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Exempt from filing fees pursuant to
Gov. Code, § 6103

10
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF SAN JOAQUIN

13
14 **THE PEOPLE OF THE STATE OF**
15 **CALIFORNIA ex rel. VAL DOLCINI,**
16 **Director of the California Department of**
Pesticide Regulation, and XAVIER
17 **BECERRA, Attorney General of California,**

18 Plaintiffs,

19 v.

20 **ALPINE HELICOPTER SERVICE, INC., a**
California corporation; JOEL C.
21 **DOZHER; WILLIAM C. HEPPE II;**
22 **CHARLES HEPPE; and DOES 1 through**
20, inclusive,

23 Defendants.
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Case No.

**COMPLAINT FOR CIVIL PENALTIES;
PRELIMINARY AND PERMANENT
INJUNCTION**

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*Attorneys for Plaintiff People of the State of California ex rel. Val Dolcini, Director of the
California Department of Pesticide Regulation*

1 1. This action is brought on behalf of plaintiffs People of the State of California upon a
2 complaint by Val Dolcini, the Director of the California Department of Pesticide Regulation, and
3 by the Attorney General, Xavier Becerra, acting in his independent capacity (hereafter the
4 People), against defendants Alpine Helicopter Service, Inc. (ALPINE); JOEL C. DOZHIER,
5 individually; WILLIAM C. HEPPE II, individually; CHARLES HEPPE, individually, and Does 1
6 through 20 (collectively referred to as Defendants).

7 2. Since September 2019, Defendants have misapplied pesticides on at least three
8 separate occasions, each time in a manner that unlawfully allowed those pesticides to drift,
9 thereby threatening public health, private property, and the environment. On one of those
10 occasions, while spraying a pesticide from their helicopter onto a pumpkin field, the pesticide
11 drifted onto a nearby sports complex, while children were present and playing soccer. That
12 pesticide, called Luna Sensation, comes with a state-registered label that states, “Harmful if
13 swallowed, absorbed through skin, or inhaled. Avoid contact with skin, eyes, or clothing. Avoid
14 breathing vapor or spray mist.” The label further cautions the applicator against spraying the
15 pesticide during windy conditions. In conflict with the label, Defendants applied the pesticide
16 from the air while the wind blew at least 15 to 17 miles per hour in the direction of the families
17 occupying the nearby soccer field.

18 3. Unfortunately, those three drift incidents are not isolated; they are only the most
19 recent examples of a pattern of misconduct. Between 2013 and 2017, Defendants misapplied
20 pesticides at least six separate times, allowing chemicals to drift onto human beings and property,
21 and triggering a series of enforcement responses from local authorities. Making matters worse,
22 Defendants’ noncompliance history extends beyond drift to other pesticide-related violations,
23 including worker safety requirements. Given Defendants’ documented history of noncompliance
24 and the associated risk to public health and safety, the People, by and through the Department of
25 Pesticide Regulation and the Attorney General, now bring this action to prevent further harm to
26 the public and the environment.

1 **PARTIES**

2 4. The People bring this action by and through Val Dolcini in his capacity as Director of
3 the California Department of Pesticide Regulation and through Xavier Becerra, in his capacity as
4 Attorney General of California.

5 5. Val Dolcini is the Director of the California Department of Pesticide Regulation
6 (DPR), which is a state agency created in the California Environmental Protection Agency.
7 (Food & Agr. Code, §§ 11451, 11454.) DPR is charged with administering and enforcing the
8 provisions of the Food and Agricultural Code and the California Code of Regulations that
9 regulate pesticides and their sale, use, and application. (Food & Agr. Code, §§ 11454, 11401 et
10 seq.; Cal. Code Regs., tit. 3, § 6000 et seq.) This action is brought against Defendants for
11 violations of Divisions 6 and 7 of the Food and Agricultural Code and regulations issued pursuant
12 to various provisions of the Food and Agricultural Code.

13 6. The Attorney General, as the chief law enforcement officer of the State of California,
14 is charged with ensuring that the laws of this state are adequately and uniformly enforced. The
15 Attorney General has broad independent powers under the California Constitution and the
16 California Government Code to participate in all legal matters in which the State is interested, and
17 he has special and explicit statutory authority to participate in cases involving the protection of
18 California’s environment. (Cal. Const., art. V, § 13; Gov. Code, §§ 12511, 12600–12612.) The
19 Attorney General is authorized to enjoin violations of Health and Safety Code section 41700 and
20 obtain civil penalties for each violation pursuant to Health and Safety Code sections 41513 and
21 42403. The Attorney General is also authorized by Business and Professions Code sections
22 17204 and 17206 to enjoin any person who violates California’s Unfair Competition Law,
23 Business and Professions Code section 17200 et seq. (UCL), and to obtain mandatory civil
24 penalties for each act of unfair competition.

25 7. On information and belief, Defendant ALPINE is a California corporation engaged in
26 the business of using and applying pesticides, located at 11001 West Highway 12 in Lodi,
27 California. In its normal course of business, ALPINE’s activities include, but are not limited to,
28 the aerial spraying of pesticides.

1 8. On information and belief, Defendant DOZHIER is an individual engaged in the
2 business of using and applying pesticides, including as a pilot for aerial pesticide applications,
3 and is the chief executive officer, president, secretary, director, and the designated qualified
4 applicator of ALPINE.

5 9. On information and belief, Defendant WILLIAM C. HEPPE II is an individual
6 engaged in the business of using and applying pesticides, including as a pilot for aerial pesticide
7 applications, and has been employed by, or has contracted with, ALPINE to apply pesticides.

8 10. On information and belief, Defendant CHARLES HEPPE is an individual engaged in
9 the business of using and applying pesticides including as a pilot for aerial pesticide applications,
10 and has been employed by, or has contracted with, ALPINE to apply pesticides.

11 11. The true names and capacities of defendants Does 1 through 20, inclusive, are
12 unknown to the People, who therefore sue these Does by such fictitious names. The People will
13 amend this complaint to show the true names and capacities when the same have been
14 ascertained. The People are informed and believe, and on that basis allege, that each of these
15 fictitiously named Does 1 through 20, inclusive, are legally responsible in some manner for the
16 events, occurrences, and circumstances that form the basis of this lawsuit, and are thereby liable
17 for the violations asserted herein.

18 12. On information and belief, at all times herein mentioned each of the defendants were
19 agents, servants, employees, or contractors of each of the remaining defendants and were at all
20 times acting within the course and scope of their authority as such agents, servants, employees, or
21 contractors and with the permission and consent of their co-defendants.

22 13. On information and belief, at all times relevant herein, defendant DOZHIER was
23 acting as a responsible corporate officer, agent, servant, contractor, qualified applicator and/or
24 employee of defendant ALPINE; defendant WILLIAM C. HEPPE II was acting as the agent,
25 servant, contractor, and/or employee of defendant ALPINE; and defendant CHARLES HEPPE
26 was acting as the agent, servant, contractor, and/or employee of defendant ALPINE.

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1 **DRIFT INCIDENTS BY ALPINE FROM 2013 TO 2017**

2 21. As discussed above, Defendants have established a pattern and practice of reckless
3 pesticide application that has endangered the public and/or damaged private property, with at
4 least six pesticide drift incidents resulting in administrative penalties or civil enforcement action.

5 22. On information and belief, in August 2013, the San Joaquin County Agricultural
6 Commissioner investigated ALPINE for pesticide drift after an aerial application of pesticides
7 contaminated the yard of an individual not involved in the pesticide application, concluded that
8 unlawful drift occurred, and issued a Notice of Proposed Action imposing an administrative
9 penalty of \$500.00.

10 23. On information and belief, in April 2014, the San Joaquin County Agricultural
11 Commissioner investigated ALPINE for pesticide drift after an aerial application of pesticides
12 caused economic loss to the property of a grower not involved in the pesticide application,
13 concluded that unlawful drift occurred, and referred the incident to the San Joaquin County
14 District Attorney. This was a priority incident as it resulted in over \$1,600,000 in projected
15 economic losses. The incident also resulted in a civil action against ALPINE in San Joaquin
16 Superior Court styled as *Delta Blue Blueberries v. Alpine Helicopter Service, Inc., et al.*, Case
17 No. STK-CV-UNPI-2014-0006574.

18 24. On information and belief, in May 2014, an aerial application of herbicides by
19 ALPINE to an area on or around Bouldin Island in San Joaquin County drifted offsite. This was a
20 priority incident resulting in over 139 separate reports of crop loss up to 39 miles from the
21 application site and at least five individuals reported health symptoms resulting from exposure to
22 the chemicals. The May 2014 incident is the subject of a related case styled as *People v. Alpine*
23 *Helicopter Service, Inc., et al.*, Case No. STK-CV-UEJ-2016-0004746, currently pending in San
24 Joaquin County Superior Court, Department 10D.

25 25. On information and belief, in May 2016, the Stanislaus County Agricultural
26 Commissioner investigated ALPINE for pesticide drift after an aerial application of pesticides.
27 This was a priority incident as it caused approximately \$99,000 in economic damage to property
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1 of an individual not involved in the application. The County Agricultural Commissioner
2 concluded that unlawful drift occurred, and issued a Notice of Proposed Action for an
3 administrative penalty of \$700.00.

4 26. On information and belief, in September 2016, the San Joaquin County Agricultural
5 Commissioner investigated ALPINE for pesticide drift after another aerial application of
6 pesticides by ALPINE drifted onto the vehicle of an individual not involved in the application.
7 The investigation concluded that unlawful drift occurred and the Agricultural Commissioner
8 issued another Notice of Proposed Action for an administrative penalty of \$500.00.

9 27. On information and belief, in April 2017, the San Joaquin County Agricultural
10 Commissioner investigated ALPINE for pesticide drift after an aerial application of chemicals by
11 ALPINE drifted onto the grounds of a school in San Joaquin County that was not involved in the
12 application. The investigation concluded that unlawful drift occurred and the incident is the
13 subject of a related case styled as *People v. Alpine Helicopter Service, Inc., et al.*, Case No. STK-
14 CV-UBT-2020-0007717, currently pending in San Joaquin County Superior Court,
15 Department 10D.

16 28. On information and belief, and as evidenced by the repeated violations alleged above,
17 ALPINE knew or should have known about the risk of applying pesticides in a careless manner
18 and/or under unfavorable weather conditions. The dangerous behavior of Defendants, however,
19 has continued, as described more fully below. The People seek civil penalties and injunctive
20 relief for three additional drift incidents: two near the San Joaquin County Regional Sports
21 Complex (Sports Complex) in September 2019 and a third near Isleton, California in July 2020.

22 **FACTUAL ALLEGATIONS**

23 **I. FIRST SPORTS COMPLEX DRIFT INCIDENT**

24 29. On information and belief, on the morning of Saturday, September 7, 2019, while
25 working for ALPINE, WILLIAM HEPPE II made an aerial pesticide application of the pesticide
26 Luna Sensation (EPA Reg. No. 264-1090) to a pumpkin field next to and directly west of the
27 Sports Complex in Stockton, California (First Sports Complex Drift Incident).
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1 30. The Sports Complex is located at 7171 S. Highway 99, Stockton, California and
2 consists of four soccer fields, four softball fields, a picnic area, a concession stand, and restrooms.
3 The Sports Complex serves disadvantaged communities in Stockton and the surrounding area.
4 These communities already experience disproportionate exposure to significant pollution,
5 including from pesticides.

6 31. On information and belief, on the morning of September 7, 2019, the wind direction
7 was blowing from northwest to southeast, from the pumpkin field that WILLIAM HEPPE II was
8 spraying toward the Sports Complex with wind speeds of between 15 and 17 miles per hour.

9 32. On information and belief, on September 7, 2019, children, their families, and others
10 were present at the Sports Complex for soccer games at the time WILLIAM HEPPE II was
11 applying Luna Sensation to the pumpkin field.

12 33. On information and belief, on September 7, 2019, WILLIAM HEPPE II saw people
13 on the soccer field at approximately 7:00 a.m. when he first began his application of Luna
14 Sensation.

15 34. On information and belief, on September 7, 2019, WILLIAM HEPPE II continued his
16 application of Luna Sensation until approximately 9:00 a.m. despite seeing that, at approximately
17 8:00 a.m., the Sports Complex became busier with more people present.

18 35. On information and belief, on September 7, 2019, the Luna Sensation pesticide that
19 WILLIAM HEPPE II was applying drifted onto the grounds of the Sports Complex and those
20 present.

21 36. On information and belief, a person present at the Sports Complex on September 7,
22 2019, during WILLIAM HEPPE II's application reported feeling congested later that day.

23 37. On information and belief, the DPR-registered label for Luna Sensation notes that the
24 pesticide is "harmful if swallowed, absorbed through skin or inhaled," and reminds applicators
25 not to "make applications when conditions favor drift." The DPR-registered label also cautions
26 applicators to "avoid spraying when windy, high temperature, drought, dusty, low relative
27 humidity, or temperature inversion conditions exist."
28

1 38. On information and belief, the active ingredient in Luna Sensation was detected on
2 samples collected from both a tree in the parking lot of the Sports Complex and a fallow field
3 between the pumpkin field and the soccer fields, indicating offsite drift of Luna Sensation.

4 **II. SECOND SPORTS COMPLEX DRIFT INCIDENT**

5 39. On information and belief, on September 17, 2019, DOZHIER made an aerial
6 application of the pesticide Fulfill (EPA Reg. No. 100-912) to the same pumpkin field in
7 Stockton, California, in San Joaquin County (Second Sports Complex Drift Incident).

8 40. On information and belief, on September 17, 2019, the wind was blowing from the
9 northwest, from the pumpkin field, towards the Sports Complex, with maximum wind speeds of
10 between 7 miles per hour and 9 miles per hour.

11 41. On information and belief, the Fulfill pesticide that DOZHIER was applying drifted
12 onto a vehicle parked in the parking lot of the Sports Complex, and the owner of that vehicle was
13 not involved in the pesticide application.

14 42. On information and belief, the active ingredient in Fulfill was detected in a sample
15 taken from the windshield of the vehicle parked in the parking lot at the Sports Complex,
16 indicating offsite drift of the pesticide.

17 43. On information and belief, the DPR-registered label for Fulfill notes that the pesticide
18 is “harmful if absorbed through skin,” and advises applicators not to “allow spray to drift onto
19 adjacent land or crops.”

20 **III. ISLETON DRIFT INCIDENT**

21 44. On information and belief, on the morning of July 4, 2020, while working for
22 ALPINE, CHARLES HEPPE made an aerial application of the pesticide Zeal (EPA Reg. No.
23 59639-138) to a corn field near Isleton, California, in Sacramento County (Isleton Drift Incident).

24 45. On information and belief, the Zeal pesticide that CHARLES HEPPE was applying
25 drifted onto the person and property of an individual not involved in the pesticide application.

26 46. On information and belief, the individual reported feeling a spray mist on her arms,
27 chest, and face.

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1 47. On information and belief, the individual’s dog, goats, poultry, rabbits, and vegetable
2 garden were sprayed by the Zeal pesticide that CHARLES HEPPE was applying.

3 48. On information and belief, the active ingredient in Zeal was detected in samples taken
4 from a straw hat the individual was wearing when she felt the spray mist and from a plastic tote
5 that was present on the individual’s property at the time of the application.

6 49. On information and belief, the DPR-registered label for Zeal notes that the pesticide
7 “[c]auses moderate eye irritation,” directs applicators not to apply “when weather conditions
8 favor drift from treated areas,” and warns applicators to “not apply this product in a way that will
9 contact workers or other persons.”

10 CAUSES OF ACTION

11 FIRST CAUSE OF ACTION

12 (Violation of Food and Agricultural Code section 11791 Against Defendants ALPINE, 13 DOZHIER, and WILLIAM HEPPE II for First Sports Complex Drift Incident)

14 50. The People reallege and incorporate by reference as though fully set forth herein all
15 allegations contained in paragraphs 1 through 49, inclusive.

16 51. Under Food and Agricultural Code section 11791, it is unlawful for any person” to
17 “[o]perate in a faulty, careless, or negligent manner,” and to “[r]efuse or neglect to comply with
18 this division, or any regulation issued pursuant to this division,” among other things.

19 52. On information and belief, on September 7, 2019, during the First Sports Complex
20 Drift Incident, ALPINE, DOZHIER, and WILLIAM HEPPE II operated in a faulty, careless,
21 and/or negligent manner.

22 53. On information and belief, on September 7, 2019, during the First Sports Complex
23 Drift Incident, ALPINE, DOZHIER, and WILLIAM HEPPE II refused and/or neglected to
24 comply with Division 6 of the Food and Agricultural Code and/or a regulation or regulations
25 issued pursuant to Division 6 of the Food and Agricultural Code.

26 54. ALPINE, DOZHIER, and WILLIAM HEPPE II’s application of Luna Sensation on
27 September 7, 2019, violated Food and Agricultural Code section 11791.
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1 55. ALPINE, DOZHER, and WILLIAM HEPPE II's violation of Food and Agricultural
2 Code section 11791 on September 7, 2019, renders them liable under Food and Agricultural Code
3 section 11893 for a civil penalty in an amount according to proof.

4 **SECOND CAUSE OF ACTION**

5 **(Failure to Prevent Substantial Drift of Luna Sensation in Violation of Food and**
6 **Agricultural Code Section 12972 Against Defendants ALPINE, DOZHER, and WILLIAM**
7 **HEPPE II for First Sports Complex Drift Incident)**

8 56. The People reallege and incorporate by reference as though fully set forth herein all
9 allegations contained in paragraphs 1 through 55, inclusive.

10 57. Food and Agricultural Code section 12972 requires that "[t]he use of any pesticide
11 shall be in such a manner as to prevent substantial drift to nontarget areas."

12 58. At all times relevant herein, Luna Sensation was a pesticide registered with DPR.

13 59. On information and belief, on September 7, 2019, during the First Sports Complex
14 Drift Incident, ALPINE, DOZHER, and WILLIAM HEPPE II failed to use Luna Sensation in
15 such a manner as to prevent substantial drift to nontarget areas.

16 60. ALPINE, DOZHER, and WILLIAM HEPPE II's application of Luna Sensation on
17 September 7, 2019, violated Food and Agricultural Code section 12972.

18 61. On information and belief, ALPINE, DOZHER, and WILLIAM HEPPE II's
19 violation of Food and Agricultural Code section 12972 was a subsequent violation that was the
20 same or similar to the prior violations detailed in paragraphs 21 through 27.

21 62. On information and belief and in the alternative, ALPINE, DOZHER, and
22 WILLIAM HEPPE II's violation of Food and Agricultural Code section 12972 was intentional
23 and resulted or reasonably could have resulted in the creation of a hazard to human health or the
24 environment.

25 63. ALPINE, DOZHER, and WILLIAM HEPPE II's application of Luna Sensation was
26 a violation of section 12972 rendering them liable under Food and Agricultural Code section
27 12998 for a civil penalty in an amount according to proof.
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1 **THIRD CAUSE OF ACTION**
2 **(Use of Luna Sensation in Conflict with the Label in Violation of Food and Agricultural**
3 **Code Section 12973 Against Defendants ALPINE, DOZHIER, and WILLIAM HEPPE II**
4 **for First Sports Complex Drift Incident)**

5 64. The People reallege and incorporate by reference as though fully set forth herein all
6 allegations contained in paragraphs 1 through 63, inclusive.

7 65. Food and Agricultural Code section 12973 requires that “[t]he use of any pesticide
8 shall not conflict with labeling registered pursuant to this chapter which is delivered with the
9 pesticide or with any additional limitations applicable to the conditions of any permit issued by
10 the director or commissioner.”

11 66. On information and belief, the “Directions For Use” on the label of Luna Sensation
12 includes: “Do not apply this product in a way that will contact workers or other persons, either
13 directly or through drift.”

14 67. On information and belief, on September 7, 2019, during the First Sports Complex
15 Drift Incident, ALPINE, DOZHIER, and WILLIAM HEPPE II applied Luna Sensation in a way
16 that contacted or could have contacted other persons through drift.

17 68. ALPINE, DOZHIER, and WILLIAM HEPPE II’s application of Luna Sensation
18 conflicted with the labeling of Luna Sensation and therefore violated Food and Agricultural Code
19 section 12973.

20 69. On information and belief, ALPINE, DOZHIER, and WILLIAM HEPPE II’s
21 violation of Food and Agricultural Code section 12973 was a subsequent violation that was the
22 same or similar to the prior violations detailed in paragraphs 21 through 27.

23 70. On information and belief and in the alternative, ALPINE, DOZHIER, and
24 WILLIAM HEPPE II’s application of Luna Sensation in conflict with its label in violation of
25 Food and Agricultural Code section 12973 was intentional and resulted or reasonably could have
26 resulted in the creation of a hazard to human health or the environment.

27 71. ALPINE, DOZHIER, and WILLIAM HEPPE II’s application of Luna Sensation was
28 a violation of section 12973 rendering them liable under Food and Agricultural Code section
12998 for a civil penalty in an amount according to proof.

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FOURTH CAUSE OF ACTION
(Violation of California Code of Regulations, Title 3, Section 6600 Against Defendants
ALPINE, DOZHER, and WILLIAM HEPPE II for First Sports Complex Drift Incident)

72. The People reallege and incorporate by reference as though fully set forth herein all allegations contained in paragraphs 1 through 71, inclusive.

73. California Code of Regulations, title 3, section 6600 requires that “[e]ach person performing pest control shall: (a) Use only pest control equipment which is in good repair and safe to operate; (b) Perform all pest control in a careful and effective manner; (c) Use only methods and equipment suitable to insure proper application of pesticides; (d) Perform all pest control under climatic conditions suitable to insure proper application of pesticides; and (e) Exercise reasonable precautions to avoid contamination of the environment.”

74. On information and belief, on September 7, 2019, during the First Sports Complex Drift Incident, ALPINE, DOZHER, and WILLIAM HEPPE II violated California Code of Regulations, title 3, section 6600.

75. On information and belief, ALPINE, DOZHER, and WILLIAM HEPPE II’s violation of California Code of Regulations, title 3, section 6600 was a subsequent violation that was the same or similar to the prior violations detailed in paragraphs 21 through 27.

76. On information and belief and in the alternative, ALPINE, DOZHER, and WILLIAM HEPPE II’s violation of California Code of Regulations, title 3, section 6600 was intentional and resulted or reasonably could have resulted in the creation of a hazard to human health or the environment.

77. ALPINE, DOZHER, and WILLIAM HEPPE II’s violation of California Code of Regulations, title 3, section 6600 renders them liable under Food and Agricultural Code section 12998 for a civil penalty in an amount according to proof.

1 **FIFTH CAUSE OF ACTION**
2 **(Failure to Protect Persons, Animals, and Property in Violation of California Code of**
3 **Regulations, Title 3, Section 6614 Against Defendants ALPINE, DOZHIER, and WILLIAM**
4 **HEPPE II for First Sports Complex Drift Incident)**

5 78. The People reallege and incorporate by reference as though fully set forth herein all
6 allegations contained in paragraphs 1 through 77, inclusive.

7 79. California Code of Regulations, title 3, section 6614 requires, in relevant part, that:

8 (b) [N]o pesticide application shall be made or continued when: (1) There is a
9 reasonable possibility of contamination of the bodies or clothing of persons not
10 involved in the application process; (2) There is a reasonable possibility of damage
11 to nontarget crops, animals or other public or private property; or (3) There is a
12 reasonable possibility of contamination of nontarget public or private property,
13 including the creation of a health hazard, preventing normal use of such property.
14 In determining a health hazard, the amount and toxicity of the pesticide, the type
15 and uses of the property and related factors shall be considered.

16 80. On information and belief, on September 7, 2019, during the First Sports Complex
17 Drift Incident, ALPINE, DOZHIER, and WILLIAM HEPPE II violated California Code of
18 Regulations, title 3, section 6614.

19 81. On information and belief, ALPINE, DOZHIER, and WILLIAM HEPPE II's
20 violation of California Code of Regulations, title 3, section 6614 was a subsequent violation that
21 was the same or similar to the prior violations detailed in paragraphs 21 through 27.

22 82. On information and belief and in the alternative, ALPINE, DOZHIER, and
23 WILLIAM HEPPE II's violation of California Code of Regulations, title 3, section 6614 was
24 intentional and resulted or reasonably could have resulted in the creation of a hazard to human
25 health or the environment.

26 83. ALPINE, DOZHIER, and WILLIAM HEPPE II's violation of California Code of
27 Regulations, title 3, section 6614 renders them liable under Food and Agricultural Code section
28 12998 for a civil penalty in an amount according to proof.

1 **NINTH CAUSE OF ACTION**
2 **(Use of Fulfill in Conflict with the Label in Violation of Food and Agricultural Code**
3 **Section 12973 Against Defendants ALPINE and DOZHIER for Second Sports Complex**
4 **Drift Incident)**

5 100. The People reallege and incorporate by reference as though fully set forth herein all
6 allegations contained in paragraphs 1 through 99, inclusive.

7 101. On information and belief, the “Directions For Use” on the label of Fulfill includes:
8 “Do not apply this product in a way that will contact workers or other persons, either directly or
9 through drift.”

10 102. On information and belief, on September 17, 2019, during the Second Sports
11 Complex Drift Incident, ALPINE and DOZHIER applied Fulfill in a way that contacted or could
12 have contacted other persons through drift.

13 103. ALPINE and DOZHIER’s application of Fulfill conflicted with the labeling of Fulfill
14 and therefore violated Food and Agricultural Code section 12973.

15 104. On information and belief, ALPINE and DOZHIER’s violation of Food and
16 Agricultural Code section 12973 was a subsequent violation that was the same or similar to the
17 prior violations detailed in paragraphs 21 through 27 and 50 through 87.

18 105. On information and belief and in the alternative, ALPINE and DOZHIER’s violation
19 of Food and Agricultural Code section 12973 was intentional and resulted or reasonably could
20 have resulted in the creation of a hazard to human health or the environment.

21 106. ALPINE and DOZHIER’s violation of section 12973 renders them liable under Food
22 and Agricultural Code section 12998 for a civil penalty in an amount according to proof.

23 **TENTH CAUSE OF ACTION**
24 **(Violation of California Code of Regulations, Title 3, Section 6600 Against Defendants**
25 **ALPINE and DOZHIER for Second Sports Complex Drift Incident)**

26 107. The People reallege and incorporate by reference as though fully set forth herein all
27 allegations contained in paragraphs 1 through 106, inclusive.
28

1 116. On information and belief and in the alternative, ALPINE and DOZHIER's violation
2 of California Code of Regulations, title 3, section 6614 was intentional and resulted or reasonably
3 could have resulted in the creation of a hazard to human health or the environment.

4 117. ALPINE and DOZHIER's violation of California Code of Regulations, title 3, section
5 6614 renders them liable under Food and Agricultural Code section 12998 for a civil penalty in
6 an amount according to proof.

7 **TWELFTH CAUSE OF ACTION**
8 **(Violation of Food and Agricultural Code section 11791 Against Defendants ALPINE,**
9 **DOZHIER and CHARLES HEPPE for Isleton Drift Incident)**

10 118. The People reallege and incorporate by reference as though fully set forth herein all
11 allegations contained in paragraphs 1 through 117, inclusive.

12 119. On information and belief, on July 4, 2020, during the Isleton Drift Incident,
13 ALPINE, DOZHIER, and CHARLES HEPPE operated in a faulty, careless, and/or negligent
14 manner.

15 120. On information and belief, on July 4, 2020, during the Isleton Drift Incident, ALPINE
16 DOZHIER, and CHARLES HEPPE refused and/or neglected to comply with Division 6 of the
17 Food and Agricultural Code and/or a regulation or regulations issued pursuant to Division 6 of the
18 Food and Agricultural Code.

19 121. ALPINE, DOZHIER and CHARLES HEPPE's application of Zeal on July 4, 2020,
20 violated Food and Agricultural Code section 11791.

21 122. ALPINE, DOZHIER, and CHARLES HEPPE's violation of Food and Agricultural
22 Code section 11791 on July 4, 2020, renders them liable under Food and Agricultural Code
23 section 11893 for a civil penalty in an amount according to proof.

24 **THIRTEENTH CAUSE OF ACTION**
25 **(Failure to Prevent Substantial Drift of Zeal in Violation of Food and Agricultural Code**
26 **Section 12972 Against Defendants ALPINE, DOZHIER, and CHARLES HEPPE for Isleton**
27 **Drift Incident)**

28 123. The People reallege and incorporate by reference as though fully set forth herein all
allegations contained in paragraphs 1 through 122, inclusive.

1 124. At all times relevant herein, Zeal was a pesticide registered with DPR.

2 125. On information and belief, on July 4, 2020, during the Isleton Drift Incident,
3 ALPINE, DOZHIER, and CHARLES HEPPE failed to use Zeal in such a manner as to prevent
4 substantial drift to nontarget areas.

5 126. ALPINE, DOZHIER, and CHARLES HEPPE's application of Zeal violated Food and
6 Agricultural Code section 12972.

7 127. On information and belief, ALPINE, DOZHIER, and CHARLES HEPPE's violation
8 of Food and Agricultural Code section 12972 was a subsequent violation that was the same or
9 similar to the prior violations detailed in paragraphs 21 through 27, 50 through 87, and 93
10 through 117.

11 128. On information and belief and in the alternative, ALPINE, DOZHIER, and
12 CHARLES HEPPE's violation of Food and Agricultural Code section 12972 was intentional and
13 resulted or reasonably could have resulted in the creation of a hazard to human health or the
14 environment.

15 129. ALPINE, DOZHIER, and CHARLES HEPPE's violation of section 12972 renders
16 them liable for a civil penalty in an amount according to proof.

17 **FOURTEENTH CAUSE OF ACTION**

18 **(Use of Zeal in Conflict with the Label in Violation of Food and Agricultural Code**
19 **Section 12973 Against Defendants ALPINE, DOZHIER, and CHARLES HEPPE for Isleton**
20 **Drift Incident)**

21 130. The People reallege and incorporate by reference as though fully set forth herein all
22 allegations contained in paragraphs 1 through 129, inclusive.

23 131. On information and belief, the "Directions For Use" on the label of Zeal includes:
24 "Do not apply this product in a way that will contact workers or other persons, either directly or
25 through drift."

26 132. On information and belief, on July 4, 2020, during the Isleton Drift Incident,
27 ALPINE, DOZHIER, and CHARLES HEPPE applied Zeal in a way that contacted or could have
28 contacted other persons through drift.

1 133. ALPINE, DOZHIER, and CHARLES HEPPE's application of Zeal conflicted with
2 the labeling of Zeal in violation of Food and Agricultural Code section 12973.

3 134. On information and belief, ALPINE, DOZHIER, and CHARLES HEPPE's violation
4 of Food and Agricultural Code section 12973 was a subsequent violation that was the same or
5 similar to the prior violations detailed in paragraphs 21 through 27, 50 through 87, and 93
6 through 117.

7 135. On information and belief and in the alternative, ALPINE, DOZHIER, and
8 CHARLES HEPPE's violation of Food and Agricultural Code section 12972 was intentional and
9 resulted or reasonably could have resulted in the creation of a hazard to human health or the
10 environment.

11 136. ALPINE, DOZHIER, and CHARLES HEPPE's violation of section 12973 renders
12 them liable under Food and Agricultural Code section 12998 for a civil penalty in an amount
13 according to proof.

14 **FIFTEENTH CAUSE OF ACTION**
15 **(Violation of California Code of Regulations, Title 3, Section 6600 Against Defendants**
16 **ALPINE, DOZHIER, and CHARLES HEPPE for Isleton Drift Incident)**

17 137. The People reallege and incorporate by reference as though fully set forth herein all
18 allegations contained in paragraphs 1 through 136, inclusive.

19 138. On information and belief, on July 4, 2020, during the Isleton Drift Incident,
20 ALPINE, DOZHIER, and CHARLES HEPPE violated California Code of Regulations, title 3,
21 section 6600.

22 139. On information and belief, ALPINE, DOZHIER, and CHARLES HEPPE's violation
23 of California Code of Regulations, title 3, section 6600 was a subsequent violation that was the
24 same or similar to the prior violations detailed in paragraphs 21 through 27, 50 through 87, and 93
25 through 117.

26 140. On information and belief and in the alternative, ALPINE, DOZHIER, and
27 CHARLES HEPPE's violation of California Code of Regulations, title 3, section 6600 was
28

1 intentional and resulted or reasonably could have resulted in the creation of a hazard to human
2 health or the environment.

3 141. ALPINE, DOZHIER, and CHARLES HEPPE's violation of California Code of
4 Regulations, title 3, section 6600 renders them liable under Food and Agricultural Code section
5 12998 for a civil penalty in an amount according to proof.

6 **SIXTEENTH CAUSE OF ACTION**

7 **(Failure to Protect Persons, Animals, and Property in Violation of California Code of**
8 **Regulations, title 3, Section 6614 Against Defendants ALPINE, DOZHIER, and CHARLES**
9 **HEPPE for Isleton Drift Incident)**

10 142. The People reallege and incorporate by reference as though fully set forth herein all
11 allegations contained in paragraphs 1 through 141, inclusive.

12 143. On information and belief, on July 4, 2020, during the Isleton Drift Incident,
13 ALPINE, DOZHIER, and CHARLES HEPPE violated California Code of Regulations, title 3,
14 section 6614.

15 144. On information and belief, ALPINE, DOZHIER, and CHARLES HEPPE's violation
16 California Code of Regulations, title 3, section 6614 was a subsequent violation that was the same
17 or similar to the prior violations detailed in paragraphs 21 through 27, 50 through 87, and 93
18 through 117.

19 145. On information and belief and in the alternative, ALPINE, DOZHIER, and
20 CHARLES HEPPE's violation of California Code of Regulations, title 3, section 6614 was
21 intentional and resulted or reasonably could have resulted in the creation of a hazard to human
22 health or the environment.

23 146. ALPINE, DOZHIER, and CHARLES HEPPE's violation of California Code of
24 Regulations, title 3, section 6614 renders them liable under Food and Agricultural Code section
25 12998 for a civil penalty in an amount according to proof.
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27
28

1 **SEVENTEENTH CAUSE OF ACTION**
2 **(Unfair Competition in Violation of Business and Professions Code Section 17200 et seq.**
3 **Against All Defendants)**

4 147. The People, by and through Attorney General Xavier Becerra, reallege and
5 incorporate by reference as though fully set forth herein all allegations contained in paragraphs 1
6 through 146, inclusive.

7 148. Defendants' violations of the Food and Agricultural Code, its implementing
8 regulations, and the Health and Safety Code as alleged in the First through Sixteenth causes of
9 action, constitute unfair or unlawful business acts or practices.

10 149. Under Business and Professions Code section 17206, Defendants' unfair and
11 unlawful business acts or practices as described above renders them liable for civil penalties of
12 \$2,500 for each unfair or unlawful act or omission alleged above, in an amount according to
13 proof.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, the People pray for judgment against Defendants, and each of them, as
16 follows:

17 1. That the Court issue a preliminary and permanent injunction under Food and
18 Agricultural Code section 13000.1, Business and Professions Code section 17203, Code of Civil
19 Procedure section 525, Civil Code section 3422, and Health and Safety Code section 41513
20 requiring Defendants and each of them, and their agents, lessees, tenants, employees,
21 representatives, successors-in-interest, and all persons acting under, in concert with, or for them
22 to take all measures necessary to prevent future violations and enjoining Defendants from
23 conducting or permitting others from engaging in or performing, directly or indirectly, any of the
24 following acts:

25 A. Any additional violations of the Food and Agricultural Code and/or the Health
26 and Safety Code as set forth in the First through Sixteenth Causes of Action.

27 B. Any additional unfair or unlawful acts or omissions.
28

1 2. That under Food and Agricultural Code sections 11893 and 12998, the Court assess
2 civil penalties against Defendants for each violation of a Food and Agricultural Code section or
3 implementing regulation, as alleged in the First through Fifth and Seventh through Sixteenth
4 Causes of Action, according to proof;

5 3. That the Court assess civil penalties against Defendants for each violations of Health
6 and Safety Code section 41700, as alleged in the Sixth Cause of Action, in an amount according
7 to proof, under Health and Safety Code section 42402.1 et seq.;

8 4. That under Business and Professions Code section 17206, the Court assess civil
9 penalties against Defendants for each violation of a Business and Professions Code section,
10 according to proof;

11 5. For post-judgment interest as permitted by law;

12 6. For costs of suit; and,

13 7. For such other and further relief as the Court deems just and proper.

14 Dated: October 30, 2020

Respectfully submitted,

15
16 XAVIER BECERRA
17 Attorney General of California
18 CHRISTIE L. VOSBURG
19 Supervising Deputy Attorney General

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***Code of Civil Procedure section 446
requires verification of the answer to this
Complaint.***