



SACRAMENTO MUNICIPAL UTILITY DISTRICT ☐ 6201 S Street, P.O. Box 15830, Sacramento, CA 95813; (916) 452-3211

RJR 85-351

AN ELECTRIC SYSTEM SERVING THE HEART OF CALIFORNIA

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REGION V I&E

July 17, 1985

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JOHN MARTIN
U S NUCLEAR REGULATORY COMMISSION
REGION V OFFICE OF INSPECTION & ENFORCEMENT
1450 MARIA LANE SUITE 210
WALNUT CREEK CA 94596

SILVA CLAIM

Enclosed is the Silva claim that you had inquired about in our
phone conversation Tuesday.

RJR

R. J. RODRIGUEZ
ASSISTANT GENERAL MANAGER
NUCLEAR

ENC

*Jack: you note that NRC is primarily addressed
in light of the District violating regulations
and not being informed of such violations,*

8507300205 850717
PDR ADOCK 05000312
P PDR

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IF-28

STEEFEL, LEVITT & WEISS
A PROFESSIONAL CORPORATION
ONE EMBARCADERO CENTER, 28TH FLOOR
SAN FRANCISCO, CALIFORNIA 94111
(415) 788-0900

LENARD G. WEISS
LEONARD R. STEIN
STEEFEL, LEVITT & WEISS
A Professional Corporation
One Embarcadero Center, 29th Floor
San Francisco, California 94111
Telephone: (415) 788-0900

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REGION VICE

7/5/85
GENERAL COUNSEL

BY David S. Kaplan

Attorneys for Gary C. Silva,
Tildean Silva, Gary C. Silva, Jr.
and Michelle L. Silva

In re Claim of Gary Silva,)	
Tildean Silva, Gary Silva, Jr.,)	CLAIM FOR PERSONAL
and Michelle Silva)	INJURY AND PROPERTY
)	DAMAGE (Cal. Government
Claimants,)	Code § 910 et seq.)
)	
vs.)	
)	
)	
Sacramento Municipal Utility)	
District, a public entity,)	
Does 1-100,)	
)	
Respondents.)	

To the Sacramento Municipal Utility District:

You are hereby notified that Gary Silva, and Tildean Silva, Gary Silva, Jr. and Michelle Silva (collectively referred to herein as the "Silvas"), whose mailing address is 11540 Clay Station Road, Herald, California 95638, claim damages from the Sacramento Municipal Utility District ("SMUD") and Doe respondents (hereinafter collectively referred to as "Respondents") pursuant to Section 910 of the California Government Code.

This claim is based upon personal injuries and damage to real and personal property sustained by the Silvas as the result of radioactive wastes which the Silvas are informed and believe were discharged over the period of approximately 1980

1 through 1984 by Respondents onto the Silvas' property located
2 directly adjacent to and in the vicinity of the Rancho Seco
3 Nuclear Power Station ("Rancho Seco").

4 These radioactive discharges have injured and are
5 causing continuing damage to the Silvas personally, and to their
6 land, crops, livestock and businesses. The Silvas first learned
7 about the extent of these radioactive discharges after April 1,
8 1985.

9 The Silvas' claims are based upon the following conduct
10 by Respondents, which conduct has caused the injuries to the
11 Silvas described below:

12 1. Negligence -- The Silvas are informed and believe
13 that Respondents have:

14 (a) Negligently operated Rancho Seco to permit
15 releases of radioactivity onto the Silvas' property;

16 (b) Negligently failed to warn the Silvas of the
17 hazard to their persons, their livestock, and their crops from
18 the emissions of radioactivity from Rancho Seco before, during
19 and after the time of such emissions;

20 (c) Negligently failed to take steps to prevent
21 radioactive releases from leaving SMUD property;

22 (d) Negligently failed to take steps to prevent
23 further radioactive releases after learning that such releases
24 were occurring;

25 (e) Negligently failed to monitor actual radioac-
26 tive emissions from Rancho Seco;

27 / / /

28 / / /

1 (f) Negligently failed to design and/or to oper-
2 ate the computer program intended to monitor the radioactivity
3 emitted from Rancho Seco onto the Silvas' property;

4 (g) Negligently violated SMUD's duty to warn the
5 Silvas of radioactive emissions from Rancho Seco;

6 (h) Negligently discharged radioactivity from
7 Rancho Seco causing injury to the Silvas' riparian rights;

8 (i) Negligently misrepresented the level and
9 effect of radioactive releases from Rancho Seco onto the Silvas'
10 property;

11 (j) Negligently misrepresented that the Silvas'
12 property was safe from radioactive emissions;

13 (k) Negligently misrepresented that all radioac-
14 tive discharges from Rancho Seco complied with all applicable
15 regulations and statutes;

16 (l) Negligently misrepresented that no spent
17 nuclear fuel was stored on site at Rancho Seco;

18 (m) Negligently failed to supervise and adequate-
19 ly train personnel and/or to hire adequate numbers of personnel
20 to operate the plant;

21 (n) Negligently supervised the design, construc-
22 tion and operation of the plant; and

23 (o) Negligently failed to provide assurances and
24 information to the Silvas about the level and impact of the
25 radioactive releases on the Silvas themselves, their businesses,
26 and their real and personal property.

27 (p) Been negligent in ways not yet known to the
28 Silvas.

1 2. Negligence per se -- The Silvas are informed and
2 believe that Respondents have:

3 (a) discharged radioactive waste onto the Silvas'
4 property in violation of United States Environmental Protection
5 Agency ("EPA") regulations;

6 (b) discharged radioactive waste onto the Silvas'
7 property in violation of the United States Nuclear Regulatory
8 Commission's ("NRC") regulations;

9 (c) discharged radioactive waste onto the Silvas'
10 property in violation of Rancho Seco design criteria;

11 (d) discharged radioactive waste onto the Silvas'
12 property in violation of Rancho Seco performance specifications;

13 (e) failed to report to the NRC certain radioac-
14 tive emissions from Rancho Seco in violation of NRC reporting
15 requirements;

16 (f) discharged radioactive waste onto the Silvas'
17 property in violation of SMUD's NRC license to operate the Rancho
18 Seco Plant;

19 (g) discharged radioactive waste into waters
20 flowing through the Silvas' properties in violation of the Cali-
21 fornia Water Code; and

22 (h) discharged radioactive waste from Rancho Seco
23 in possible violation of other federal and state statutes and
24 regulations.

25 3. Absolute Liability/Ultrahazardous Activity -- The
26 Silvas are informed and believe that Respondents are absolutely
27 liable for injuries sustained by the Silvas caused by the emis-
28 sion of radioactivity from Rancho Seco.

1 4. Assault and Battery -- The Silvas are informed and
2 believe that Respondents have wrongfully and intentionally dis-
3 charged radioactive waste from Rancho Seco and that Respondents
4 knew or should have known that the Silvas would be exposed to
5 said radioactivity and would be damaged thereby.

6 5. Deceit -- Respondents have made the following
7 false representations to the Silvas:

8 (a) that the level of discharges of radioactivity
9 from Rancho Seco were lower than in reality;

10 (b) that the radioactive emissions did not vio-
11 late any state or federal law, regulation or standard;

12 (c) that the Silvas' land and property is not
13 contaminated;

14 (d) that there would be no on-site storage of
15 radioactive waste;

16 (e) that the public, including the Silvas, would
17 be informed of any emissions of radioactivity from Rancho Seco;

18 (f) that Rancho Seco was a "no release" plant;
19 namely, SMUD would not release any radioactivity from Rancho
20 Seco.

21 6. Nuisance/Nuisance per se -- The Silvas are in-
22 formed and believe that Respondents have released radioactive
23 waste into the Silvas' property which is injurious to health,
24 indecent and offensive to the senses and obstructs the Silvas'
25 free use of their property.

26 7. Public Nuisance -- The Silvas are informed and
27 believe Respondents have injured the entire community by their
28 discharge of radioactive waste from Rancho Seco. The Silvas have

1 been specially injured by these discharges in that the Silvas are
2 the immediate neighbors to Rancho Seco and have suffered the
3 greatest degree of exposure to and damage from this radiation.

4 8. Unreasonable use of water -- The Silvas are in-
5 formed and believe that Respondents, by virtue of the discharge
6 of radioactive waste from Rancho Seco, have violated Article 10,
7 Section 2 of the California Constitution.

8 9. Trespass -- The Silvas are informed and believe
9 that Respondents have deposited on the Silvas' property, without
10 their consent, radioactive material which has wrongfully invaded
11 the Silvas' rights in their real property.

12 10. Intentional Infliction of Emotional Distress --
13 Respondents' intentional discharge of radioactivity onto the
14 Silvas' property as well as their conscious failure to provide
15 adequate assurances concerning the impact of those releases on
16 the Silvas' persons and property is outrageous conduct that
17 recklessly disregards the Silvas' personal and property rights
18 and has caused severe emotional distress to the Silvas.

19 11. Negligent Infliction of Emotional Distress --
20 Respondents have negligently caused the Silvas severe emotional
21 distress by their intentional discharge of radioactivity onto the
22 Silvas' property as well as by their negligent failure to provide
23 adequate assurances concerning the impact of those releases on
24 the Silvas' persons and property.

25 12. Inverse Condemnation -- Although under California
26 Government Code Section 905.1, no claim is required to be filed
27 to maintain an action against a public entity for taking of, or
28 damage to, private property pursuant to Section 19 of Article 1

1 of the California Constitution, the Silvas hereby make claim for
2 the value of real and personal property, including businesses
3 taken by SMUD due to SMUD's discharge of radioactive waste onto
4 the Silvas' property which has rendered that property valueless.

5 The names of the public employees that have caused or
6 contributed to the Silvas' injuries are not presently known to
7 the Silvas.

8 The injuries sustained by the Silvas as far as known,
9 as of the date of presentation of this claim, consist of: physi-
10 cal and emotional injury to each of the Silvas; diminished value
11 of the Silvas' real and personal property; damage to the Silvas'
12 businesses; loss of goodwill and interruption of the Silvas'
13 businesses; loss of profits; damage to livelihood; deprivation of
14 the use and enjoyment of the property; and damage to livestock
15 and growing crops.

16 The dollar amounts claimed as of the date of presenta-
17 tion of this claim are under investigation and are unknown. The
18 Silvas estimate that their total damages are in excess of
19 \$9,556,000, as calculated in Exhibit "A" hereto.

20 All notices or other communications concerning this
21 claim should be sent to the Silvas c/o Steefel, Levitt & Weiss, A
22 Professional Corporation, One Embarcadero Center, 29th Floor, San

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1 Francisco, California 94111, Attn: Lenard G. Weiss, Esq. and
2 Leonard R. Stein, Esq.

3 Dated: June 21, 1985

STEEFEL, LEVITT & WEISS,
A Professional Corporation

By

Lenard G. Weiss
Attorneys for claimants Gary
Silva, Tildean Silva, Gary
Silva, Jr. and Michelle Silva

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EXHIBIT "A"

Estimated damages incurred to date (as known)

Physical and emotional injury*

<u>Gary Silva</u>	Not known at present
<u>Tildean Silva</u>	Not known at present
<u>Gary Silva, Jr.</u>	Not known at present
<u>Michelle Silva</u>	Not known at present

Damage to Businesses \$ 590,000

Injury to real and personal property*

<u>Crops</u>	\$ 71,000
<u>Cattle</u>	\$ 175,000
<u>Land</u>	\$5,250,000
<u>Other property</u>	Not known at present

Estimated prospective damages (as known)

Future damages for physical and
emotional injury:*

<u>Gary Silva</u>	Not known at present
<u>Tildean Silva</u>	Not known at present
<u>Gary Silva, Jr.</u>	Not known at present
<u>Michelle Silva</u>	Not known at present

* The Silvas will amend this claim when the amount of these damages is known.

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<u>Future harm to businesses*</u>	At least \$3,220,000
<u>Future injury to real and</u>	
<u>personal property*</u>	
<u>Crops</u>	Not known at present
<u>Cattle</u>	At least \$250,000
<u>Land</u>	Not known at present
<u>Other</u>	Not known at present
<u>Total amount claimed as of the date</u>	An amount in excess of
<u>of presentation of this claim</u>	\$9,556,000

* The Silvas will amend this claim when the amount of these damages is fully known.

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