Gov. Code § 911.2) is to give the entity notice and an opportunity to investigate and settle
 17 meritorious claims without investigation.

18 4. This application is made within a reasonable time, less than 20 days after the 6-month
 19 presentation deadline for claims required by Government Code § 911.2 and with reasonable diligence
 20 after discovering the default only two days earlier.

21 5. The COUNTY OF SANTA CRUZ should not be prejudiced in any way by this delay
 22 as they were already on notice of this dispute as a party to the quiet title action, Case No. 134227,
 23 filed July 2, 1998 in the County of Santa Cruz.

24 I declare under penalty of perjury that the foregoing is true and correct except as to those
 25 matters stated on information and belief, and as to those matters, I believe them to be true.

26 This declaration was executed on June 25, 1999 at Watsonville, California.

27 
 28 Robert E. Wall