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10 UNITED STATES DISTRICT COURT
 11 DISTRICT OF IDAHO

11	UNITED STATES OF AMERICA,)	
12	Plaintiff,)	Civil No. 1-75-176
13	v.)	<u>COMPLAINT</u>
14	MONROC, INC.;)	Violation of Title 15 U.S.C.
15	IDAHO CONCRETE PIPE COMPANY,)	Section 1
16	INC.; and)	Filed:
17	FLYNN SAND & GRAVEL, INC.,)	October. 16, 1975
	Defendants.)	

18 The United States of America, plaintiff, by its attorneys,
 19 acting under the direction of the Attorney General of the United
 20 States, brings this civil action against the above-named defendants,
 21 and complains and alleges as follows:

22 I

23 JURISDICTION AND VENUE

24 1. This complaint is filed and proceedings are instituted
 25 under Section 4 of the Act of Congress of July 2, 1890, as amended
 26 (15 U.S.C. § 4), commonly known as the Sherman Act, in order to
 27 prevent and restrain the violation by the defendants, as herein-
 28 after alleged, of Section 1 of said Act (15 U.S.C. § 1).

29 2. Each of the defendants transacts business or is found
 30 within the District of Idaho.
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1 II

2 DEFENDANTS

3 3. The corporations named below are made defendants herein.
4 Each of said corporations is organized and exists under the laws
5 of the state and has its principal place of business in the city
6 indicated below. Within the period of time covered by this
7 complaint, each of these defendants engaged in the business of
8 producing and selling ready-mix concrete in Oregon and Idaho:

9 <u>Name of Corporation</u>	<u>State of</u> <u>Incorporation</u>	<u>Principal Place</u> <u>of Business</u>
10 Monroc, Inc.	Utah	Salt Lake City, Utah
11 Idaho Concrete Pipe Company, 12 Inc., dba Oregon Concrete 13 Products Company	Idaho	Nampa, Idaho
14 Flynn Sand & Gravel, Inc.	Oregon	Ontario, Oregon

15 III

16 CO-CONSPIRATORS

17 4. Various individuals not named as defendants in this
18 complaint participated as co-conspirators in the violation alleged
19 and performed acts and made statements in furtherance thereof.

20 IV

21 DEFINITIONS

22 5. As used herein, "ready-mix concrete" means a building
23 material consisting of a mixture of cement, mineral aggregate
24 (gravel and sand), water and other ingredients mixed in varying
25 proportions and sold to customers in a plastic and unhardened
26 state.

27 6. As used herein, the "Nyssa-Ontario market" refers to
28 the cities of Nyssa and Ontario, Oregon, and surrounding areas
29 in the States of Oregon and Idaho served by the defendant
30 corporations from their plants located in said cities.

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V

TRADE AND COMMERCE

7. The defendant corporations are producers and sellers of ready-mix concrete, operating ready-mix concrete manufacturing plants in Nyssa or Ontario, Oregon. Said corporations sell manufactured ready-mix concrete to customers in the Nyssa-Ontario market. Such customers include federal, state and local government entities, building contractors and subcontractors, farmers, and other customers located in both the States of Oregon and Idaho. Said customers use ready-mix concrete in the construction, repair, alteration and improvement of interstate and local highways, and of governmental, commercial, institutional and residential structures. The defendant corporations' sales of ready-mix concrete in the Nyssa-Ontario market exceeded \$1.6 million in 1973.

8. During the time covered by this complaint, the defendant corporations sold substantial quantities of ready-mix concrete to customers located outside the State of Oregon. During that period, there was a substantial and continuous flow of ready-mix concrete in interstate commerce from the defendant corporations' manufacturing plants located in the State of Oregon to customers located in the State of Idaho.

VI

VIOLATION ALLEGED

9. Beginning at least as early as 1973, the exact date being unknown to the plaintiff, and continuing until at least September 1974, the defendants and co-conspirators engaged in a continuing combination and conspiracy in unreasonable restraint of the afore-said interstate trade and commerce in violation of Section 1 of the Sherman Act, as amended (15 U.S.C. § 1). Said combination and conspiracy may continue or reoccur unless the relief hereinafter prayed for is granted.

1 10. The aforesaid combination and conspiracy consisted of a
2 continuing agreement, understanding, and concert of action among
3 the defendants and co-conspirators:

- 4 (a) to fix, maintain, and stabilize the prices charged
5 by the defendants for the sale of ready-mix concrete
6 in the Nyssa-Ontario market; and
7 (b) to fix, maintain, and stabilize the charges imposed
8 by the defendants for the delivery of ready-mix
9 concrete in the Nyssa-Ontario market.

10 11. In formulating and effectuating the aforesaid combination
11 and conspiracy, the defendants and co-conspirators did those things
12 which they combined and conspired to do, including, among other
13 things, the following:

- 14 (a) met to discuss prospective prices and other terms
15 and conditions for the sale of ready-mix concrete
16 to customers of defendants in the Nyssa-Ontario
17 market;
18 (b) engaged in telephone conversations, the subject of
19 which included discussions and exchange of pro-
20 spective prices and terms and conditions for the
21 sale of ready-mix concrete in the Nyssa-Ontario
22 market;
23 (c) established agreed-upon prices for ready-mix
24 concrete in the Nyssa-Ontario market;
25 (d) met and engaged in telephone conversations to
26 discuss the imposition of uniform charges for
27 the delivery of ready-mix concrete in the Nyssa-
28 Ontario market; and
29 (e) established agreed-upon charges for the delivery
30 of ready-mix concrete in the Nyssa-Ontario market.
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1 VII

2 EFFECTS

3 12. The aforesaid combination and conspiracy had the following
4 effects, among others:

5 (a) the price of ready-mix concrete in the Nyssa-Ontario
6 market was fixed, maintained, and stabilized at
7 artificial and non-competitive levels;

8 (b) charges for the delivery of ready-mix concrete in
9 the Nyssa-Ontario market were fixed, maintained,
10 and stabilized at artificial and non-competitive
11 levels;

12 (c) competition in the sale or delivery of ready-mix
13 concrete in the Nyssa-Ontario market between the
14 defendants was restricted, suppressed, and restrained;
15 and

16 (d) Nyssa-Ontario market purchasers of ready-mix
17 concrete were deprived of free and open competition
18 in the sale of ready-mix concrete by defendants.

19 PRAYER

20 WHEREFORE, plaintiff prays:

21 1. That the Court adjudge and decree that the defendants and
22 co-conspirators have engaged in an unlawful combination and con-
23 spiracy in unreasonable restraint of the aforesaid interstate
24 trade and commerce in violation of Section 1 of the Sherman Act.

25 2. That the defendants, their officers, directors, agents,
26 employees, and successors and all other persons acting or claiming
27 to act on their behalf be enjoined and restrained from, in any
28 manner, directly or indirectly, continuing, maintaining, or
29 renewing the combination and conspiracy hereinbefore alleged, or
30 from engaging in any other combination, conspiracy, contract,
31 agreement, understanding, or concert of action having a similar
32

1 purpose or effect, and from adopting or following any practice,
2 plan, program, or device having a similar purpose or effect.

3 3. That plaintiff have such other, further and different
4 relief as the Court may deem just and proper in the premises.

5 4. That the plaintiff recover the costs of this suit.
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