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**FILED**  
ALAMEDA COUNTY

MAR - 3 2015

CLERK OF THE SUPERIOR COURT  
By [Signature] Deputy

5 Attorneys for Plaintiff  
6 ENVIRONMENTAL RESEARCH CENTER

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF ALAMEDA

10 ENVIRONMENTAL RESEARCH  
11 CENTER, a California non-profit  
12 corporation,

13 Plaintiff,

14 v.

15 TRACE MINERALS RESEARCH, L.C.

16 Defendants.  
17

CASE NO. RG14735532

STIPULATED CONSENT JUDGMENT;  
[PROPOSED] ORDER

Health & Safety Code § 25249.5 et seq.

Action Filed: August 4, 2014  
Trial Date: None set

18 **1. INTRODUCTION**

19 **1.1** On August 4, 2014, Plaintiff Environmental Research Center ("ERC"), a  
20 non-profit corporation, as a private enforcer, and in the public interest, initiated this action by  
21 filing a Complaint for Injunctive and Declaratory Relief and Civil Penalties (the "Complaint")  
22 pursuant to the provisions of California Health and Safety Code section 25249.5 *et seq.*  
23 ("Proposition 65"), against Trace Minerals Research, L.C. ("Trace Minerals") and DOES 1-25.  
24 In the Complaint, ERC alleges that the following products, referred to hereinafter individually  
25 as a "Covered Product" or collectively as "Covered Products," which were manufactured,  
26 distributed, or sold by Trace Minerals contain lead, a chemical listed under Proposition 65 as a  
27 carcinogen and reproductive toxin, and expose California consumers at a level requiring a  
28 Proposition 65 warning:

- 1 1. Trace Minerals Research Complete Calcium & Magnesium 1:1
- 2 2. Trace Minerals Research Complete Foods Multi
- 3 3. Trace Minerals Research ActivJoint Plus
- 4 4. Trace Minerals Research ConcenTrace Trace Mineral Tablets
- 5 5. Trace Minerals Research Greens Pak Chocolate
- 6 6. Trace Minerals Research ActivJoint Platinum
- 7 7. Trace Minerals Research ActivJoint
- 8 8. Trace Minerals Research Greens Pak Berry

9 **1.2** ERC is a California non-profit corporation dedicated to, among other causes,  
10 helping safeguard the public from health hazards by reducing the use and misuse of hazardous  
11 and toxic chemicals, facilitating a safe environment for California consumers and employees,  
12 and encouraging corporate responsibility.

13 **1.3** Trace Minerals is a business entity that, at all relevant times for the purpose of this  
14 Consent Judgment, employed ten or more persons and qualified as a "person in the course of  
15 business" within the meaning of Proposition 65. Trace Minerals manufactures, distributes and  
16 sells the Covered Products.

17 **1.4** ERC and Trace Minerals are referred to individually as a "Party" or collectively  
18 as the "Parties."

19 **1.5** The Complaint is based on allegations contained in ERC's Notice of Violation,  
20 dated May 23, 2014, that was served on the California Attorney General, other public  
21 enforcers, and Trace Minerals ("the Notice"). A true and correct copy of the Notice is attached  
22 hereto as **Exhibit A** and is hereby incorporated by reference. More than sixty (60) days have  
23 passed since the Notice was mailed and uploaded onto the Attorney General's website, and no  
24 designated governmental entity has filed a complaint against Trace Minerals with regard to the  
25 Covered Products or the alleged violations in the Notice.

26 **1.6** ERC's Notice and Complaint allege that use of the Covered Products exposes  
27 persons in California to lead without first providing clear and reasonable warnings in violation

28 ///

1 of California Health and Safety Code section 25249.6. Trace Minerals denies all material  
2 allegations contained in the Notice and Complaint.

3       1.7 The Parties have entered into this Consent Judgment in order to settle,  
4 compromise and resolve disputed claims, and thus avoid prolonged and costly litigation.  
5 Nothing in this Consent Judgment shall constitute or be construed as an admission by any of  
6 the Parties, or by any of their respective officers, directors, shareholders, employees, agents,  
7 parent companies, subsidiaries, divisions, affiliates, franchises, licensees, customers, suppliers,  
8 distributors, wholesalers, or retailers. Except for the representations made above, nothing in  
9 this Consent Judgment shall be construed as an admission by the Parties of any fact, issue of  
10 law, or violation of law, nor shall compliance with this Consent Judgment be construed as an  
11 admission by the Parties of any fact, issue of law, or violation of law, at any time, for any  
12 purpose.

13       1.8 Except as expressly set forth herein, nothing in this Consent Judgment shall  
14 prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in any  
15 other or future legal proceeding unrelated to these proceedings.

16       1.9 The Effective Date of this Consent Judgment is the date on which it is entered as  
17 a Judgment by this Court.

## 18       2.    **JURISDICTION AND VENUE**

19       For purposes of this Consent Judgment and for any further court action that may become  
20 necessary to enforce this Consent Judgment, the Parties stipulate that this Court has subject matter  
21 jurisdiction over the allegations of violations contained in the Complaint, personal jurisdiction  
22 over Trace Minerals as to the acts alleged in the Complaint, that venue is proper in Alameda  
23 County, and that this Court has jurisdiction to enter this Consent Judgment as a full and final  
24 resolution of all claims up through and including the Effective Date which were or could have  
25 been asserted in this action based on the facts alleged in the Notice and Complaint.

## 26       3.    **INJUNCTIVE RELIEF, REFORMULATION, TESTING AND WARNINGS**

27       3.1 Beginning on the Effective Date, Trace Minerals shall be permanently enjoined  
28 from manufacturing for sale in the State of California, "Distributing into the State of

California,” or directly selling in the State of California, any Covered Product which exposes a person to a “Daily Exposure Level” of more than 0.5 micrograms per day when the maximum suggested dose is taken as directed on the Covered Product’s label, unless it meets the warning requirements under Section 3.2.

**3.1.1** As used in Consent Judgment, the term “Distributing into the State of California” shall mean to directly ship a Covered Product into California for sale in California or to sell a Covered Product to a distributor that Trace Minerals knows will sell the Covered Product in California.

**3.1.2** For purposes of this Consent Judgment, “Daily Lead Exposure Level” shall be measured in micrograms, and shall be calculated using the following formula: micrograms of lead per gram of product, multiplied by grams of product per serving of the product (using the largest serving size appearing on the product label), multiplied by servings of the product per day (using the largest number of servings in a recommended dosage appearing on the product label), which equals micrograms of lead exposure per day.

**3.1.3** Naturally Occurring Exemption for Lead in the Covered Products

**TABLE 3.1.3**

<u>INGREDIENT</u>	<u>NATURALLY OCCURRING AMOUNT OF LEAD</u>
Calcium (elemental)	0.8 mcg Pb per gram of elemental Calcium
Ferrous Fumarate	0.4 mcg Pb per gram of Ferrous Fumarate
Zinc Oxide	8.0 mcg Pb per gram of Zinc Oxide
Magnesium Oxide	0.4 mcg Pb per gram of Magnesium Oxide
Magnesium Carbonate	0.332 mcg Pb per gram of Magnesium Carbonate
Magnesium Hydroxide	0.4 mcg Pb per gram of Magnesium Hydroxide
Zinc Gluconate	0.8 mcg Pb per gram of Zinc Gluconate
Potassium Chloride	1.0 mcg Pb per gram of Potassium Chloride

For determining whether the 0.5 micrograms level of lead per day under Section 3.1.3. is exceeded, Trace Minerals may exclude any naturally occurring lead in the additional ingredients listed above in Table 3.1.3 (in the amount of micrograms of lead for each such ingredient as listed in Table 3.1.3. per gram of that ingredient in the maximum daily dose recommended on the product label) in accordance with the Attorney General’s Stipulation Modifying Agreement in *People v. Warner Lambert, et al.* (San Francisco County Superior Court Case No. 984503).

1 Should Trace Minerals seek to exclude naturally occurring lead in its calculation of overall lead  
2 content for any of the Covered Products, Trace Minerals shall provide to ERC within fifteen (15)  
3 working days of ERC's written request a complete list of all ingredients in the Covered Products  
4 and the corresponding percentage and quantity in grams (rounded to the nearest one tenth of a  
5 gram) of each of the ingredients being used in each of the Covered Products and any other lab  
6 data that independently confirms Trace Mineral's contention concerning the amount of any  
7 naturally occurring ingredient in the Covered Products. Any documentation that Trace Minerals  
8 submit to ERC pursuant to the terms of this Section shall be kept confidential.

### 9 **3.2 Clear and Reasonable Warnings**

10 If Trace Minerals is required to provide a warning pursuant to Section 3.1, the following  
11 warning must be utilized:

12 **WARNING:** This product contains lead, a chemical known to the State of California to  
13 cause [cancer and] birth defects or other reproductive harm.

14 Trace Minerals shall use the phrase "cancer and" in the warning only if the maximum daily dose  
15 recommended on the label contains more than 15 micrograms of lead as determined pursuant to  
16 the quality control methodology set forth in Section 3.4.

17 The warning shall be at least the same size as the largest of any other health or safety  
18 warnings correspondingly appearing on the label, container, receipt, invoice, website, or insert,  
19 and the word "WARNING" shall be in all capital letters. No other statements about Proposition 65  
20 or lead may accompany the warning.

21 Trace Minerals must display the above warnings with such conspicuousness, as compared  
22 with other words, statements, or design of the label or container, as applicable, to render the  
23 warning likely to be read and understood by an ordinary individual under customary conditions of  
24 purchase or use of the product.

### 25 **3.3 Reformulated Covered Products**

26 A Reformulated Covered Product is one for which the Daily Exposure Level when the  
27 maximum suggested dose is taken as directed on the Reformulated Covered Product's label,  
28 contains no more than 0.5 micrograms of lead per day as determined by the quality control

1 methodology described in Section 3.4.

2 **3.4 Testing and Quality Control Methodology**

3 **3.4.1** All testing pursuant to this Consent Judgment shall be performed using a  
4 laboratory method that complies with the performance and quality control factors appropriate  
5 for the method used, including limit of detection, qualification, accuracy, and precision that  
6 meets the following criteria: Inductively Coupled Plasma-Mass Spectrometry (ICP-MS)  
7 achieving a limit of quantification of less than or equal to 0.010 mg/kg or any other testing  
8 method subsequently agreed upon in writing by the Parties.

9 **3.4.2** All testing pursuant to this Consent Judgment shall be performed by an  
10 independent third-party laboratory certified by the California Environmental Laboratory  
11 Accreditation Program or an independent third-party laboratory that is registered with the  
12 United States Food & Drug Administration. Nothing in this Consent Judgment shall limit  
13 Trace Minerals' ability to conduct, or require that others conduct, additional testing of the  
14 Covered Products, including the raw materials used in their manufacture.

15 **3.4.3** Trace Minerals shall arrange, for at least five consecutive years and at  
16 least once per year, for the lead testing of four randomly selected samples of each Covered  
17 Product in the form intended for sale to the end-user to be distributed or sold to California.  
18 Trace Minerals shall continue testing so long as the Covered Products are sold in California or  
19 sold to a third party for retail sale in California. If tests conducted pursuant to this Section  
20 demonstrate that no warning is required for a Covered Product during each of five consecutive  
21 years, then the testing requirements of this Section will no longer be required as to that Covered  
22 Product. However, if after the five-year period, Trace Minerals changes contract manufacturers  
23 for any of the Covered Products and/or reformulates any of the Covered Products, Trace  
24 Minerals shall test that Covered Product at least once after such change is made, and send those  
25 test results to ERC within 10 working days of receiving the test results. The testing  
26 requirements discussed in Section 3.4 are not applicable to any Covered Product for which  
27 Trace Minerals has provided the warning as specified in Section 3.2.

1 For purposes of this Consent Judgment, "Sample" is defined as: 1) for Covered Products  
2 in tablet form, as one randomly selected bottle of the Covered Product from a production run  
3 consisting of not less than 20 tablets; or 2) for Covered Products in powder form, at least 5 grams  
4 of the Covered Product measured from different randomly selected boxes of the Covered  
5 Product.

6 **3.4.4** Beginning on the Effective Date and continuing for a period of five years  
7 thereafter, Trace Minerals shall arrange for copies of all laboratory reports with results of  
8 testing for lead content under Section 3.4 to be automatically sent by the testing laboratory  
9 directly to ERC within ten (10) working days after completion of that testing. These reports  
10 shall be deemed and treated by ERC as confidential information under the terms of the  
11 Confidentiality Agreement entered into by the Parties, a copy of which is attached hereto as  
12 **Exhibit B**. Trace Minerals shall retain all test results and documentation for a period of five  
13 years from the date of each test.

14 **4. SETTLEMENT PAYMENT**

15 **4.1** In full satisfaction of all potential civil penalties, payment in lieu of civil  
16 penalties, attorney's fees, and costs, Trace Minerals shall make a total payment of \$115,000.00  
17 ("Total Settlement Amount") to ERC according to the following schedule:

- 18 a. \$38,333.00 within 5 days of the Effective Date.  
19 b. \$38,333.00 within 35 days of the Effective Date  
20 c. \$38,334.00 within 65 days of the Effective Date.

21 Trace Minerals shall make these payments by wire transfer to ERC's escrow account,  
22 for which ERC will give Trace Minerals the necessary account information. The Total  
23 Settlement Amount shall be apportioned as follows:

24 **4.2** \$51,076.00 shall be considered a civil penalty pursuant to California Health  
25 and Safety Code §25249.7(b)(1). ERC shall remit 75% (\$38,307.00) of the civil penalty to the  
26 Office of Environmental Health Hazard Assessment ("OEHHA") for deposit in the Safe  
27 Drinking Water and Toxic Enforcement Fund in accordance with California Health and Safety  
28 Code §25249.12(c). ERC will retain the remaining 25% (\$12,769.00) of the civil penalty.

1           **4.3**       \$924.98 shall be distributed to Environmental Research Center as  
2 reimbursement to ERC for reasonable costs incurred as a result of work in bringing this action;  
3 and \$40,131.16 shall be distributed to Environmental Research Center in lieu of further civil  
4 penalties, for the day-to-day business activities such as (1) continued enforcement of  
5 Proposition 65, which includes work, analyzing, researching and testing consumer products that  
6 may contain Proposition 65 chemicals, focusing on the same or similar type of ingestible  
7 products that are the subject matter of the current action; (2) the continued monitoring of past  
8 consent judgments and settlements to ensure companies are in compliance with Proposition 65;  
9 and (3) giving a donation of \$1,961.00 to the Center For Environmental Health to address  
10 reducing toxic chemical exposures in California.

11           **4.4**       \$11,741.50 shall be distributed to Lozeau | Drury LLP as reimbursement of  
12 ERC's attorney's fees while \$11,126.36 shall be distributed to ERC for its in-house legal fees.

13       **5.    MODIFICATION OF CONSENT JUDGMENT**

14           **5.1**       This Consent Judgment may be modified only (i) by written stipulation of  
15 the Parties or pursuant to Section 5.4 and (ii) upon entry by the Court of a modified consent  
16 judgment.

17           **5.2**       If Trace Minerals seeks to modify this Consent Judgment under Section 5.1;  
18 then Trace Minerals must provide written notice to ERC of its intent ("Notice of Intent"). If  
19 ERC seeks to meet and confer regarding the proposed modification in the Notice of Intent, then  
20 ERC must provide written notice to Trace Minerals within thirty days of receiving the Notice of  
21 Intent. If ERC notifies Trace Minerals in a timely manner of ERC's intent to meet and confer,  
22 then the Parties shall meet and confer in good faith as required in this Section. The Parties  
23 shall meet in person or via telephone within thirty (30) days of ERC's notification of its intent  
24 to meet and confer. Within thirty days of such meeting, if ERC disputes the proposed  
25 modification, ERC shall provide to Trace Minerals a written basis for its position. The Parties  
26 shall continue to meet and confer for an additional thirty (30) days in an effort to resolve any  
27 remaining disputes. Should it become necessary, the Parties may agree in writing to different  
28 deadlines for the meet-and-confer period.

1           **5.3**           In the event that Trace Minerals initiates or otherwise requests a modification  
2 under Section 5.1, and the meet and confer process leads to a joint motion or application of the  
3 Consent Judgment, Trace Minerals shall reimburse ERC its costs and reasonable attorney's  
4 fees for the time spent in the meet-and-confer process and filing and arguing the motion or  
5 application.

6           **5.4**           Where the meet-and-confer process does not lead to a joint motion or  
7 application in support of a modification of the Consent Judgment, then either Party may seek  
8 judicial relief on its own. In such a situation, the prevailing party may seek to recover costs and  
9 reasonable attorney's fees. As used in the preceding sentence, the term "prevailing party"  
10 means a party who is successful in obtaining relief more favorable to it than the relief that the  
11 other party was amenable to providing during the Parties' good faith attempt to resolve the  
12 dispute that is the subject of the modification.

13       **6.    RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT**  
14       **JUDGMENT**

15           **6.1**           This Court shall retain jurisdiction of this matter to enforce, modify or  
16 terminate this Consent Judgment.

17           **6.2**           If ERC alleges that any Covered Product fails to qualify as a Reformulated  
18 Covered Product (for which ERC alleges that no warning has been provided), then ERC shall  
19 inform Trace Minerals in a reasonably prompt manner of its test results, including information  
20 sufficient to permit Trace Minerals to identify the Covered Products at issue. Trace Minerals  
21 shall, within thirty days following such notice, provide ERC with testing information, from an  
22 independent third-party laboratory meeting the requirements of Sections 3.4.1 and 3.4.2,  
23 demonstrating Defendant's compliance with the Consent Judgment, if warranted. The Parties  
24 shall first attempt to resolve the matter prior to ERC taking any further legal action.

25       **7.    APPLICATION OF CONSENT JUDGMENT**

26           This Consent Judgment may apply to, be binding upon, and benefit the Parties and their  
27 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,  
28 divisions, affiliates, franchisees, licensees, customers (excluding private labelers), distributors,

1 wholesalers, retailers, predecessors, successors, and assigns. This Consent Judgment shall have no  
2 application to Covered Products which are distributed or sold exclusively outside the State of  
3 California and which are not used by California consumers.

4 **8. BINDING EFFECT, CLAIMS COVERED AND RELEASED**

5 **8.1** This Consent Judgment is a full, final, and binding resolution between ERC,  
6 on behalf of itself and in the public interest, and Trace Minerals, of any alleged violation of  
7 Proposition 65 or its implementing regulations for failure to provide Proposition 65 warnings of  
8 exposure to lead from the handling, use, or consumption of the Covered Products and fully  
9 resolves all claims that have been or could have been asserted in this action up to and including  
10 the Effective Date for failure to provide Proposition 65 warnings for the Covered Products.  
11 ERC, on behalf of itself and in the public interest, hereby discharges Trace Minerals and its  
12 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,  
13 divisions, affiliates, suppliers, franchisees, licensees, customers (not including private label  
14 customers of Trace Minerals), distributors, wholesalers, retailers, and all other upstream and  
15 downstream entities in the distribution chain of any Covered Product, and the predecessors,  
16 successors and assigns of any of them (collectively, "Released Parties"), from any and all  
17 claims, actions, causes of action, suits, demands, liabilities, damages, penalties, fees, costs and  
18 expenses asserted, or that could have been asserted, as to any alleged violation of Proposition  
19 65 arising from the failure to provide Proposition 65 warnings on the Covered Products  
20 regarding lead.

21 **8.2** ERC on its own behalf only, on one hand, and Trace Minerals on its own  
22 behalf only, on the other, further waive and release any and all claims they may have against  
23 each other for all actions or statements made or undertaken in the course of seeking or opposing  
24 enforcement of Proposition 65 in connection with the Notice or Complaint up through and  
25 including the Effective Date, provided, however, that nothing in Section 8 shall affect or limit  
26 any Party's right to seek to enforce the terms of this Consent Judgment.

27 **8.3** It is possible that other claims not known to the Parties arising out of the  
28 facts alleged in the Notice or the Complaint and relating to the Covered Products will develop

1 or be discovered. ERC on its own behalf only, on one hand, and Trace Minerals on its own  
2 behalf only on the other, acknowledge that this Consent Judgment is expressly intended to  
3 cover and include all such claims up through the Effective Date, including all rights of action  
4 therefore. ERC and Trace Minerals acknowledge that the claims released in Sections 8.1 and  
5 8.2 above may include unknown claims, and nevertheless waive California Civil Code section  
6 1542 as to any such unknown claims. California Civil Code section 1542 reads as follows:

7           A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE  
8           CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER  
9           FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF  
          KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS  
          OR HER SETTLEMENT WITH THE DEBTOR.

10 ERC on its own behalf only, on one hand, and Trace Minerals, on its own behalf on the other,  
11 acknowledge and understand the significance and consequences of this specific waiver of  
12 California Civil Code section 1542.

13           **8.4**           Compliance with the terms of this Consent Judgment shall be deemed to  
14 constitute compliance with Proposition 65 by any Releasee regarding alleged exposures to lead  
15 in the Covered Products as set forth in the Notice and the Complaint.

16           **8.5**           Nothing in this Consent Judgment is intended to apply to any occupational  
17 or environmental exposures arising under Proposition 65, nor shall it apply to any of Trace  
18 Minerals' products other than the Covered Products.

19   **9. SEVERABILITY OF UNENFORCEABLE PROVISIONS**

20           In the event that any of the provisions of this Consent Judgment are held by a court to be  
21 unenforceable, the validity of the remaining enforceable provisions shall not be adversely affected.

22   **10. GOVERNING LAW**

23           The terms and conditions of this Consent Judgment shall be governed by and construed in  
24 accordance with the laws of the State of California.

25   **11. PROVISION OF NOTICE**

26           All notices required to be given to either Party to this Consent Judgment by the other shall  
27 be in writing and sent to the following agents listed below by: (a) first-class, registered, or certified  
28 mail; (b) overnight courier; or (c) personal delivery. Courtesy copies via email may also be sent.

1 **FOR ENVIRONMENTAL RESEARCH CENTER:**

2 Chris Heptinstall, Executive Director, Environmental Research Center  
3 3111 Camino Del Rio North, Suite 400  
4 San Diego, CA 92108  
5 Tel: (619) 500-3090  
6 Email: chris\_erc501c3@yahoo.com

7 With a copy to:

8 Richard Drury (CBN 163559)  
9 Douglas J. Chermak (CBN 233382)  
10 LOZEAU | DRURY LLP  
11 410 12<sup>th</sup> Street, Suite 250  
12 Oakland, CA 94607  
13 Ph: 510-836-4200  
14 Fax: 510-836-4205  
15 Email: doug@lozeaudrury.com

16 **FOR TRACE MINERALS CORPORATION:**

17 Stanley W. Landfair, Esq.  
18 Rebecca L. Woodson, Esq.  
19 McKenna Long & Aldridge LLP  
20 One Market Plaza  
21 Spear Tower, 24<sup>th</sup> Floor  
22 San Francisco, CA 94105

23 **12. COURT APPROVAL**

24 **12.1** Upon execution of this Consent Judgment by the Parties, ERC shall notice a  
25 Motion for Court Approval. The Parties shall use their best efforts to support entry of this  
26 Consent Judgment.

27 **12.2** If the California Attorney General objects to any term in this Consent  
28 Judgment, the Parties shall use their best efforts to resolve the concern in a timely manner, and  
if possible prior to the hearing on the motion.

**12.3** If this Stipulated Consent Judgment is not approved by the Court, it shall be  
void and have no force or effect.

29 **13. EXECUTION AND COUNTERPARTS**

30 This Consent Judgment may be executed in counterparts, which taken together shall be  
31 deemed to constitute one document. A facsimile or .pdf signature shall be construed as valid as

1 the original signature.

2 **14. DRAFTING**

3 The terms of this Consent Judgment have been reviewed by the respective counsel for each  
4 Party prior to its signing, and each Party has had an opportunity to fully discuss the terms with  
5 counsel. The Parties agree that, in any subsequent interpretation and construction of this Consent  
6 Judgment entered thereon, the terms and provisions shall not be construed against any Party.

7 **15. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES**

8 If a dispute arises with respect to either Party's compliance with the terms of this Consent  
9 Judgment entered by the Court, the Parties shall meet in person or by telephone and endeavor to  
10 resolve the dispute in an amicable manner. No action or motion may be filed in the absence of  
11 such a good faith attempt to resolve the dispute beforehand. In the event an action or motion is  
12 filed, however, the prevailing party may seek to recover costs and reasonable attorney's fees. As  
13 used in the preceding sentence, the term "prevailing party" means a party who is successful in  
14 obtaining relief more favorable to it than the relief that the other party was amenable to providing  
15 during the Parties' good faith attempt to resolve the dispute that is the subject of such enforcement  
16 action.

17 **16. ENTIRE AGREEMENT, AUTHORIZATION**

18 **16.1** This Consent Judgment contains the sole and entire agreement and  
19 understanding of the Parties with respect to the entire subject matter herein, and any and all  
20 prior discussions, negotiations, commitments and understandings related hereto. No  
21 representations, oral or otherwise, express or implied, other than those contained herein have  
22 been made by any Party. No other agreements, oral or otherwise, unless specifically referred to  
23 herein, shall be deemed to exist or to bind any Party.

24 **16.2** Each signatory to this Consent Judgment certifies that he or she is fully  
25 authorized by the Party he or she represents to stipulate to this Consent Judgment. Except as  
26 explicitly provided herein, each Party shall bear its own fees and costs.

1 17. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF  
2 CONSENT JUDGMENT

3 This Consent Judgment has come before the Court upon the request of the Parties. The  
4 Parties request the Court to fully review this Consent Judgment and, being fully informed  
5 regarding the matters which are the subject of this action, to:

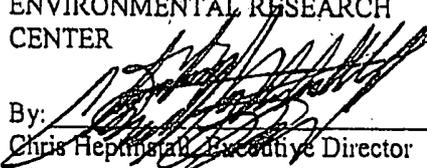
6 (1) Find that the terms and provisions of this Consent Judgment represent a fair and  
7 equitable settlement of all matters raised by the allegations of the Complaint, that the matter has  
8 been diligently prosecuted, and that the public interest is served by such settlement; and

9 (2) Make the findings pursuant to California Health and Safety Code section  
10 25249.7(f)(4), approve the Settlement, and approve this Consent Judgment.

11 IT IS SO STIPULATED:

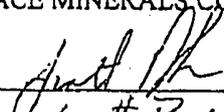
12 Dated: 12/15, 2014

ENVIRONMENTAL RESEARCH  
CENTER

13  
14 By:   
Chris Hepinstall, Executive Director

15 Dated: 12-15, 2014

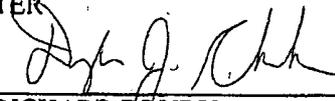
TRACE MINERALS CORPORATION

16  
17 By:   
Its: Scott Perkins  
Manager

18 APPROVED AS TO FORM:

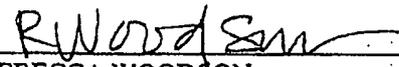
19 Dated: 12/15, 2014

ENVIRONMENTAL RESEARCH  
CENTER

20  
21 By:   
RICHARD DRURY  
DOUGLAS J. CHERMAK  
LOZEAU | DRURY LLP

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TRACE MINERALS CORPORATION

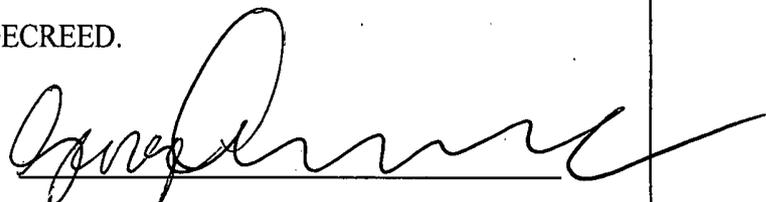
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27 By:   
REBECCA WOODSON  
MCKENNA LONG & ALDRIDGE LLP

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**ORDER AND JUDGMENT**

Based upon the Parties' Stipulation, and good cause appearing, this Consent Judgment is approved and Judgment is hereby entered according to its terms.

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated: 2/9, 2014 

Judge of the Superior Court

GEORGE C. HERNANDEZ, JR.