COUNTY ORDINANCE PROHIBITING GROWING OF GENETICALLY ENGINEERED ORGANISMS. The proposed ordinance states that, due to the fact that genetically engineered life forms and products are being developed and introduced into the market with precipitous speed, before the potential risks and long term effects of these products have been studied, the danger that they may contaminate and thereby reduce the economic value of neighboring crops creates a serious economic threat to farmers.

The proposed ordinance would prohibit growing genetically engineered organisms in Butte County. The proposed ordinance would declare that propagation, cultivation, raising and growing of genetically engineered organisms in Butte County constitutes a public nuisance pursuant to existing Butte County Code Section 32A-2(a)(l). Further, the proposed ordinance would provide that the growing, etc. of genetically engineered organisms does not constitute "Legitimate Agricultural Operations," which are exempted from the type of activities that can be designated as a public nuisance, pursuant to existing Butte County Code Section 32A-2(a)(l).

The proposed ordinance would define "genetically engineered organism" as an organism or the offspring of an organism, the DNA of which has been altered or amended through genetic engineering. The proposed ordinance would exempt the following activities from the prohibition against the growing of genetically engineered organisms: (1) scientific research or education using genetically engineered organisms conducted by a fully accredited college or university, under secure, enclosed laboratory conditions, taking precautions to prevent contamination of the outside environment; and (2) diagnosis, care or treatment provided for any patient, by any licensed health care practitioner.

The proposed ordinance would designate the Butte County Agricultural Commissioner as the County official authorized to enforce its provisions. The proposed ordinance would provide that the procedural provisions of existing Chapter 32A of the Butte County Code would govern all enforcement proceedings held pursuant to the ordinance. The provisions of existing Chapter 32A include: (1) a noticed administrative hearing, wherein a hearing officer determines whether a suspected violator has violated the ordinance, (2) an appeal to the Butte County Board of Supervisors from the hearing officer's decision, and (3) a process through which objects which pose a threat to public health or safety are removed or abated.

The proposed ordinance would provide that upon a final determination that the ordinance has been violated, the Agricultural Commissioner shall immediately thereafter cause to be confiscated for public safety any such organisms as are determined to have been grown in violation of the ordinance, and shall take such other measures as the Commissioner may deem necessary or appropriate to (1) prevent human or animal consumption of the organisms or any products derived from the organisms, (2) prevent contamination of the gene pool by material from the organisms, and (3) ameliorate any other harmful effects which might result from the violation. Any genetically engineered plants or plant products are to be destroyed. Any genetically engineered animals are to be killed, if necessary, or otherwise disposed of in such a manner as to ensure that they will never be consumed, sold, or permitted to reproduce.

Section 1. Findings and Purpose. The People of the County of Butte, desiring to protect our agricultural industry, our natural environment, the private property rights of our citizens, and the health and safety of our People, deem it advisable and appropriate to restrict the introduction into our County of genetically engineered crops, livestock, and other organisms. Genetically engineered life forms
and products are being developed with precipitous speed, and have been introduced into the marketplace, often without the consumers' knowledge, before the potential risks and long term effects of these products have been studied. In addition, because many companies and foreign markets do not accept genetically engineered food products, the danger of contaminated crops by genetically engineered crops creates a serious economic threat to farmers. Finally, the impact on our natural environment from genetically engineered organisms and contamination from such is unpredictable, ultimately uncontrollable, and has received little study. For all of these reasons, the People of County of Butte find and declare that the propagation, cultivation, raising, and growing of genetically engineered organisms in Butte County constitutes a public nuisance under Chapter 32A-2(a)(1) of the Butte County Code, and shall not be deemed "Legitimate Agricultural Operations".

Section 2. Prohibitions. It is unlawful for any person to propagate, cultivate, raise, or grow genetically engineered organisms in Butte County, and any act in violation of this provision is declared to constitute a public nuisance. However nothing in this Ordinance shall make it unlawful for (1) a fully accredited college or university to engage in scientific research or education using genetically engineered organisms under secure, enclosed laboratory conditions, taking precautions to prevent contamination of the outside environment, or (2) any licensed health care practitioner to provide any diagnosis, care or treatment to any patient.

Section 3. Definitions.

(a) "Genetically engineered organism" means an organism or the offspring of an organism the DNA of which has been altered or amended through genetic engineering. Such organisms are also sometimes referred to as "genetically modified organisms" or "GMO's".

(b) "Genetic engineering" means altering or amending DNA using recombinant DNA technology such as gene deletion, gene doubling, introducing a foreign gene, or changing the position of genes, and includes cell fusion, microencapsulation, macroencapsulation, gene splicing, and other similar processes. Genetic engineering does not include traditional selective breeding, conjugation, fermentation, hybridization, in vitro fertilization, or tissue culture.

(c) "DNA" means deoxyribonucleic acid, the material naturally found within living cells which contains the genetic code and transmits hereditary patterns.

(d) "Organism" means any living thing, exclusive of human beings and human fetuses.

(e) "Commissioner" means the Agricultural Commissioner of Butte County.

(f) "Person" means an individual, partnership, corporation, or organization of any kind. Section 4.

Enforcement.

(a) The Agricultural Commissioner is hereby designated to enforce this Ordinance and may exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this Ordinance.

(b) Whenever the Commissioner has reason to suspect a violation of this provision, he or she shall give notice in the manner provided in Chapter 32A-5, for a hearing to be set no less than 14 days, and no more than 21 days from the date of notice. Five days prior to the date set for hearing, the suspected violator shall submit to the Commissioner any documentary evidence the person would like to have considered in the person's defense.

(c) Except as otherwise provided herein, the selection of the hearing officer, the manner in which the hearing is held, the appeal process, the abatement process, and all related proceedings shall be conducted, insofar as possible, according to the provisions of Chapter 32 A.

(d) The hearing officer or Board shall make a decision no later than 15 days after the hearing.
(e) Upon final determination that there has been a violation of this Ordinance, the Commissioner shall immediately thereafter cause to be confiscated for the public safety any such organisms as are determined to have been propagated, cultivated, raised or grown in violation of this Ordinance, and shall take such other measures as the Commissioner may deem necessary or appropriate to (1) prevent human or animal consumption of the genetically engineered organisms or any products derived from the genetically engineered organisms, (2) prevent, contamination of the gene pool by genetic material from the genetically engineered organism, and (3) ameliorate any other harmful effects which might result from the violation. Any genetically engineered plants or plant products are to be destroyed. Any genetically engineered animals are to be killed, if necessary, or otherwise disposed of in such a manner as to ensure that they will never be consumed, sold, or permitted to reproduce.

(f) Any person or persons knowingly and willfully responsible for a violation of this Ordinance shall be responsible for administrative and abatement costs, as provided in Chapter 32A. Cost enforcement shall not be imposed upon any person whose violation is not knowing and willful, nor shall costs be imposed for enforcement for crops planted or animals possessed in the Coui to the effective date of this Ordinance.

(g) The provisions of this Ordinance are cumulative, and nothing in this Ordinance affects any other remedies any individual or government entity may have against any person resulting from violation of this Ordinance.

Section 5. Severability. The provisions of this Ordinance are severable. If any provision of this Ordinance or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.