

1 BILL LOCKYER
Attorney General of the State of California
2 THOMAS M. GREENE
Chief Assistant Attorney General
3 THEODORA P. BERGER
Senior Assistant Attorney General
4 REED SATO, SBN 087685
Deputy Attorney General
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 (916) 324-8630 Telephone
(916) 327-2319 Facsimile
7

8 JOHN D. PHILLIPS
District Attorney
State Bar Membership No. 48474
9 San Joaquin County
By: DAVID J. IREY - SBN 142864
10 Lead Deputy District Attorney
Environmental Prosecutions Unit
11 P.O. Box 990
Stockton, CA 95201
12 (209) 468-2400 Telephone
(209) 468-0314 Facsimile
13

14 DEAN D. FLIPPO
District Attorney of the County of Monterey
MATT BOGOSHIAN - SBN 137311
15 Deputy District Attorney
Environmental Prosecutions Unit
16 1200 Aguajito Road, Room 301
Monterey, CA 93940
17 (831) 647-7770 Telephone
(831) 647-7762 Facsimile
18

19 Attorneys for Plaintiff, PEOPLE OF THE STATE OF CALIFORNIA

20 IN THE SUPERIOR COURT OF CALIFORNIA OF THE STATE OF CALIFORNIA

21 IN AND FOR THE COUNTY OF MONTEREY

22 PEOPLE OF THE STATE OF CALIFORNIA,)

23 Plaintiff,)

24 v.)

25 MIT ENGINEERING & CONSTRUCTION, INC., ET. AL.)

26 Defendant(s).)

27 ///

FILED

JAN 11 2005

LISA M. GALDOS
CLERK OF THE SUPERIOR COURT
DEPUTY

28

1 PLAINTIFF, PEOPLE OF THE STATE OF CALIFORNIA, alleges as follows:

2 1. PLAINTIFF, PEOPLE OF THE STATE OF CALIFORNIA ("People"), brings its
3 actions by and through BILL LOCKYER, Attorney General of California ("Attorney General"), by
4 and through DEAN D. FLIPPO, District Attorney of Monterey County ("Monterey County D.A."),
5 and by and through JOHN D. PHILLIPS, District Attorney of San Joaquin County ("San Joaquin
6 D.A.").

7 2. Pursuant to California Business and Professions Code sections 17203, 17204 and
8 17206, the Attorney General, the Monterey County District Attorney, and the San Joaquin County
9 District Attorney may bring actions in the name of the People of the State of California in a superior
10 court for an injunction against any person who engages, had engaged, or proposes to engage in unfair
11 competition and for civil penalties for each act of unfair competition.

12

13 JURISDICTION AND VENUE

14 3. The defendants transact business throughout the State of California. The alleged
15 violations of the law, hereinafter described, have been carried out throughout the State of California.
16 The alleged actions of the defendants and each of them, jointly and separately, as set out below, are in
17 violation of the law and public policy of the State of California. Unless enjoined and restrained by an
18 order of this court, the defendants will continue to retain the means to engage in unlawful action and
19 practices and courses of conduct set out below.

20

21 DEFENDANTS

22 4. Defendant MIT ENGINEERING & CONSTRUCTION, INC. ("MIT" or
23 "Defendant"), a California corporation, is, and at all times relevant herein was, engaged in the
24 business of REPAIRING, REPLACING AND MODIFYING UNDERGROUND STORAGE TANK
25 SYSTEMS throughout the State of California.

26 5. Whenever in this complaint reference is made to any act of defendants, such allegation
27 shall be deemed to mean that defendants and their officers, agents, employees, or representatives, did

28

1 or authorized acts while actively engaged in the management, direction, or control of the affairs of
2 said defendant, and while acting within the course and scope of their duties.

3 6. All defendants at all times acted as agents of one another. With regard to the conduct
4 and omissions alleged in this Complaint, each of the defendants ratified the actions of the other
5 defendants.

6
7 FIRST CAUSE OF ACTION

8 VIOLATION OF BUSINESS AND PROFESSIONS

9 CODE SECTIONS 17200 - 17208

10 UNLAWFUL AND/OR UNFAIR COMPETITION

11 7. Paragraphs 1 through 6, above are incorporated herein by reference. Plaintiff is
12 informed and believes and based on such information and belief alleges that beginning at an exact date
13 that is unknown to plaintiff, but within four (4) years prior to the filing of this complaint, defendants
14 have engaged in acts of unlawful and/or unfair competition prohibited by Business and Professions
15 Code §17200 - §17208 by virtue of the acts described herein, each of which constitutes an unfair
16 and/or unlawful business practice.

17 8. The use of such unlawful and/or unfair business practices constitutes unfair
18 competition within the meaning of §17200 of the Business and Professions Code. The unlawful
19 and/or unfair business practices committed by the defendants include, but are not limited to:

20 a. Failing to obtain required permits prior to initiating work on underground storage tank
21 systems.

22 b. Failing to properly train employees regarding underground storage tank permitting
23 requirements and safety requirements.

24 PRAYER

25 WHEREFORE, PLAINTIFF PRAYS FOR THE FOLLOWING RELIEF:

26 1. Defendants be immediately and permanently restrained and enjoined from engaging in
27 or performing, directly or indirectly, any and all of the following acts:

1 a. Engaging in any acts in violation of the Business and Professions Code,
2 including but not limited to:

3 1. Failing to obtain required permits prior to initiating work on
4 underground storage tank systems.

5 2. Failing to properly train employees regarding underground storage tank
6 permitting requirements and safety requirements.

7 2. For violation of the First Cause of Action, that defendants herein be assessed a civil
8 penalty of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00) for each act of unfair
9 competition, in an amount according to proof, pursuant to Business and Professions Code §17206;

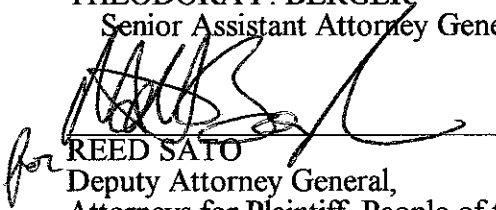
10 3. Plaintiff recover its costs and agencies costs.

11 4. Plaintiff have such other and further relief as the nature of the case may require and
12 that the court deems proper to fully dissipate the effects of the unlawful and unfair acts complained of
13 herein.

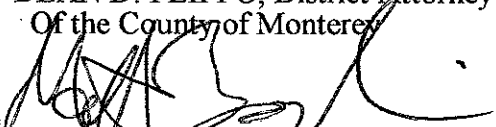
14 RESPECTFULLY SUBMITTED:

15 Dated: January 11, 2005

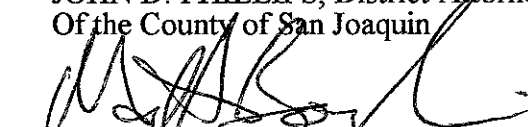
16 BILL LOCKYER, Attorney General
17 Of the State of California
18 THOMAS M. GREENE
19 Chief Assistant Attorney General
20 THEODORA P. BERGER
21 Senior Assistant Attorney General

22 
23 REED SATO
24 Deputy Attorney General,
25 Attorneys for Plaintiff, People of the State of
26 California

27 DEAN D. FLIPPO, District Attorney
28 Of the County of Monterey

29 
30 MATT BOGOSHIAN
31 Deputy District Attorney
32 Attorneys for Plaintiff, People of the State of
33 California

34 JOHN D. PHILLIPS, District Attorney
35 Of the County of San Joaquin

36 
37 By: DAVID J. IREY
38 Lead Deputy District Attorney
39 Environmental Prosecutions Unit
40 Attorneys for Plaintiff, People of the State of
41 California