ORDINANCE NO. C.S. _____

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

Section 1. Chapter 9.37 of the Stanislaus County Code is added to read as follows:

9.37.010 Title

The ordinance codified in this Chapter may be cited as the "Groundwater Mining and Export Prevention Ordinance of Stanislaus County."

9.37.020 Findings

The Stanislaus County Board of Supervisors hereby finds:

1. The protection of the health, welfare, and safety of the residents of the County require that the groundwater resources of Stanislaus County be protected from adverse impacts resulting from the specific acts of mining groundwater resources within the County and the export of water outside of the County; and

2. Groundwater is an essential resource for continued agricultural production within the County which production includes, but is not limited to, field crops, nut and fruit crops, vegetable crops, seed crops, poultry and livestock and products which significantly contribute to the gross value of the total agricultural production of the County; and

3. Groundwater is an essential resource for municipal, industrial and domestic uses within the County; and

4. The mining of groundwater resources from within the County and the export of water outside of the County could have adverse environmental impacts on the County, including but not limited to; increased groundwater overdraft, land subsidence, uncontrolled movement of inferior quality groundwater, the lowering of groundwater levels, increased groundwater degradation; and

5. The mining of groundwater resources from within the County and the export of water outside of the County could have adverse economic impacts on the County, including but not limited to, loss of arable land, a decline in property values, increased pumping costs due to the lowering of groundwater levels, increased groundwater quality treatment costs, replacement of wells due to

declining groundwater levels, replacement of damaged wells, conveyance infrastructure, roads, bridges and other appurtenances, structures or facilities due to land subsidence; and

6. California Constitution, Article X, Section 2, as well as Water Code section 100 prohibit the waste, unreasonable use, unreasonable method of use, and unreasonable method of diversion of water. The County finds that the mining of groundwater and the export of water outside of the County are unsustainable uses of groundwater and are not reasonable or beneficial uses to the citizens of Stanislaus County and, therefore, the mining of groundwater and the export of water from the County are inconsistent with the California Constitution and the California Water Code.

9.37.030 Definitions

The following words and phrases shall have the following meanings when used in this Chapter:

1. “County” means the County of Stanislaus.

2. “Board” means the Board of Supervisors of Stanislaus County.

3. “Person” means and includes natural persons, corporations, firms, partnerships, joint stock companies, associations and other organizations of persons, and public entities.

4. “Groundwater” means all water beneath the surface of the earth within the zone of saturation, but does not include water which flows in known and definite subsurface channels.

5. “Public water agency” means any local public agency, mutual water company, or non-profit tax-exempt unincorporated association within, or partially within, Stanislaus County that has authority to undertake water-related activities.

6. “Mining” means the extraction of groundwater beyond the quantity warranted, necessary, or as may be customary for reasonable and beneficial uses within the County.

7. “Export” means the act of conveying groundwater, or surface water substituted with groundwater, out of the County.

9.37.040 Prohibition

The mining of groundwater resources within the unincorporated areas of the County of Stanislaus, and the export of water outside of the County, are both prohibited except as otherwise provided in this Chapter.

9.37.050 Exemptions

Groundwater extractions associated with the following water management practices are exempt from the prohibition against mining of groundwater resources and the export of water under this Chapter.

1. Water resources management practices of public water agencies that have jurisdictional authority within the County that are in compliance with and included in groundwater management plans adopted by that agency in accordance with applicable State law and regulations, including but not limited to the California Groundwater Management Act (Water Code sections 10750 et seq.).

2. De-watering of shallow water tables where the net benefits of the removal of subsurface water substantially outweighs the loss of water because of damage the high water table reasonably may cause to agriculture, industry, commerce and other property uses. The groundwater in some areas of the County is very near the surface and if not removed by interceptor ditches or subsurface tile drains, the water can seriously impact crop root zones for agricultural production or destroy foundations, equipment, materials, buildings and infrastructure used for residences, industry, utilities or commerce. This groundwater may or may not be reused for other purposes and at times may leave the County and its groundwater system.

3. Reasonable use of groundwater resources to supplement or replace surface water released for other legitimate purposes, including but not limited to fisheries, ecosystem habitat or downstream water quality or quantity needs, when required pursuant to Federal and State law, regulations, licenses or permit conditions.

4. Conservation of water in compliance with applicable State law that authorizes public water agencies to transfer water outside its usual place of use. Conservation investments may include, but are not limited to, irrigation practices in agricultural areas where the crops grown use less water, or cities that fix leaks or promote other water saving devices and methods to conserve water on a temporary or permanent basis.

5. Recharge of groundwater in locations in the County that are capable of improving groundwater conditions in order to meet total water demands of

all beneficial uses in the hydrologic and groundwater basin area including but not limited to the following sources; surface water, treated municipal drinking water, recycled water and stormwater. The amount of recaptured groundwater transferred out of the area should not exceed the amount of water used to recharge the aquifer. The transfer can be accomplished by either direct or indirect transfer, that is, a public water agency can leave the water in the ground and transfer other supplies in lieu of pumping out the recharge water.

6. Remediation of contaminated groundwater that is pumped and treated to remove contaminants that are in violation of standards for beneficial uses. The extracted and treated water may be released out of the County, resulting in a net loss to the groundwater basin, if the release complies with discharge permits issued by the Federal, State or State resource agencies.

7. Groundwater extraction and export that reasonably supports agricultural operations on property outside the County that is contiguous with property within the County and is under common ownership.

8. Export of water from a private water source that is bottled in compliance with a Private Water Source Operator License issued by the State pursuant to Health and Safety Code section 111120.

9. Groundwater mining and the export of water done in compliance with a permit issued by the Stanislaus County Department of Environmental Resources.

9.37.060 Implementation

A. The Stanislaus County Department of Environmental Resources shall have the primary responsibility for implementation of this Chapter and regulations adopted by the Board of Supervisors.

B. A permit is required unless otherwise exempted by this ordinance.

C. The Department of Environmental Resources shall investigate any activity subject to this ordinance and shall enforce the prohibition of any activity that is a violation of this Chapter and regulations adopted by the Board of Supervisors unless and until the activity is found in compliance with the exemptions. Compliance will be determined based on the submission of a technical report submitted to the Department of Environmental Resources on a form provided by the County.

9.37.070 Penalty for Violation

A. Any person violating any of the provisions of this Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished as set forth in

Stanislaus County Code Section 1.36.010. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Chapter is committed, continued or allowed and shall be punishable accordingly.

B. In addition to or in lieu of the penalty provisions or remedies set forth in this Chapter, any violation may be abated in any manner set forth in Chapter 2.92 of the Stanislaus County Code, including, but not limited to, abatement or issuance of administrative citations.

C. In addition to or in lieu of the penalty provisions or remedies set forth in this Chapter, any violation of any of the provisions of this Chapter, and any condition caused or allowed to exist in violation of any of the provisions of this Chapter, shall be deemed a public nuisance and shall, at the discretion of County, create a cause of action for injunctive relief, including but not limited to any remedy under Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code.

9.37.080 Severability

The provisions of this Chapter are hereby declared to be severable. If any provision, clause, word, sentence or paragraph of this Chapter or the application thereof to any person, establishment or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Chapter.

Section 2. This ordinance shall take effect thirty (30) days from and after the date of its passage and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of 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 _____ seconded by Supervisor _____, 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 ____ day of _____, 2013, by the following-called vote:

AYES: Supervisors:

NOES: Supervisors:

ABSENT: Supervisors:

_____
Vito Chiesa, Chair 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 _____
Liz King, Deputy Clerk

APPROVED AS TO FORM:

By _____
John P. Doering
County Counsel