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SUPERIOR COURT OF THE STATE OF CALIFORNIA

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COUNTY OF SAN FRANCISCO

12

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THE PEOPLE OF STATE OF CALIFORNIA, *ex rel*  
BILL LOCKYER, ATTORNEY GENERAL,

14

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Plaintiffs,

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v.

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HANSON BUILDING MATERIALS AMERICA,  
INC., HANSON AGGREGATES WEST, INC.,  
18 HANSON AGGREGATES MID-PACIFIC, INC.,  
HANSON MARINE OPERATIONS, INC., MARINE  
19 AGGREGATE SERVICES, INC., MOE SAND  
COMPANY, TIDEWATER SAND & GRAVEL,  
20 INC., JAMES PETERSON, JOEL PETERSON,  
ELLEN R. SEABORN, OLIN JONES SAND  
21 COMPANY, JONES SAND COMPANY, OLIN  
JONES, AND DOES 1-50,

22

23

Defendants.

Case No.: 323842

COMPLAINT IN INTERVENTION

Violations of False Claims Act  
(Gov't Code § 12650 et seq.)

Conversion of Mineral Deposits  
(Public Resources Code §6224.2)

Unlawful Business Practices  
(Bus. & Prof. Code § 17200)

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Plaintiff the People of the State of California ("State") *ex rel* Bill Lockyer, Attorney

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General alleges as follows:

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INTRODUCTION

27

1. This action arises under the California False Claims Act, Government Code section

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12650 et seq. It was originally filed under seal by *qui tam* Kevin Bartoo on or about August 16,

1 2001 pursuant to the *qui tam* provisions of the California False Claims Act. (Gov. Code, section  
2 12652(c).) This complaint by the Attorney General is filed pursuant to a notice of election to  
3 intervene and proceed with the action under Government Code section 12652, subdivision  
4 (c)(6)(A), filed contemporaneously with this complaint.<sup>1/</sup>

5 2. This is an action to recover damages and civil penalties on behalf of the State of  
6 California arising from false claims made by defendants Hanson Building Materials America, Inc.,  
7 Hanson Aggregates West, Inc., Hanson Aggregates Mid-Pacific, Inc., Hanson Marine Operations,  
8 Inc., Marine Aggregate Services, Inc., Moe Sand Company, Tidewater Sand and Gravel, Inc.,  
9 James Peterson, Joel Peterson, Ellen R. Seaborn, Olin Jones Sand Company, Jones Sand  
10 Company and Olin Jones, (collectively “Defendants”). Pursuant to certain leases entered into  
11 with the California State Lands Commission (the Commission), Defendants were allowed to  
12 extract sand and gravel from public lands in return for royalties paid to the Commission based  
13 upon the gross sales price and the quantity of material removed and sold by Defendants. By  
14 falsely reporting the value and quantity of material extracted, as well as the location of extraction,  
15 between 1992 and the present, Defendants violated the California False Claims Act (Gov. Code, §  
16 12650 et seq.) and the Unfair Business Practices Act (Bus. & Prof. Code, § 17200).

17 PARTIES

18 3. The Attorney General brings this action on behalf of the People of the State of  
19 California as plaintiff and the real party in interest in this action.

20 4. Kevin Bartoo is the *qui tam* plaintiff and is a resident of California.

21 5. Defendant Hanson Building Materials America, Inc. is a corporation with its  
22 principal place of business in San Ramon, California, and is in the business of manufacturing and  
23 selling building supplies in North America, and is licensed to do and does business in California.

24 6. Defendant Hanson Aggregates West, Inc., is a Delaware corporation engaged in  
25 the business of manufacturing and selling building supplies in the Western United States, and is a  
26 wholly owned subsidiary of Hanson Building Materials America, Inc., and is licensed to do and  
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28 1. All statutory references are to the California Codes.

1 does business in California.

2 7. Defendant Hanson Aggregates Mid-Pacific, Inc., is a Delaware corporation  
3 engaged in the business of manufacturing and selling building supplies in the Western United  
4 States, and is licensed to do and does business in California.

5 8. Hanson Marine Operations, Inc., is a California corporation formerly known as  
6 Moe Sand Co., Inc., with its principal place of business in California.

7 9. Marine Aggregate Services, Inc., is a California corporation formerly known as  
8 Olin Jones Sand Co., Inc., with its principal place of business in California.

9 10. Defendants Hanson Aggregates Mid-Pacific, Inc. (“HAMP”), Hanson Marine  
10 Operations, Inc. (“Hanson Marine”), and Marine Aggregate Services, Inc. are referred to  
11 collectively herein as “Hanson.”

12 11. Defendant Moe Sand Company (Moe) was a California partnership with its  
13 principal place of business in Oakland, California.

14 12. Defendant Tidewater Sand & Gravel, Inc. (Tidewater) was a California  
15 corporation with its principal place of business in Oakland, California.

16 13. Defendant James Peterson is an individual who owned interests in Moe and  
17 Tidewater until the sale of those companies to Hanson in or about July 1999, and actively  
18 participated in the fraudulent schemes described herein.

19 14. Defendant Joel Peterson is an individual who owned interests in Moe and  
20 Tidewater until the sale of those companies to Hanson in or about July 1999, and actively  
21 participated in the fraudulent schemes described herein.

22 15. Defendant Ellen R. Seaborn is an individual who owned an interest in Moe until  
23 the sale of that company to Hanson in or about July 1999, and who previously owned an interest  
24 in Tidewater, and actively participated in the fraudulent schemes described herein.

25 16. Defendant Olin Jones Sand Company (Olin Jones Sand) was a California  
26 corporation with its principal place of business in Martinez, California.

27 17. Defendant Jones Sand Company (Jones Sand) was a California corporation with its  
28 principal place of business in California.

1           18.    Defendant Olin Jones (Jones) is an individual who owned interests in Olin Jones  
2 Sand Company and Jones Sand Company, until the sale of those companies to Hanson in or about  
3 December 1999, and actively participated in the fraudulent schemes described herein.

4           19.    Defendant Moe was the alter ego of Defendant Tidewater, and Defendant  
5 Tidewater was the alter ego of Defendant Moe. In about July 1999, Hanson acquired all of  
6 Tidewater's stock as well as the partnership interest in Moe, and is the successor in interest to  
7 Tidewater and Moe.

8           20.    In about December 1999, Hanson acquired all of the stock in Olin Jones Sand and  
9 Jones Sand.

10          21.    In March 2000, Hanson Aggregates Mid-Pacific merged with Tidewater, and in  
11 September 2000 it merged with Jones Sand. As part of its mergers with Tidewater and Jones  
12 Sand, Hanson Aggregates Mid-Pacific expressly assumed all assets and liabilities of Tidewater and  
13 Jones Sand.

14          22.    The true names and capacities, whether corporate, associate, individual,  
15 partnership or otherwise of defendants Does 1 through 50, inclusive, are unknown to the State  
16 which therefore sues said defendants by such fictitious names. The State will seek leave of court  
17 to amend this complaint to allege their true names and capacities when the same are ascertained.  
18 On information and belief, at all relevant times each of the defendants, including Doe defendants,  
19 was and is the agent, employee, employer, joint venturer, representative, alter ego, subsidiary,  
20 and/or partner of one or more of the other defendants, and was, in performing the acts  
21 complained of herein, acting within the scope of such agency, employment, joint venture, or  
22 partnership authority, and/or is in some other way responsible for the acts of one or more of the  
23 other defendants.

#### JURISDICTION AND VENUE

24  
25          23.    On information and belief, all of the Defendants reside in the State of California.  
26 Each Defendant engaged in conduct directed at the State in perpetrating the deceptive schemes  
27 described below.

28          24.    Venue is proper in this Court because the Defendants transact business in San

1 Francisco County and some of the acts alleged herein occurred in this venue.

2 THE FRAUDULENT SCHEMES AND UNFAIR PRACTICES

3 25. By methods as sophisticated as fictitious pricing schemes to as simple as outright  
4 conversion, Defendants have knowingly and systematically cheated California taxpayers out of  
5 tens of millions of dollars in royalties on State-owned sand over the past ten years. From as early  
6 as 1992, Defendants: (1) falsified royalty reports to the State by misstating sand prices used to  
7 calculate royalties; (2) under-reported the amounts of sand they dredged, thereby avoiding  
8 royalties on the unreported sand; and (3) took over two million cubic yards of sand from  
9 submerged state lands where they did not have leases.

10 26. By failing to pay State royalties and converting State sand, Defendants reaped  
11 huge economic benefits at the expense of State taxpayers. Defendants became so adept at these  
12 practices that one company bragged, just before the company was sold to Defendant Hanson for  
13 \$44 million in cash, that “tremendous hikes in profitability” pushed the company into “a new era  
14 of performance with gross profit margins in excess of 50% of revenues.” Olin Jones, an owner of  
15 another sand mining company, boasted to a State environmental agency staffer, after he was fined  
16 for excessive sand dredging, that sand mining was so lucrative they couldn’t fine sand miners  
17 enough to make them stop over-dredging: it was “like mining gold.”

18 27. Defendants knew they were taking sand from State property and directed their  
19 tugboat captains to prospect for quality sand without regard to lease boundaries and the State’s  
20 property rights. Moe and Tidewater principals, including Defendants James and Joel Peterson,  
21 told tugboat captains to find quality sand and never directed tugboat captains to stay on lease  
22 boundaries or to refrain from mining sand on State lands outside of lease boundaries. Similarly,  
23 Olin Jones Sand and Jones Sand, through their principal, Defendant Olin Jones, instructed their  
24 tugboat captains to go outside the lease areas and “feel around, [and] look around” for quality  
25 sand. As a result of Defendants’ improper directives, from as early as 1992 until their companies  
26 were sold in 1999, Moe, Tidewater, Olin Jones Sand and Jones Sand knowingly dredged and sold  
27 millions of cubic yards of sand mined, without authorization, from State lands.

28 28. Hanson knew about Olin Jones Sand and Moe’s prospecting activities when it

1 purchased the companies in 1999. During Hanson’s due diligence efforts prior to the purchase of  
2 Olin Jones Sand and Moe, Hanson executives discovered that the sand dredgers were simply  
3 searching for quality sand by conducting test dredging and, consequently, that dredging activity  
4 had occurred outside the lease boundaries throughout the history of dredging in the area. Hanson  
5 also discovered that the sand dredgers’ prospecting was specifically designed to ensure best  
6 quality cargoes and, thus, the mining was concentrated and occurred outside the lease areas.  
7 Despite this knowledge of ongoing and improper dredging activities, Hanson continued dredging  
8 outside of its lease boundaries, taking hundreds of thousands of cubic yards of State sand without  
9 notifying the State of its activities or paying for the State for the sand it took.

10 **The Moe, Tidewater and Peterson Defendants’ Liability for Misrepresenting**  
11 **Royalty Obligations to the State**

12 29. Beginning in or about 1957, Moe entered into a series of leases with the  
13 Commission by which Moe was given the rights to dredge sand and gravel from certain sites in  
14 the San Francisco Bay, in return for payment of royalties to the Commission based on the value of  
15 the dredged material. By 1993 Moe held three Commission leases; Presidio Shoals, lease number  
16 709.1, Angel Island, lease number 2036.1, and Alcatraz, lease number 7780. In 1999, Hanson  
17 assumed all of the leases held by Moe at that time.

18 30. Pursuant to the terms of various leases at issue, Defendants were required to pay  
19 royalties to the Commission based on a formula whereby a percentage of the weighted average  
20 gross sales price for sales of sand and gravel extracted from lease lands, including both inside and  
21 outside sales, is multiplied by the total amount of extracted sand and gravel. An “Inside Sale” is  
22 defined in the leases as the transfer or sale of sand and gravel to companies or business entities  
23 owned or controlled by lessee. An “Outside Sale” is defined as the sale of sand and gravel to  
24 third parties. The “Gross Sales Price” is defined as the actual sales price for outside sales, and for  
25 inside sales, as the fair market value of the same material sold in outside sales by Lessee, but never  
26 less than the average retail fair market value of the same material sold by similar companies in  
27 Lessee’s sales and marketing area.

28 31. At all relevant times alleged herein, sales from Moe to Tidewater were inside sales

1 under the terms of the leases since Tidewater was owned and controlled by the same individuals  
2 and entities who owned or controlled Moe.

3 32. At all relevant times alleged herein, Defendants Moe and Ellen Seaborn regularly  
4 submitted either monthly or quarterly reports (royalty reports) to the Commission stating the  
5 quantities dredged from the lease site, and the royalty amounts owed pursuant to the terms of the  
6 leases. According to the leases, the royalty amounts owed to the Commission were calculated  
7 based on a weighted average sales price (WASP) which included both wholesale sales (sales from  
8 Moe by the barge load) and retail sales (sales from Moe's affiliate (Tidewater) at its facility).  
9 Prior to 1993, Moe submitted royalty reports which properly calculated the royalty amounts owed  
10 to the Commission: that is those calculations included sales from both Moe and its affiliate,  
11 Tidewater. Although the WASP changed from report to report based on the changing market  
12 price of sand, the WASPs reported for the pre-1993 reports are consistently higher than the  
13 WASPs reported thereafter.

14 33. Beginning in 1993 and continuing until the company was sold to Hanson in July  
15 1999, Moe stated on each of its monthly or quarterly reports with respect to leases 709.1, 2036.1,  
16 and 7780.1, a false royalty amount owed to the Commission. Moe's reported amount of royalty  
17 owed was much less than what was actually owed to the Commission. Moe calculated this false  
18 amount by purposefully manipulating the WASP in two ways: first, it calculated the WASP based  
19 on only wholesale sales (barge load sales from Moe to Tidewater), and stopped including the  
20 retail sales as required by the leases; second, in calculating the WASP, it used arbitrary sales  
21 prices that were as low as 1/3 the actual gross sales price of the sand sold in wholesale sales. The  
22 WASPs used for post-1993 reports are consistently lower than those in pre-1993 reports.

23 34. The first royalty manipulation described above, i.e. elimination of the retail sales in  
24 the WASP calculation, was executed when Defendants Moe, Tidewater, Joe Peterson, Jim  
25 Peterson and Ellen Seaborn unilaterally and secretly changed the method by which they calculated  
26 royalties in contradiction to the lease and to the detriment of the State. Beginning with its 1993  
27 reports, and on all reports thereafter, Defendant Ellen Seaborn falsely certified to the Commission  
28 that the WASP was true and correct as calculated under the terms of the leases. In fact,

1 Defendants knew that the WASP was not calculated pursuant to the terms of the lease and failed  
2 to disclose such to the Commission.

3 35. Defendants Moe and Ellen Seaborn executed the second manipulation described  
4 above, i.e. relying on arbitrary sales prices instead of the gross wholesale sales price, as follows.  
5 Beginning in 1993, for sales from Moe to third parties, Defendants charged third parties prices  
6 consisting of two components: a token product charge and a demurrage fee, which theoretically  
7 includes a fee for transportation, opportunity cost and other miscellaneous costs. Defendants  
8 reported to the Commission the token product price only, despite the fact that the demurrage fee  
9 should have been included as a component of the actual sales price and should have been included  
10 in the royalty owed to the Commission. Then, beginning in 1998, Defendants further manipulated  
11 the royalty calculation by 1) dividing the gross sales price into yet another component called  
12 “royalty fee” which was not included in the price for purposes of royalty calculations; and 2)  
13 increasing the size of the demurrage component and reducing the token product price. As a result  
14 of these manipulations, the actual price to customers and the profits to Defendants increased over  
15 time, while royalties actually paid to the State decreased substantially below what was actually  
16 owed to the State.

17 **The Moe, Tidewater and Peterson Defendants’ Liability for Misrepresenting The**  
18 **Quantities of Sand Dredged on State Lands**

19 36. Defendants Moe and Tidewater also falsely reported the quantities of sand and  
20 gravel Defendants dredged from the leases. Specifically, Moe consistently charged outside  
21 customers for full barge loads of sand consisting of 2,400 cubic yards. However, Moe  
22 consistently under-reported the amount of sand it dredged and sold to its affiliate Tidewater,  
23 falsely stating in dredge reports that it dredged and delivered 2,300 cubic yard barge loads to  
24 Tidewater. In fact, Moe consistently delivered 2,400 cubic yard barge loads of sand to Tidewater,  
25 but falsely reported lower cubic yard amounts in its dredge reports and falsely understated its sand  
26 dredging totals in royalty reports Moe submitted to the Commission.

27 37. Defendants Moe and Tidewater, also made false statements to the State and  
28 created false records claiming Moe was dredging, and Tidewater was selling, sand from private



1 tidelands in the Suisun Bay when in fact Moe was dredging, and Tidewater was selling, sand  
2 mined from State lands in the Suisun Bay.

3 38. Defendant Moe held sand mining leases on private tidelands owned by Luis Grossi  
4 near Middleground Island (“Grossi Lease”) in the Suisun Bay. Defendants Moe, Tidewater, Joe  
5 Peterson, Jim Peterson and Ellen Seaborn created, or assisted in creating, false records, including  
6 royalty reports, dredging reports and sales reports, showing that Moe and Tidewater were  
7 dredging sand and gravel from the Grossi Lease site, when in fact Moe and Tidewater were  
8 dredging and selling higher quality sand from State properties for which Moe and Tidewater did  
9 not hold leases or permits.

10 **The Jones Defendants’ Liability for Misrepresenting Royalty**  
11 **Obligations to the State**

12 39. Beginning in about 1980, Olin Jones Sand entered into a series of leases with the  
13 Commission by which Olin Jones Sand was given the rights to dredge sand and gravel from  
14 certain sites in the San Francisco Bay and Suisun Bay, in return for payment of royalties to the  
15 Commission based on the value of the dredged material.

16 40. By the mid 1990s Olin Jones Sand held Commission leases near Angel Island, lease  
17 number 7779.1, and in Suisun Bay, lease number 7781. In 1999, Hanson assumed all of the leases  
18 held by Jones at that time.

19 41. The Angel Island and Suisun Bay leases required Olin Jones Sand to calculate  
20 royalties as a percentage of the gross weighted average sales price of sand. The leases also  
21 provided that the “gross sales price” used to calculate the WASP should be the actual sales price  
22 when Olin Jones Sand sold sand directly to third party purchasers (“outside sales”). However, if  
23 Olin Jones Sand first transferred sand to its affiliate Jones (“inside sale”), which then sold sand to  
24 third party purchasers, the “gross sales price” would be a calculated number which was not less  
25 than the “average retail market value” of the sand.

26 42. At all relevant times alleged herein, sales from Olin Jones Sand to Jones Sand were  
27 inside sales under the terms of the leases since Olin Jones Sand was owned and controlled by the  
28 same individuals and entities who owned or controlled Jones Sand.

1           43.     At all relevant times alleged herein, Defendants Olin Jones Sand and Olin Jones  
2 submitted quarterly reports (royalty reports) to the Commission stating the quantities dredged  
3 from the lease site, and the royalty amounts owed pursuant to the terms of the leases.

4           44.     From the time Olin Jones Sand began dredging sand from State lease number  
5 7779.1 in 1995, and lease number 7781.1 in 1997, Olin Jones Sand and Olin Jones submitted  
6 royalty reports to the Commission that falsely stated the WASP for sand mined from State lands  
7 and sold by Olin Jones Sand and Jones Sand. Instead of reporting a WASP that included  
8 consideration of both wholesale and retail sales as directed by the leases, Defendants reported a  
9 false and deflated sand price and an improperly calculated royalty payment of \$.65 per cubic yard.

10          45.     Olin Jones Sand and Olin Jones falsely stated the sales price of sand to the State  
11 and avoided royalty obligations by manipulating sand prices in two ways. First, when they “sold”  
12 sand to themselves -- transferring it from Olin Jones Sand to its affiliate Jones Sand Company they  
13 did not use the “average fair retail market price” of sand in calculating royalties for the transferred  
14 sand. Instead, Olin Jones Sand improperly used nominal sand prices charged between Olin Jones  
15 Sand to its affiliate Jones Sand Company when calculating royalties for the transferred sand and  
16 ignored altogether the actual retail price of sand.

17          46.     Olin Jones Sand Company also under-reported and under-paid royalties using a  
18 second price manipulation by breaking their barge prices for sand into multiple component parts  
19 and deducting each component from the gross sales price charged to their direct barge load  
20 customers. Olin Jones Sand Company then improperly used the resulting (and significantly  
21 reduced) net price of sand to their direct barge load customers in calculating the State’s royalties.

22          47.     Each of these practices of Defendants Olin Jones Sand, Jones Sand and Jones,  
23 which persisted from 1995 through 1999 caused significant and unauthorized reductions in  
24 royalties paid by the sand companies to the State and resulted in numerous violations of the False  
25 Claims Act based upon multiple false royalty reports submitted by Olin Jones Sand to the  
26 Commission.

27                   **The Jones Defendants’ Liability for Misrepresenting The Location And Extent of**  
28                   **Dredging Activity on State Lands**

1           48. Defendants Olin Jones Sand, Jones Sand and Jones also falsely reported on their  
2 royalty reports the quantities of sand and gravel Defendants dredged from the leases. Defendant  
3 Olin Jones Sand held sand mining leases to dredge and sell sand from the Grossi Lease.  
4 Defendants Olin Jones Sand, Jones Sand and Jones created, or assisted in creating, false records,  
5 including royalty reports, dredging reports and sales reports, claiming that Olin Jones Sand was  
6 dredging sand and gravel from the Grossi Lease site, when in fact it was dredging and selling  
7 higher quality sand from State properties for which Defendants Olin Jones Sand, Jones Sand and  
8 Jones did not hold leases or permits.

9           **The Hanson Defendants' Liability for Misrepresenting Royalty**  
10           **Obligations to the State**

11           49. When the Hanson Defendants acquired Moe, Tidewater, Olin Jones Sand and  
12 Jones Sand in 1999, Hanson continued the practices of the purchased companies described above,  
13 as set forth in paragraphs 25 through 48.

14           50. The terms of the leases Hanson Marine acquired required Hanson Marine to pay  
15 royalties to the Commission based on the formulas contained in the Moe and Olin Jones Sand  
16 leases described in detail above.

17           51. At all relevant times alleged herein, sales from Hanson Marine to HAMP were  
18 inside sales under the terms of the leases since Hanson Marine was owned and controlled by  
19 HAMP.

20           52. At all relevant times alleged herein, Hanson Marine submitted either monthly or  
21 quarterly reports (royalty reports) to the Commission stating the quantities dredged from the lease  
22 sites, and the royalty amounts owed pursuant to the terms of the leases. According to the leases,  
23 the royalty amounts owed to the Commission were calculated based on a WASP which included  
24 both wholesale sales (sales from Hanson Marine by the barge load) and retail sales (sales from  
25 Hanson Marine's affiliate (HAMP) at its facility).

26           53. From the time the Hanson Defendants acquired Moe, Tidewater, Olin Jones Sand  
27 and Jones Sand in 1999, Hanson Marine stated on each of its monthly or quarterly reports with  
28 respect to the leases it acquired, a false royalty amount owed to the Commission. Hanson

1 Marine's reported amount of royalty owed was much less than what was actually owed to the  
2 Commission. Hanson Marine simply adopted Moe's and Olin Jones Sand's improper royalty  
3 calculation methodology and continued manipulating the WASP in the same way by: (1)  
4 calculating the WASP based on only wholesale sales; (2) by excluding retail sales from their  
5 WASP calculations; and (3) by using arbitrary sales prices that were as low as 1/3 the actual gross  
6 sales price of the sand sold in wholesale sales.

7 54. Hanson Marine falsely certified to the Commission that the WASP was true and  
8 correct as calculated under the terms of the leases. In fact, Hanson Marine knew that the WASP  
9 was not calculated pursuant to the terms of the lease and failed to disclose such to the  
10 Commission.

11 55. Hanson Marine also continued its predecessors' practices of manipulating sand  
12 prices and reporting a false WASP which was not based on the true gross sales price of sand but  
13 on a nominal or net price after various charges lumped into a "demurrage fee" were stripped out  
14 of the reported WASP. Hanson Marine reported to the Commission the nominal WASP price  
15 only, and used the nominal WASP to calculate the State's royalty despite the fact that the gross  
16 sales WASP should have been reported and used to calculate the royalties owed to the  
17 Commission.

18 **The Hanson Defendants' Liability for Misrepresenting The Location And Extent of**  
19 **Dredging Activity on State Lands**

20 56. Defendant Hanson Marine also falsely stated the quantities of sand and gravel  
21 Defendants dredged from the State lands. Specifically, Defendant Hanson Marine acquired the  
22 Moe and Olin Jones Sand leases to dredge and sell sand from the Grossi Lease. Defendants  
23 Hanson Marine and HAMP created, or assisted in creating, false records, including royalty  
24 reports, dredging reports and sales reports, claiming that Hanson Marine was dredging sand and  
25 gravel from the Grossi Lease site, when in fact Hanson Marine was dredging and selling higher  
26 quality sand from State properties for which Defendants Hanson Marine and HAMP did not hold  
27 leases or permits.

28 **Defendants' False Statements and Submissions of False Records to the State**

1                    **Misrepresenting The Extent of their Dredging Activity in the Suisun Bay**

2                    57.        Defendants also submitted false records and made false statements to a number of  
3 government regulatory agencies, including, but not limited to the Commission, the San Francisco  
4 Bay Conservation and Development Commission (the “BCDC”) and California Regional Water  
5 Quality Control Board (the “Board”), which misrepresented to the State the true nature and  
6 extent of Defendants’ dredging activities on State lands.

7                    58.        The BCDC is a California state agency which is responsible for carrying out two  
8 state laws--the McAteer-Petris Act and the Suisun Marsh Preservation Act--and two plans--the  
9 San Francisco Bay Plan and the Suisun Marsh Protection Plan. These laws and plans were  
10 adopted to protect the Bay and the Suisun Marsh as natural resources for the benefit of the public  
11 and to ensure that development is compatible with this protection. The membership of the BCDC  
12 includes representatives of numerous State and local agencies including the State Lands  
13 Commission.

14                    59.        Within the primary management area of the Suisun Marsh, the BCDC authorizes  
15 development that is consistent with the applicable certified local protection program or, in the  
16 absence of a certified program, with the provisions of the Suisun Marsh Preservation Act and the  
17 policies of the Suisun Marsh Protection Plan. These acts, plans and programs require that existing  
18 land and water uses should be managed to enhance the quality and diversity of aquatic and wildlife  
19 habitat.

20                    60.        It is necessary for every commercial sand miner, including the Defendants in this  
21 case, to obtain BCDC approval prior to extracting sand from the bottom of the San Francisco Bay  
22 or Suisun Bay. To obtain the required BCDC approval, it is necessary to complete an application,  
23 provide the necessary additional information and exhibits, and pay a processing fee. A public  
24 hearing will then be held on an application for a major project. Thereafter, if the BCDC votes to  
25 approve the project, a permit with relevant conditions will be issued. Work on a project needing  
26 BCDC authorization cannot begin until the necessary approval has been secured.

27                    61.        Throughout the 1980s and 1990s, the BCDC communicated with Defendants in  
28

1 writing, in meetings and in telephone conversations explaining BCDC's role in regulating dredgers  
2 in the San Francisco Bay and Suisun Bay. Defendants were told that BCDC was charged with  
3 monitoring the environmental impact of Defendants' dredging activities in the San Francisco Bay  
4 and Suisun Bay. As part of this oversight BCDC restricted the areas in which Defendants could  
5 dredge and the quantities Defendants were authorized to remove from the San Francisco Bay and  
6 Suisun Bay.

7         62. Throughout the 1980s and 1990s, Defendants were told by BCDC staff that they  
8 were not to engage in commercial sand mining operations in the San Francisco Bay or Suisun Bay  
9 without valid permits and that BCDC did not issue permits unless sand miners had a valid existing  
10 lease with the State Lands Commission that allowed the dredgers to mine sand from State  
11 property and sell the sand at various unloading and distribution facilities in the Bay Area.

12         63. Throughout the 1990s, the BCDC emphasized to Defendants that the companies  
13 must accurately report their dredging activities in the San Francisco Bay and Suisun Bay and that  
14 state agencies, including the Commission and BCDC, were relying on Defendants' annual reports  
15 to assess the environmental impact of Defendants' dredging activity in the San Francisco Bay and  
16 Suisun Bay which serve as migration paths for fish species, like the winter-run chinook salmon,  
17 Delta smelt and herring. Defendants were also informed by BCDC of the importance of  
18 accurately reporting dredging activities in annual reports and in semi-annual surveys of dredged  
19 sand shoals which Defendants were obligated to perform pursuant to the terms of their permits.  
20 The BCDC and the Commission emphasized to Defendants that the accuracy of information  
21 regarding the location and volume of sand dredged was essential for state agencies, including the  
22 Commission and the BCDC, to discern any potential depletion of State sand resources and the  
23 environmental effects to the sand shoals in the Bay from Defendants' sand mining operations.

24         64. Defendants submitted applications for various major permits to authorize sand  
25 dredging in several locations throughout the Bay in the 1990s. Defendants' permit applications  
26 purported to identify the specific location of their proposed dredging projects in the Suisun Bay as  
27 well as the proposed quantity of sand Defendants intended to mine from the Suisun Bay.  
28 However, in direct violation of their obligation to the State and various State regulating agencies,

1 including the Commission and the BCDC, Defendants misrepresented the true extent of their sand  
2 mining operations in the Suisun Bay. Specifically, although Defendants submitted applications for  
3 dredging sand on what they claimed was the Grossi Lease site, the vast majority of Defendants'  
4 dredging operations in the Suisun bay were in fact carried out on State lands to the east and west  
5 of the Grossi Lease site where Defendants did not have BCDC permits or Commission leases.  
6 Defendants' permit applications materially misrepresented the geographic location of their  
7 proposed dredging activity and falsely stated that their projected mining activities involved  
8 privately owned sand when, in fact their operations involved mining and selling sand owned by the  
9 State.

10         65. Defendants also submitted annual reports to the BCDC throughout the 1990s  
11 purportedly identifying the quantities of sand dredged, the location where sand was dredged, the  
12 resale location where Defendants sold sand it mined from the Bay, and any changes in the area  
13 dredged by Defendants. Numerous of these annual reports falsely stated that Defendants were  
14 mining sand on the Grossi Lease site when, in fact, they were taking hundreds of thousands of  
15 cubic yards of valuable sand annually from State lands in the Suisun Bay to the east and west of  
16 the Grossi Lease. Defendants' annual reports to the BCDC materially misrepresented the  
17 geographic location of their actual dredging activity, falsely stating that actual mining activities  
18 involved privately owned sand when, in fact the Defendants' operations involved mining and  
19 selling sand owned by the State. Olin Jones Sand's and Hanson Marine's annual reports also  
20 falsely stated the quantities of sand they were mining in the Suisun Bay by failing to account for  
21 hundreds of thousands cubic yards of sand Olin Jones Sand and Hanson Marine mined annually  
22 and sold at various locations in the Bay Area.

23         66. Defendants also filed false documents with the Board which concealed Defendants'  
24 substantial and unauthorized sand mining operations in the Suisun Bay and their obligation to pay  
25 the State for State sand Defendants mined. Specifically, because of its sand mining operations in  
26 the Suisun Bay, Defendants were required to, and did, submit applications for permits to the  
27 Board. These applications required Defendants to disclose: (a) the proposed location of sand  
28 mining, including a map and State Lands Commission lease number (if applicable); (b) the

1 proposed range and depth at which mining will occur; (c) the description of timing of tidal stages  
2 during operations; (d) the quantity of proposed material to be dredged; and (e) a description of  
3 the equipment and method of the operation to be used.

4 67. Defendants' permit applications to the Board falsely stated the location of  
5 Defendants' sand mining operations in the Suisun Bay, and Olin Jones Sand's and Hanson  
6 Marine's permit applications failed to account for hundreds of thousands cubic yards of sand they  
7 mined annually from the Suisun Bay.

8 68. Defendants also submitted quarterly reports to the Board that purported to set  
9 forth Defendants' quarterly dredging activity in the San Francisco Bay and Suisun Bay by  
10 identifying the location of dredging activity and the quantities of mined sand. Each of these  
11 reports falsely stated the geographic location of Defendants' sand mining activities in the Suisun  
12 Bay. None of these reports disclosed that Defendants were, in fact, mining substantial quantities  
13 sand to the east and west of the Grossi Lease in the Suisun Bay. Each of these reports, submitted  
14 by Olin Jones Sand and Hanson Marine also falsely stated the quantity of sand they mined by  
15 failing to disclose hundreds of thousands of cubic yards of sand Olin Jones Sand and Hanson  
16 Marine mined in the Suisun Bay to the west of the Grossi Lease.

17 69. The State is informed and believes that Defendants were aware of the falsity of  
18 their statements, applications, and submissions or acted in deliberate ignorance or with reckless  
19 disregard of the truth. To the extent that Defendants claim that they did not know their  
20 statements, applications, and submissions were false at the time they were made, they failed to  
21 notify the State once they learned of their falsity.

22 70. As a result of Defendants' creation of false records, submission of false records to  
23 the State, and use of false statements regarding their dredging activities as alleged above, the  
24 State suffered damages from the conversion of State property and loss of royalty payments in a  
25 specific amount to be shown at trial.

26 **The Moe/Tidewater Conspiracy**

27 71. Defendants Moe, Tidewater, Ellen Seaborn, James Peterson and Joel Peterson  
28 have, through their agents, subsidiaries, and/or associated companies, participated in the



1 conspiracy in violation of Government Code section 12651, subdivision (a)(3), by, among other  
2 things, creating and maintaining an artificial billing system whereby Moe and Tidewater broke the  
3 gross price of sand charged to their customers into multiple component “fees” for transportation,  
4 unloading, standby time, and royalty. Moe, Tidewater, Ellen Seaborn, James Peterson and Joel  
5 Peterson agreed among themselves that Tidewater would bill sand purchasers for every  
6 component of the price of sand with the exception of the royalty fee and a nominal sand charge  
7 remaining after all other fees were removed from the sand price. Defendants Moe, Tidewater,  
8 Ellen Seaborn, James Peterson and Joel Peterson further agreed that, in direct violation of Moe’s  
9 leases with the Commission, Moe would use the nominal sand price rather than the gross price  
10 charged to sand purchasers in calculating the State’s royalty. Through this component pricing  
11 scheme, Moe, Tidewater, Ellen Seaborn, James Peterson and Joel Peterson acted to further their  
12 conspiracy to avoid obligations to the State by creating artificial and falsely deflated sales prices  
13 for sand which Moe used to calculate the State’s royalty and to create false royalty reports which  
14 Moe submitted to the State. Defendants Moe, Tidewater, Ellen Seaborn, James Peterson and Joel  
15 Peterson thereby conspired to, and did, create and use false statements and records to conceal,  
16 avoid and decrease an obligation to pay the State in violation of Government Code section 12651,  
17 subdivision (a)(3).

18         72. Defendants Moe, Tidewater, Ellen Seaborn, James Peterson and Joel Peterson  
19 have, through their agents, subsidiaries, and/or associated companies, also participated in a  
20 conspiracy by agreeing among themselves to prospect for sand on State lands and to create and  
21 use false statements and records with the intent to avoid their obligation to pay the State for the  
22 sand they mined from State lands. Defendants Moe, Tidewater, Ellen Seaborn, James Peterson  
23 and Joel Peterson intended to defraud the state, and acted in furtherance of their conspiracy to  
24 defraud the State, by participating in schemes to falsely report to the State the location where  
25 Defendants mined sand in the Suisun Bay. Specifically, from 1992 through 1999, Defendants  
26 Moe, Tidewater, Ellen Seaborn, James Peterson and Joel Peterson agreed to and did use the  
27 facilities, equipment, employees, and business assets of Moe and Tidewater to mine, market and  
28 sell substantial quantities of State-owned Suisun Bay sand and created false dredge logs, sales

1 reports, royalty reports, and annual reports and permit applications to the BCDC and the Board  
2 misrepresenting that the State sand they took was mined from the private Grossi Lease site.  
3 Defendants Moe, Tidewater, Ellen Seaborn, James Peterson and Joel Peterson thereby conspired  
4 to, and did, create and use false statements and records to conceal, avoid and decrease an  
5 obligation to pay the State in violation of Government Code section 12651, subdivision (a)(3).

6 **The Olin Jones Sand/Jones Sand Conspiracy**

7 73. Defendants Olin Jones Sand, Jones Sand and Jones have, through their agents,  
8 subsidiaries, and/or associated companies, participated in a conspiracy in violation of Government  
9 Code section 12651, subdivision (a)(3), by, among other things, creating and maintaining an  
10 artificial billing system whereby Olin Jones Sand and Jones Sand broke the gross price of sand  
11 charged to their customers into multiple component “fees” for transportation, unloading, standby  
12 time, and royalty. Olin Jones Sand, Jones Sand and Jones agreed among themselves that Jones  
13 Sand would bill sand purchasers for every component of the price of sand with the exception of  
14 the royalty fee and a nominal sand charge which Olin Jones separately billed customers after all  
15 other fees were removed from the sand price. Defendants Olin Jones Sand, Jones Sand and Jones  
16 further agreed that, in direct violation of Olin Jones Sand’s leases with the Commission, Olin  
17 Jones Sand would use a nominal sand price rather than the gross price charged to sand purchasers  
18 in calculating the State’s royalty. Through this component pricing scheme, Olin Jones Sand, Jones  
19 Sand and Jones acted to further their conspiracy to avoid obligations to the State by creating  
20 artificial and falsely deflated sales prices for sand which Olin Jones Sand used to calculate the  
21 State’s royalty and to create false royalty reports which Olin Jones Sand submitted to the State.  
22 Defendants Olin Jones Sand, Jones Sand and Jones thereby conspired to, and did, create and use  
23 false statements and records to conceal, avoid and decrease an obligation to pay the State in  
24 violation of Government Code section 12651, subdivision (a)(3).

25 74. Defendants Olin Jones Sand, Jones Sand and Jones have, through their agents,  
26 subsidiaries, and/or associated companies, also participated in a conspiracy by agreeing among  
27 themselves to prospect for sand on State lands and to create and use false statements and records  
28 with the intent to avoid their obligation to pay the State for the sand they mined from State lands.

1 Defendants Olin Jones Sand, Jones Sand and Jones intended to defraud the State, and acted in  
2 furtherance of their conspiracy to defraud the State, by participating in schemes to falsely report  
3 to the State the location where Defendants mined sand in the Suisun Bay. Specifically, from 1995  
4 through 1999, Defendants Olin Jones Sand, Jones Sand and Jones agreed to and did use the  
5 facilities, equipment, employees, and business assets of Olin Jones Sand and Jones Sand to mine,  
6 market and sell substantial quantities of state-owned Suisun Bay sand which they mined and sold  
7 without authorization from, or knowledge of, the State.

8 75. Olin Jones Sand, Jones Sand and Jones furthered their conspiracy by making and  
9 using false statements and creating false dredge logs, sales reports, royalty reports, and annual  
10 reports and permit applications to the BCDC and Board misrepresenting that the State sand they  
11 mined came from areas within the Suisun Bay, including the Grossi Lease site, where Olin Jones  
12 Sand had valid sand mining leases and permits from the Commission and the Board. In fact Olin  
13 Jones Sand, Jones Sand and Jones mined substantial quantities of sand in areas to the east and  
14 west of the Grossi Lease site where Olin Jones Sand did not have leases or permits. Defendants  
15 Olin Jones Sand, Jones Sand and Jones thereby conspired to, and did, create and use false  
16 statements and records to conceal, avoid and decrease an obligation to pay the State in violation  
17 of Government Code section 12651, subdivision (a)(3).

18 **The Hanson Marine/HAMP Conspiracy**

19 76. Defendants HAMP and Hanson Marine have, through their agents, subsidiaries,  
20 and/or associated companies, participated in the conspiracy described above by, among other  
21 things, creating and maintaining an artificial billing system whereby HAMP and Hanson Marine  
22 broke the gross price of sand charged to their customers into multiple component “fees” for  
23 transportation, unloading, standby time, and royalty. HAMP and Hanson Marine agreed among  
24 themselves that HAMP would bill sand purchasers for every component of the price of sand with  
25 the exception of the royalty fee and a nominal sand charge which Hanson Marine separately billed  
26 customers after all other fees were removed from the sand price. Defendants HAMP and Hanson  
27 Marine further agreed that, in direct violation of Hanson Marine’s leases with the Commission,  
28 Hanson Marine would use a nominal sand price rather than the gross price charged to sand

1 purchasers in calculating the State's royalty. Through this component pricing scheme, HAMP and  
2 Hanson Marine acted to further their conspiracy to avoid obligations to the State by creating  
3 artificial and falsely deflated sales prices for sand which Hanson Marine used to calculate the  
4 State's royalty and to create false royalty reports which Hanson Marine submitted to the State.  
5 Defendants HAMP and Hanson Marine thereby conspired to, and did, create and use false  
6 statements and records to conceal, avoid and decrease an obligation to pay the State in violation  
7 of Government Code section 12651, subdivision (a)(3).

8           77. Defendants HAMP and Hanson Marine have, through their agents, subsidiaries,  
9 and/or associated companies, also participated in a conspiracy by agreeing among themselves to  
10 prospect for sand on State lands and to create and use false statements and records with the intent  
11 to avoid their obligation to pay the State for the sand they mined from State lands. Defendants  
12 HAMP and Hanson Marine acted in furtherance of their conspiracy by participating in schemes to  
13 falsely report to the State the location where Defendants mined sand in the Suisun Bay.  
14 Specifically, from 1999 through 2002, Defendants HAMP and Hanson Marine agreed to and did  
15 use the facilities, equipment, employees, and business assets of HAMP and Hanson Marine to  
16 mine, market and sell substantial quantities state-owned Suisun Bay sand which they mined and  
17 sold without authorization from, or knowledge by, the State.

18           78. HAMP and Hanson Marine furthered their conspiracy by making and using false  
19 statements and creating false dredge logs, sales reports, royalty reports, and annual reports and  
20 permit applications to the BCDC and Board misrepresenting that the State sand they mined came  
21 from areas within the Suisun Bay, including the Grossi Lease site, where Hanson Marine had valid  
22 sand mining leases as well as permits from the Commission and the Board. In fact HAMP and  
23 Hanson Marine mined substantial quantities of sand in areas to the to the east and west of the  
24 Grossi Lease site where Hanson Marine did not have leases or permits. Defendants HAMP and  
25 Hanson Marine thereby conspired to, and did, create and use false statements and records to  
26 conceal, avoid and decrease an obligation to pay the State in violation of Government Code  
27 section 12651, subdivision (a)(3).

28           79. The Attorney General, the official of the State charged with the responsibility to

1 prosecute false claims actions in these circumstances discovered the false claims alleged herein  
2 after the Attorney General's Office received the *qui tam* complaint on August 16, 2001, and  
3 during the Attorney General's subsequent investigation.

4 FIRST CAUSE OF ACTION  
5 False Claims Act - Gov. Code, § 12651(a)(7)  
6 (Against All Defendants)

7 80. Plaintiff incorporates here by reference the allegations in paragraphs 1 through 79  
8 of this complaint.

9 81. This is a claim for treble damages and penalties under the California False Claims  
10 Act, Government Code section 12650 et seq.

11 82. Defendants knowingly made, used, and caused to be made or used false royalty  
12 reports, records, annual reports, permit applications and other documents and statements to  
13 conceal, avoid and decrease their obligations to pay the State for sand mined from State lands in  
14 violation of Government Code section 12651, subdivision (a)(7).

15 83. As a proximate result of the above-described acts, the State has been injured by  
16 Defendants' conversion of State property and in the loss of royalty payments in a specific amount  
17 to be determined at trial.

18 SECOND CAUSE OF ACTION  
19 False Claims Act - Gov. Code, § 12651(a)(8)  
20 (Against All Defendants)

21 84. Plaintiff incorporates here by reference the allegations in paragraphs 1 through 83  
22 of this complaint.

23 85. This is a claim for treble damages and penalties under the California False Claims  
24 Act, Government Code section 12650 et seq.

25 86. To the extent that any Defendant did not knowingly make, use, or cause to be  
26 made or used, the false royalty reports, records, annual reports, permit applications and other  
27 documents and statements alleged above, such Defendant is a beneficiary of an inadvertent  
28 submission of a false claim to the State who subsequently discovered the falsity of the claims and  
failed to disclose them to the State within a reasonable time after such discovery, in violation of  
Government Code section 12651, subdivision (a)(8).

1           87.    As a proximate result of the above-described acts, the State has been injured by  
2 Defendants’ conversion of State property and in the loss of royalty payments in a specific amount  
3 to be determined at trial.

4                                       THIRD CAUSE OF ACTION

5                                       False Claims Act Conspiracy - Gov. Code, § 12651(a)(3)  
6 (Against Defendants Moe, Tidewater, Ellen Seaborn, James Peterson Joel Peterson, Olin Jones  
7 Sand, Jones Sand, Jones, Hanson Marine Operations, Inc.  
8 and Hanson Aggregates Mid-Pacific, Inc. )

9           88.    Plaintiff incorporates here by reference the allegations in paragraphs 1 through 87  
10 of this complaint.

11           89.    This is a claim for treble damages and penalties under the California False Claims  
12 Act, Government Code section 12650 et seq.

13           90.    The royalty reports to the Commission made or caused to be made by Defendants  
14 constituted “claims” within the meaning of Government Code section 12650 et seq.

15           91.    Defendants Moe, Tidewater, Ellen Seaborn, James Peterson and Joel Peterson  
16 conspired to conceal, avoid and decrease an obligation to pay the State by submitting false and  
17 fraudulent claims within the meaning of Government Code section 12651, subdivision (a)(3).  
18 Each conspirator intended to defraud the State, and acted in furtherance of the conspiracy to  
19 defraud the State by participating in the schemes, set forth above, to falsely report to the State  
20 and various state agencies, including the Commission, BCDC and the Board, the quantity of sand  
21 taken from the lease sites, the price for which the sand was sold, and the areas from which  
22 Defendants mined sand on State property.

23           92.    Defendants Olin Jones Sand, Jones Sand, and Jones conspired to conceal, avoid  
24 and decrease an obligation to pay the State by submitting false and fraudulent claims within the  
25 meaning of Government Code section 12651, subdivision (a)(3). Each conspirator intended to  
26 defraud the State, and acted in furtherance of the conspiracy to defraud the State by participating  
27 in the schemes, set forth above, to falsely report to the State and various state agencies, including  
28 the Commission, BCDC and the Board, the quantity of sand taken from the lease sites, the price  
29 for which the sand was sold, and the areas from which Defendants mined sand on State property.

          93.    Defendants Hanson Marine Operations, Inc. and Hanson Aggregates Mid-Pacific,

1 Inc. conspired to conceal, avoid and decrease an obligation to pay the State by submitting false  
2 and fraudulent claims within the meaning of Government Code section 12651, subdivision (a)(3).  
3 Each conspirator intended to defraud the State, and acted in furtherance of the conspiracy to  
4 defraud the State by participating in the schemes, set forth above, to falsely report to the State  
5 and various state agencies, including the Commission, BCDC and the Board, the quantity of sand  
6 taken from the lease sites, the price for which the sand was sold, and the areas from which  
7 Defendants mined sand on State property.

8 94. Each conspirator intended to defraud the state, and acted in furtherance of the  
9 conspiracy to defraud the State by participating in the schemes to falsely report to the  
10 Commission the quantity of sand taken from the lease sites and the price for which the sand was  
11 sold.

12 95. As a proximate result of the above-described acts, the State has been injured by  
13 Defendants' conversion of State property and in the loss of royalty payments in a specific amount  
14 to be determined at trial.

15 FOURTH CAUSE OF ACTION  
16 Conversion of Mineral Deposits - Public Resources Code, § 6224.2  
(Against All Defendants)

17 96. Plaintiff incorporates here by reference the allegations in paragraphs 1 through 95  
18 of this Complaint.

19 97. This is a claim for damages under the California Public Resources Code section  
20 6224.2.

21 98. By dredging sand from State lands without leases, as described above, Defendants  
22 appropriated and converted mineral deposits reserved to, and owned by, the State and under the  
23 jurisdiction of the Commission.

24 99. As a proximate result of the above-described acts, the State has been injured by  
25 Defendants' conversion of State property in a specific amount to be determined at trial.

26  
27 //

28 FIFTH CAUSE OF ACTION

Unfair Practices Act - Business & Professions Code, § 17200 et seq.  
(Against All Defendants)

100. Plaintiff incorporates here by reference the allegations in paragraphs 1 through 99 of this Complaint.

101. The above described acts by Defendants constitute unfair competition within the meaning of Business & Professions Code section 17200, in that they include, but are not limited to the following:

- a. Defendants falsely reported to the Commission and other government agencies the quantity of sand they dredged from State lands leased by Defendants from the Commission;
- b. Defendants falsely reported to the Commission the price for which they sold the sand they dredged from the leases with the Commission;
- c. Defendants unilaterally changed the method by which they calculated royalties owed to the State in violation of lease terms;
- d. Defendants failed to inform the Commission that Defendants changed the method by which they calculated royalties owed to the State;
- e. Defendants dredged outside of their lease boundaries;
- f. Defendants failed to pay the State royalties they owed for sand dredged outside of lease boundaries;
- g. Defendants made false statements and submitted false records to the Commission and other government entities that misrepresented the extent of Defendants' mining operations on State lands;
- h. Defendants violated Government Code section 12650 et seq.;
- i. Defendants violated Public Resources Code section 6224.2.

PRAYER FOR RELIEF

Wherefore, plaintiff the State prays for relief against all Defendants as follows:

1. Three times the damages which the State sustained as a result of Defendants' false claims in an amount to be determined;



1           2.     Civil penalties in the amount of \$10,000 for each false claim pursuant to the False  
2 Claims Act;

3           3.     Civil penalties in the amount of \$2,500 for each act by Defendants in violation of the  
4 Business & Professions Code section 17200, but in an amount no less than \$2,800,000;

5           4.     For single damages sustained by the State as a result of Defendants' violation of Public  
6 Resources Code section 6224.2 in an amount to be determined;

7           5.     For permanent injunction pursuant to Business & Professions Code section 17203  
8 restraining and enjoining Defendants, and each of them, and all those acting under, by through or on  
9 behalf of them, from engaging in or performing directly or indirectly, any or all of the following:

- 10           a.     Making any false claims as set forth in paragraphs 25-95;
- 11           b.     Engaging in any acts of unfair competition described in paragraphs 25-101,  
12 or any other act of unfair competition.

13           6.     For costs of suit incurred herein.

14           7.     Such further or additional relief as the Court deems proper.

15 DATED: October 24, 2003.

16   Respectfully submitted,

17  
18   BILL LOCKYER  
19   Attorney General

20   CHRISTOPHER M. AMES  
21   Senior Assistant Attorney General

22  
23   GEORGE PRINCE  
24   Deputy Attorney General

25   Attorneys for the State of California