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Brown Announces Stolen Sand Settlement

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CONTRA COSTA—California Attorney General Edmund G. Brown Jr. today announced a \$42.2 million dollar settlement agreement with Hanson Building Materials, a multi-national mining corporation. This settlement resolves allegations that the company improperly mined over two million cubic yards of sand from Suisun Bay and defrauded the state out of million of dollars in royalty payments for sand mined in San Francisco and Suisun Bays.

Commenting on the settlement agreement, Attorney General Brown said, "This settlement sends a strong message to businesses—act responsibly and honestly in your transactions with the state."

The California State Lands Commission had previously issued leases to Olin Jones Sand Company and Moe Sand Company which allowed the companies to dredge sand from various state-owned areas in San Francisco and Suisun Bays. Under the leases, the companies were required to pay the state royalties and were prohibited from dredging sand outside the lease boundaries.

In 1999 Hanson Building Materials America of San Ramon, a subsidiary of Hanson PLC which is one of the world's largest construction material producers, purchased the two companies for \$88 million and acquired their mining rights.

Sand is used primarily to produce concrete. This makes it a valuable commodity to construction firms, which use it to construct buildings and roads. The sand mined from San Francisco Bay is especially important for construction purposes in the San Francisco Bay Area.

The attorney general brought a lawsuit in 2003 against Hanson after a whistleblower reported that the company had defrauded the state out of millions of dollars in royalty payments by failing to fully report sand taken from the acquired mining sites. The companies mined over 2 million cubic yards of sand from Suisun Bay, despite not having any permission to do so by the state. The lawsuit further alleged that Hanson, Olin Jones, and Moe Sand Company violated the California False Claims Act by knowingly submitting false records to the state, Unfair Practices Act by avoiding payment on royalties to the state, and provisions of the California Public Resources Code, for unauthorized dredging of sand on state-owned lands.

The companies transferred sand they mined to affiliated companies for a discounted price, and the affiliates resold the sand at market rates to construction firms and other businesses, which used the sand to make concrete and for other construction purposes. Hanson sold the sand to various companies for an average of \$12.50 per cubic yard but reported only an average sale price of \$3.30 to the State Lands Commission. These actions increased the companies' profit margins at the State's expense resulting in the loss of millions of dollars in royalty payments. Olin Jones commented to an environmental agency official that had fined his company for over-dredging that they couldn't fine him enough to stop him from over-dredging sand because mining for State sand was like "mining gold."

Under the terms of the settlement agreement, the defendants will pay the state \$42.2 million. This amount covers the sand that Hanson took from state-owned lands without permission. It also includes the amount in royalties that Hanson should have paid the state.

Hanson and the State Lands Commission have agreed to a fixed royalty per cubic yard of sand dredged. This will result in Hanson paying a higher royalty amount to the state than it paid prior to the litigation, which will generate

millions of dollars in royalty payments every year. Hanson also made additional and increased royalty payments of more than \$6 million before the settlement was announced.

To ensure that Hanson dredges for sand in areas of San Francisco and Suisun Bays for which it has permits, the State Lands Commission will monitor Hanson's activities through the use of Global Positioning Satellite tracking systems.

The settlement agreement and original lawsuit are attached.

Attachments for this Release

- [Agreement](#)  [PDF 477 kb / 30 pg]
- [Complaint](#)  [PDF 1435 kb / 25 pg]

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