

ORDINANCE NO. C.S. 1047

**AN ORDINANCE ADDING CHAPTER 14.14 TO THE COUNTY CODE
RELATING TO STORM WATER MANAGEMENT AND
DISCHARGE CONTROL**

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA DO ORDAIN AS FOLLOWS:

Section 1. Chapter 14.14 of the Stanislaus County Code is hereby added to read as follows:

14.14.010 TITLE.

This chapter shall be known as the Stanislaus County "Storm Water Management and Discharge Control Ordinance," and may be cited as such.

14.14.20 PURPOSE AND INTENT.

(A) The purpose of this chapter is to protect and promote the health, safety and general welfare of the citizens of Stanislaus County (all that portion of Stanislaus County excepting that area lying within the incorporated cities of said county, hereinafter referred to as the "County") by controlling non-storm water discharges to the storm water conveyance system from spills, dumping or disposal of materials other than storm water, and by reducing pollutants in urban storm water discharges to the maximum extent practicable.

(B) This chapter is intended to assist in the protection and enhancement of the water quality of watercourses, water bodies and wetlands in a manner pursuant to and consistent with the Federal Clean Water Act (33 U.S.C. §§ 1251 et seq.) and any subsequent amendments thereto, by reducing pollutants in storm water discharges to the maximum extent practicable and by prohibiting non-storm water discharges into the storm drain system.

14.14.030 DEFINITIONS.

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(A) **BEST MANAGEMENT PRACTICES.** Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and education practices, maintenance procedures, and other management practices found in the SWPPP to prevent or reduce, to the maximum extent practicable, the discharge of pollutants directly or indirectly to waters of the United States (33 CFR Sect. 328.3). Best Management Practices also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage.

(B) **CONSTRUCTION ACTIVITY.** Activities subject to NPDES construction permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include, but are not limited to, clearing and grubbing, grading, excavating and demolition.

(C) **DEVELOPMENT.** Any construction, rehabilitation, redevelopment or reconstruction of any public or private residential project (whether single or multi-family planned unit development); industrial, commercial, retail and other non-residential projects, including public agency projects; or grading for future construction. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purposes of a facility, nor does it include emergency construction activities required to immediately protect public health and safety.

(D) **ENFORCEMENT OFFICIAL.** The Director of Public Works, or his or her designee, or any agent of Stanislaus County authorized to enforce compliance with this chapter.

(E) **HAZARDOUS WASTE.** Any material, including any substance, waste or combination thereof, that, because of its quality, concentration or physical, chemical or infectious characteristics, may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property or the environment, when improperly treated, stored, transported, disposed of, or otherwise managed (Cal. Health & Safety Code § 25117).

(F) **ILLEGAL DISCHARGE.** Any discharge to the storm water conveyance system that violates this chapter, or is prohibited by federal, state or local laws, or that degrades the quality of receiving waters in violation of any plan standard.

(G) **NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT.** A permit issued by the Regional Water Quality Control Board or the State Water Resources Control Board, pursuant to Division 7, Chapter 5.5 of the Cal. Water Code (commencing with § 13370), to control discharges from point sources to waters of the United States.

(H) **NONCOMMERCIAL VEHICLE WASHING.** The washing and rinsing of passenger vehicles on private property in which no commercial enterprise is being conducted in the washing of those vehicles.

(I) **NON-STORM WATER DISCHARGE.** Any discharge to the storm water conveyance system that is not entirely composed of storm water.

(J) **PERSON.** Any person, firm, corporation, business entity, or public agency, whether principal, agent, employee or otherwise.

(K) **POLLUTANT.** Any contaminant that can degrade the quality of the receiving water in violation of any water quality standard or NPDES permit.

(L) **PUBLIC WORKS DIRECTOR.** The Public Works Director of Stanislaus County.

(M) **STORM WATER.** Surface runoff and drainage associated with storm events, which is free of pollutants.

(N) **STORM WATER CONVEYANCE SYSTEM.** Those artificial and natural facilities within Stanislaus County, whether publicly or privately owned, by which storm water may be conveyed to a watercourse or waters of the United States, including without limitation, any roads with drainage systems, streets, catch basins, natural and artificial channels, aqueducts, stream beds, gullies, curbs, gutters, ditches, open fields, parking lots, impervious surfaces used for parking, and natural and artificial channels or storm drains.

(O) **STORM WATER POLLUTION PREVENTION PLAN (SWPPP).** A document that describes the best management practices to be implemented by the owner or operator of a business, commercial development, residential development, or construction project, to eliminate non-storm water discharges and/or to reduce, to the maximum extent practicable (as defined by the State of California Regional Water Quality Control Board), pollutant discharges to the storm water conveyance system.

(P) **SURFACE WATER.** All water naturally open to the atmosphere (rivers, lakes, reservoirs, ponds, streams, impoundments, seas, estuaries, etc.) and all springs, wells, or other collectors directly influenced by surface water.

(Q) **WATERCOURSE.** Any natural stream, whether flowing continuously or not, that is fed from permanent or natural sources, and includes, without limitation, rivers, creeks, runs and rivulets.

(R) Any term(s) defined in the Federal Clean Water Act, as amended, and/or defined in the regulations for the storm water discharge permitting program issued by the Environmental Protection Agency, as amended, and which are not specifically defined in this section, shall, when used in this chapter, have the same meaning as set forth in such act or regulation.

14.14.040 CONFLICTS WITH OTHER LAWS.

(A) In the event of any conflict between this chapter and any federal or state law, regulation, order or permit, the requirement that establishes the higher standard for public health or safety shall govern.

(B) To the extent permitted by law, nothing in this chapter shall preclude enforcement of any other applicable law, regulation, order or permit.

14.14.050 DISCHARGE OF NON-STORM WATER PROHIBITED.

(A) Except as provided in 14.14.060 it is unlawful for any person to make or cause to be made any non-storm water discharge.

(B) Notwithstanding the exemptions provided by 14.14.060 if the Regional Water Quality Control Board or the enforcement official determines that any otherwise exempt discharge causes or significantly contributes to violations of any storm water permit, or conveys significant quantities of pollutants to a surface water or storm water conveyance, or is a danger to public health or safety, such discharge shall be prohibited from entering the storm water conveyance system.

14.14.060 EXCEPTIONS TO DISCHARGE PROHIBITION.

Subject to the authority granted by the Regional Water Quality Control Board and the enforcement official in 14.14.050, the following discharges to the storm water conveyance system are exempt from the prohibition set forth in 14.14.050.

(A) Any discharge or connections regulated under a NPDES permit issued to the discharger and administered by the state to Division 7, Chapter 5.5 of the Cal. Water Code, provided that the discharger is in compliance with all requirements of the permit and all other applicable laws and regulations;

(B) Discharges from the following activities, which do not cause or contribute to the violation of any NPDES Permit:

- (1) Water line flushing and other discharges from potable water sources;
- (2) Landscape irrigation and lawn watering;
- (3) Rising ground waters or springs;
- (4) Passive foundation and footing drains;
- (5) Water from crawl space pumps and basement pumps;
- (6) Air conditioning condensation;
- (7) Natural flows from riparian habitats and wetlands;
- (8) Dechlorinated swimming pool discharges;
- (9) Flows from fire suppression activities, including fire hydrant flows;
- (10) Waters not otherwise containing wastes as defined in Cal. Water Code § 13050(d) and Cal. Health & Safety Code § 25117;
- (11) Diverted stream flows;
- (12) Uncontaminated ground water infiltration to separate storm sewers;
- (13) Any discharge that the enforcement official, the local health officer or the Regional Water Quality Control Board determines, in writing, is necessary for the protection of the public health and safety;
- (14) Any discharge caused by flooding or other natural disaster, which could not have been reasonably foreseen or mitigated for in advance by the discharger, as determined by the enforcement official.
- (15) Noncommercial vehicle washing; the washing and rinsing of passenger vehicles on private property in which no commercial enterprise is being conducted in the washing of those vehicles.

14.14.080 DISCHARGE IN VIOLATION OF PERMIT.

It is unlawful for any person to cause, either individually or jointly, any discharge to the storm water conveyance system that results in or contributes to a violation of this chapter and the County NPDES Permit.

14.14.090 ILLICIT CONNECTIONS PROHIBITED.

Prohibition of Illicit Connections:

- (1) The construction, use, maintenance or continued existence of illicit connections to the storm water conveyance system is prohibited.
- (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (3) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to a storm water conveyance system, or allows such a connection to continue.

14.14.100 CONCEALMENT AND ABETTING.

It is unlawful and a violation of this chapter for any person to cause, permit, aide, abet, or conceal a violation of any provision of this chapter.

14.14.110 ACTS POTENTIALLY RESULTING IN VIOLATION OF FEDERAL CLEAN WATER ACT AND/OR PORTER-COLOGNE ACT.

Any person who violates any provision of this chapter, any provision of any permit issued pursuant to this chapter, or who discharges waste or wastewater that causes pollution, or who violates any cease and desist order, prohibition, or effluent limitation, may also be in violation of the Federal Clean Water Act (33 U.S.C. §§1251 et seq.) and/or Porter-Cologne Water Quality Control Act (Cal. Water Code Section §§ 13000 et seq.), and may be subject to the sanctions of those acts, including civil and criminal penalties.

14.14.120 REDUCTION OF POLLUTANTS IN STORM WATER.

Any person engaged in activities that may result in pollutants entering the storm water conveyance system shall, to the maximum extent practicable, undertake the measures set forth below to reduce the risk of non-storm water discharge and/or pollutant discharge.

- (A) Business-related activities.
 - (1) Storm water pollution prevention plan. The enforcement official may require any business in the County engaged in activities that may result in pollutant discharges to develop and implement a storm water pollution prevention plan, which shall include an employee training program. An employee training program is a documented employee training program that may be required to be implemented by a business pursuant to a storm water pollution prevention plan, for the purpose of educating its employees on methods of reducing

discharge of pollutants to the storm water conveyance system. Business activities that may require a storm water pollution prevention plan include, but are not limited to, maintenance, storage, manufacturing, assembly, equipment operations, vehicle loading or fueling, or cleanup procedures carried out partially or wholly out of doors.

- (2) Coordination with hazardous materials release response plans and inventory. Any business requiring a hazardous materials release response and inventory plan, under Chapter 6.95 (commencing with § 25500) of Division 20 of the Cal. Health & Safety Code, shall include in that plan provisions for compliance with this chapter, including the provisions prohibiting non-storm water discharges and illegal discharges, and requiring the release of pollutants to be reduced to the maximum extent practicable.
- (3) Coordination with hazardous waste generator contingency plan and emergency procedures. Any business requiring a hazardous waste generator contingency plan and emergency procedures, pursuant to Cal. Code of Regulations, Title 22, §§ 66265.51 to 66265.56, shall include in that plan provisions for compliance with this chapter, including the provisions prohibiting non-storm water discharge and illegal discharges, and requiring the release of pollutants to be reduced to the maximum extent practicable.

(B) Construction.

- (1) Any person performing construction activities in the County shall prevent pollutants from entering the storm water conveyance system and comply with all applicable federal, state and local laws, ordinances or regulations, including but not limited to, the general permit for storm water discharges associated with construction activity and the County Storm Water Management and Discharge Control Ordinance.
- (2) Any person subject to a Construction Activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the enforcement official prior to, or as a condition of, a subdivision map, site plan, building permit, grading permit, or development or improvement plan, upon inspection of the facility, during any enforcement proceeding or action, or for any other reasonable cause. Prior to issuance of a construction permit or approval of the proposed improvement plans, a copy of the Notice of Intent (NOI) and the SWPPP shall be submitted to the County.

(C) Development. The enforcement official may require controls as appropriate to minimize the long-term, post-construction activity discharge of storm water pollutants from new development(s) or modifications to existing development(s). Controls may include source control measures to prevent

pollution of storm water and/or treatment controls designed to remove pollutants from storm water.

- (D) Compliance with Industrial or Construction Activity Storm Water Permit.
 - (1) Any person subject to a State Industrial Activity Storm Water Permit for storm water discharge shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the enforcement official upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.
 - (2) Any person subject to a State Construction Activity Storm Water Permit for storm water discharge shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the enforcement official prior to or as a condition of a subdivision map, site plan, building permit, and development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

- (E) Compliance with Best Management Practices. Every person undertaking any activity or use of premises that may cause or contribute to storm water pollution or contamination or illicit discharges shall comply with best management practice guidelines or pollution control requirements, including the storage and parking of vehicles, as may be reasonably established by the enforcement official.

14.14.130 CONTAINMENT AND NOTIFICATION OF SPILLS.

Any person owning or occupying a premises, who has knowledge of any release of pollutants or non-storm water discharge from or across those premises that might enter the storm water conveyance system, other than a release or discharge that is permitted by this chapter, shall immediately take all reasonable action to contain and abate the release of pollutants or non-storm water discharge, and shall notify the enforcement official at Stanislaus County within 24 hours of the release of pollutants or non-storm water discharge.

14.14.140 INSPECTION AUTHORITY.

- (A) Right of entry.
 - (1) Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever an authorized enforcement official has reasonable cause to believe that there exists in any building or upon any premises any condition constituting a violation of this chapter, the enforcement official may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the officer by this chapter.
 - (2) Any request for entry shall state that the property owner or occupant has the right to refuse entry, and that in the event such

entry is refused, inspection may be made upon issuance of a warrant issued by a court of competent jurisdiction.

- (3) In the event the owner or occupant refuses entry after such request has been made, the enforcement official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

(B) Sampling authority.

Inspections shall be based upon such reasonable selection processes as may be deemed necessary to carry out the objectives of this chapter, including but not limited to, random sampling and/or sampling in areas with evidence of storm water contamination, illegal discharge, non-storm water discharge to the storm water conveyance system, or similar factors.

(C) Sampling methods.

- (1) During any inspection, the enforcement official may take samples as necessary in order to implement and enforce the provisions of this chapter.
- (2) This authority may include the installation of sampling and metering devices on private property, or requiring the person owning or occupying the premises to supply samples.

(D) Monitoring, analysis and reporting authority.

- (1) The enforcement official may require monitoring, analysis and reporting of discharges from any premises to the storm water conveyance system.
- (2) Upon service of written notice by the enforcement official, the burden, including cost, of these activities, analyses and reports incurred in complying with the requirement shall, to the extent permitted by law, be borne by the property owner or occupant of the facility or activity for which testing and monitoring has been requested.

14.14.150 ENFORCEMENT AUTHORITY.

(A) General enforcement authority.

- (1) Except as otherwise provided herein, the Director of Public Works shall administer, implement and enforce the provisions of this chapter (Title 1, Chapter 1.24.040).
- (2) The Director of Public Works may delegate any powers granted to or duties imposed upon the Director of Public Works to other Stanislaus County personnel.

(B) Administrative enforcement powers. The enforcement official may also exercise any of the following supplemental enforcement powers as may be necessary or advisable in the enforcement official's judgment under the circumstances.

- (1) Notice of violation (NOV).

(a) Whenever the enforcement official finds that any person owning or occupying a premises has violated or is violating this chapter or order issued hereunder, the enforcement official may serve a written NOV upon such person, by personal service or by registered or certified mail.

(b) Within 30 days of the receipt of this notice, or shorter period as may be prescribed in the NOV, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, which shall include specific required actions, shall be submitted to the enforcement official.

(c) Submission of this plan shall in no way relieve the person of liabilities for violations occurring before or after receipt of the NOV.

(d) Any person served with a NOV, subject to a cease and desist order, subject to an abatement order, required to perform monitoring, analyses, reporting and/or corrective activities by an authorized enforcement official, or otherwise grieved by the decision of the authorized enforcement official, may appeal the decision, within ten days following its effective date, by filing a written appeal with the Public Works Director.

(2) Cease and desist orders.

(a) The enforcement official may require any person owning or occupying a premise to cease and desist all activities that may cause or contribute to discharge in violation of this chapter.

(b) This order may also require such person to:

1. Comply with the applicable provisions of the chapter within a designated period of time; or,
2. Take appropriate remedial or preventative action to keep the violation from recurring.

(3) Emergency orders and abatements.

(a) The enforcement official may order the abatement of any discharge from any source to the storm water conveyance system when, in the opinion of the enforcement official, the discharge causes or threatens to cause a condition that presents an imminent danger to the public health, safety, welfare or environment, or a violation of a NPDES permit.

(b) In emergency situations, where the property owner or other responsible party is unavailable and time constraints are such that service of a notice and order to abate cannot be effected without presenting an immediate danger to the public health, safety, welfare or environment, or a violation of a NPDES permit, the County may perform or cause to be performed such work as shall be necessary to abate the threat or danger.

(c) The costs of any such abatement shall be borne by the owner, and shall be collectable in accordance with the provisions of division (B)(9) of this section.

(4) Contents of Notice. Any NOV, cease and desist order, or other civil notice or civil order issued by the enforcement official pursuant to this chapter shall include a copy of Section 14.14.150. The enforcement official may also order abatement of activities or practices that may reasonably result in such a violation.

(5) Appeals. The Public Works Director shall request a report and recommendation from the authorized enforcement official, and shall set the matter for hearing at the earliest practical date.

(a) Due notice of the hearing shall be provided to the person appealing the decision of the authorized enforcement official.

(b) At the hearing, the Public Works Director may hear additional evidence, and may reject, affirm or modify the authorized enforcement official's decision.

(c) The Public Works Director's decision shall be reviewed and approved by the Board of Supervisors.

(6) Mitigation. The enforcement official shall have authority to order the mitigation of circumstances that may result in or contribute to illegal discharges.

(7) Storm Water Pollution Prevention Plan. The enforcement official shall have the authority to establish elements of a storm water pollution prevention plan, and to require any business to adopt and implement such a plan, as may be reasonably necessary to fulfill the purposes of this chapter.

(8) Best management practices. The enforcement official may establish the requirements of best management practices for any premises.

(9) Violations constituting infractions. In addition to civil penalties provided for in this chapter, any violation of this chapter may be punishable as an infraction per Section 14.14.180.

(10) Violations deemed a public nuisance.

(a) In addition to the penalties herein before provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to the public health, safety or welfare, and is thus deemed a nuisance.

(b) Any such nuisance may be summarily abated and/or restored by any authorized personnel to pursue civil action(s), pursuant to division (C) of this section, to abate, enjoin or otherwise compel the cessation of the nuisance.

(11) Cost recovery.

(a) The cost of the abatement and restoration shall be borne by the owner of the property, and the cost therefore shall be invoiced to the owner of the property (Cal. Gov't Code § 25845).

(b) If the invoice is not paid within 60 days, the enforcement official shall have the authority to place a lien upon and against the property.

(c) If the lien is not satisfied within three months, the enforcement official is authorized to take all legal measures as are available to enforce the lien as a judgment, including, without limitation, enforcing the lien in an action brought for a money judgment, or by delivery to the County Assessor of a special assessment against the property in accordance with Cal. Gov't Code § 38773.5 and § 25845.

(12) Seasonal and recurrent nuisance.

(a) If any violation of this chapter constitutes a seasonal and recurrent nuisance, the enforcement official shall so declare.

(b) Thereafter, such seasonal and recurrent nuisance shall be abated every year without the necessity of any further hearing.

(13) Costs of enforcement.

(a) If it prevails in any administrative, civil or criminal proceeding initiated under this chapter, Stanislaus County shall be entitled to seek reimbursement for all costs incurred in connection with such proceeding (Cal. Gov't Code § 25845).

(b) Such reimbursable expenses may include, but are not limited to, costs of investigation, administrative overhead, out-of-pocket expenses, costs of administrative hearings, and costs of suit.

(c) If any such costs are granted to Stanislaus County, they shall be recoverable pursuant to division (B)(11) of this section.

(C) Civil action.

(1) In addition to any other remedies provided in this chapter, any violation of this chapter may be enforced by civil action brought by the Stanislaus County District Attorney.

(2) Monies recovered under this division shall be paid to Stanislaus County to be used exclusively for costs associated with monitoring and establishing storm water discharge pollution control systems and/or implementing or enforcing the provisions of this chapter.

(3) In any such action, the County may seek, as appropriate, any or all of the following remedies:

(a) A temporary and/or permanent injunction;

(b) Assessment of the violator for the costs of any investigation, inspection or monitoring survey that led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this division;

(c) Costs incurred in removing, correcting or terminating the adverse effects resulting from the violation;

- (d) Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life.

14.14.180 VIOLATIONS.

(A) It shall be unlawful for any person to violate any provision of this chapter or to fail to comply with any of its requirements.

(B) A violation of, or failure to comply with, any of the requirements of this chapter shall constitute an infraction and, therefore, shall be subject to the penalties outlined in Section 1.36.020 of the Stanislaus County Code.

(C) If any violation is continued, each day's violation shall be deemed a separate violation.

14.14.190 REMEDIES NOT EXCLUSIVE.

Remedies under this chapter are in addition to, and do not supersede or limit, any and all other remedies, civil or criminal.

The remedies provided for herein shall be cumulative and not exclusive.

14.14.200 DISCLAIMER OF LIABILITY.

(A) The degree of protection required by this chapter is considered reasonable for regulatory purposes, and is based on scientific, engineering and other relevant technical considerations.

(B) The standards set forth herein are minimum standards, and this chapter does not imply that compliance will ensure that there will be no unauthorized discharge of pollutants into the waters of the United States.

(C) This chapter shall not create liability on the part of the County, or any officer or employee thereof, for any damages that result from reliance on the code or any administrative decision lawfully made there under.

14.14.210 STANISLAUS COUNTY AUTHORITY.

The enforcement official is authorized to make any decision on behalf of the County required or called for by this chapter.

14.14.220 JUDICIAL REVIEW.

The provisions of Cal. Code Civ. Proc. §§ 1094.5 and 1094.6 are applicable to judicial review of Stanislaus County decisions pursuant to this chapter.


Section 2. This ordinance shall take effect 30 days from and after the date of its passage and before the expiration of 15 days after its passage it shall be published once, with the members voting for and against the same, in the Modesto Bee, a newspaper published in the County of Stanislaus, State of California.

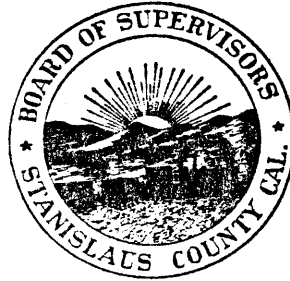
Upon motion of Supervisor Monteith seconded by Supervisor Grover, the foregoing Ordinance was passed and adopted at a regular meeting of the Board of Supervisors of the County of Stanislaus, State of California, this 9th day of December, 2008, by the following-called vote:

AYES: Supervisors: O'Brien, Grover, Monteith, and Vice-Chairman DeMartini

NOES: Supervisors: None

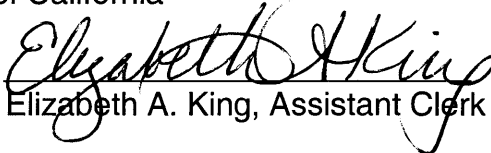
ABSENT: Supervisors: Mayfield


Jim De Martini, Vice-Chairman
of the Board of Supervisors of the
County of Stanislaus, State of California



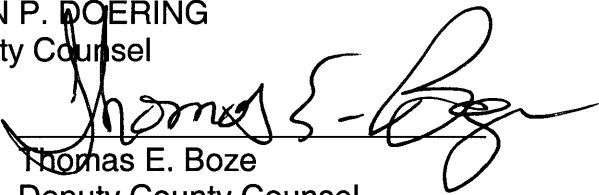
ATTEST:

CHRISTINE FERRARO TALLMAN, Clerk of the
Board of Supervisors of the County of Stanislaus,
State of California

By 
Elizabeth A. King, Assistant Clerk

APPROVED AS TO FORM:

JOHN P. DOERING
County Counsel

By 
Thomas E. Boze
Deputy County Counsel