

1 Christina M. Caro (CBN 250797)
2 LAW OFFICE OF CHRISTINA M. CARO
3 2506 Haste Street
4 Berkeley, CA 94704
5 Tel: (510) 545-9346
6 Fax: (510) 295-2649
7 Email: christina@ccarolaw.com

8 Attorney for Plaintiff
9 ENVIRONMENTAL RESEARCH CENTER, INC.

10 **ENDORSED
11 FILED
12 ALAMEDA COUNTY**

13 **JUL 29 2015**

14 **CLERK OF THE SUPERIOR COURT**

15 **By I. GUERRERO Deputy**

16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
17 **COUNTY OF ALAMEDA**

18 ENVIRONMENTAL RESEARCH
19 CENTER, INC. a California non-profit
20 corporation,

21 Plaintiff,

22 v.

23 BIOPLEX NUTRITION, INC., a Washington
24 Corporation; BIOPLEX PURE NUTRITION,
25 LLC, a Washington Limited Liability
26 Company; CAMANO ISLAND
27 MANAGEMENT, INC., a Washington
28 Corporation; CAMANO ISLAND COFFEE
29 ROASTERS, LLC, a Washington Limited
30 Liability Company; FROZEN X-PLOSION,
31 LLC, a Washington Limited Liability
32 Company,

33 Defendants.

34 CASE NO. RG14750840

35 ASSIGNED FOR ALL PURPOSES TO:
36 JUDGE GEORGE HERNANDEZ, JR.
37 DEPARTMENT 17

38 **[PROPOSED] STIPULATED
39 CONSENT JUDGMENT**

40 Health & Safety Code § 25249.5 et seq.

41 Action Filed: December 9, 2014
42 Trial Date: None set

1 **IT IS HEREBY STIPULATED AND AGREED BY THE PARTIES HERETO, AS**
2 **FOLLOWS:**

3 **1. INTRODUCTION**

4 **1.1** On December 9, 2014, Plaintiff Environmental Research Center, Inc.
5 (“ERC”), a California non-profit corporation, as a private enforcer, and in the public interest,
6 initiated this action by filing a Complaint for Injunctive Relief and Civil Penalties (the
7 “Complaint”) pursuant to the provisions of California Health and Safety Code section 25249.5
8 *et seq.* (“Proposition 65”), against BIOPLEX NUTRITION, INC., a Washington Corporation;
9 BIOPLEX PURE NUTRITION, LLC, a Washington Limited Liability Company; CAMANO
10 ISLAND MANAGEMENT, INC., a Washington Corporation; CAMANO ISLAND COFFEE
11 ROASTERS, LLC, a Washington Limited Liability Company; and FROZEN X-PLOSION,
12 LLC, a Washington Limited Liability Company (collectively “Defendants”)¹.

13 **1.2** In this action, ERC alleges that a number of products manufactured,
14 distributed or sold by Defendants contain lead, a chemical listed under Proposition 65 as a
15 carcinogen and reproductive toxin, and expose consumers to this chemical at a level requiring a
16 Proposition 65 warning. These products (referred to hereinafter individually as a “Covered
17 Product” or collectively as “Covered Products”) are: (1) Bioplex Nutrition Inc. Whey In
18 Weight Gainer Vanilla Cream; (2) Bioplex Nutrition Inc. Whey In Weight Gainer Chocolate;
19 (3) FrozenXplosion Protein Generation Smoothie Chocolate; (4) FrozenXplosion Protein
20 Generation Smoothie Acai Blue Berry; and (5) Frozen X-plosion Base.

21 **1.3** ERC and Defendants are hereinafter referred to collectively as the “Parties.”

22 **1.4** ERC is a California non-profit corporation dedicated to, among other causes,
23 helping safeguard the public from health hazards by reducing the use and misuse of hazardous
24
25

26 ¹ The Parties stipulate to dismiss, with prejudice, Defendants BIOPLEX PURE NUTRITION,
27 LLC and CAMANO ISLAND COFFEE ROASTERS, LLC. This Consent Judgment therefore
28 applies to the remaining parties, and the term “Defendants” refers to BIOPLEX NUTRITION,
29 INC.; CAMANO ISLAND MANAGEMENT, INC.; and FROZEN X-PLOSION, LLC only.

1 and toxic chemicals, facilitating a safe environment for consumers and employees, and
2 encouraging corporate responsibility.

3 **1.5** Defendants at all relevant times for purposes of this Consent Judgment only,
4 employed ten or more persons, and are “person[s] in the course of business” within the meaning of
5 Proposition 65. Defendants manufacture, distribute and/or sell the Covered Products.

6 **1.6** The Complaint is based on allegations contained in ERC’s two Notices of
7 Violations dated August 29, 2014, that were served on the California Attorney General, other
8 public enforcers, and Defendants (“Notices”) on the same date. True and correct copies of the
9 Notices are attached as Exhibit A.

10 **1.7** More than sixty (60) days have passed since service of the Notices and no
11 designated governmental agency filed a complaint against Defendants with regard to the
12 Covered Products or the alleged violations.

13 **1.8** ERC’s Notices and Complaint allege that Defendants manufactured, distributed,
14 and/or sold in California the Covered Products, which contain lead, a chemical know to the
15 State of California to cause cancer and/or reproductive toxicity, and expose consumers at a
16 level requiring a Proposition 65 warning. ERC further alleges that use of the Covered Products
17 exposes persons in California to lead without first providing clear and reasonable warnings in
18 violation of California Health and Safety Code section 25249.6. Defendants have not appeared
19 in the action, but deny all material allegations contained in the Notices and Complaint.

20 **1.9** The Parties have entered into this Consent Judgment in order to settle,
21 compromise and resolve disputed claims and thus avoid prolonged and costly litigation.
22 Nothing in this Consent Judgment shall constitute or be construed as an admission by any of
23 the Parties, or by any of their respective officers, directors, shareholders, employees, agents,
24 parent companies, subsidiaries, divisions, affiliates, franchisees, licensees, customers, suppliers,
25 distributors, wholesalers, or retailers. Except for the representations made above, nothing in
26 this Consent Judgment shall be construed as an admission by the Parties of any fact, issue of
27 law, or violation of law, nor shall compliance with this Consent Judgment be construed as an

1 admission by the Parties of any fact, issue of law, or violation of law, at any time, for any
2 purpose.

3 **1.10** Except as expressly set forth herein, nothing in this Consent Judgment shall
4 prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in any
5 other or future legal proceeding unrelated to these proceedings.

6 **1.11** The Effective Date of this Consent Judgment is the date on which it is entered as
7 a Judgment by this Court.

8 **2. DISMISSAL OF CERTAIN DEFENDANTS**

9 **2.1** ERC hereby agrees to dismiss with prejudice Defendants BIOPLEX PURE
10 NUTRITION, LLC and CAMANO ISLAND COFFEE ROASTERS, LLC from this action based
11 on the remaining Defendants' statements to ERC that Bioplex Pure Nutrition, LLC is not, and
12 has never been, affiliated with any of the other named Defendants in this action, and that
13 Camano Island Coffee Roasters, LLC does not sell, market, or distribute any of the Covered
14 Products.

15 **2.2** The Parties STIPULATE as follows:

16 **2.2.1** Defendants Camano Island Coffee Roasters and Bioplex Pure Nutrition
17 LLC are not indispensable parties under Code Civ. Proc. section 389 or any other law, and are
18 not parties in whose absence complete relief may not be granted by the Court, and therefore,
19 should be dismissed from this action.

20 **2.2.2** No party will raise, now or at any time hereafter, a necessary or
21 indispensable party defense to the Complaint under Code Civ. Proc. section 389 or any other law
22 as it relates to these dismissed parties;

23 **2.2.3** Plaintiff hereby dismisses with prejudice, pursuant to Code of Civil
24 Procedure § 581(c), Defendants Bioplex Pure Nutrition, LLC and Camano Island Coffee
25 Roasters, LLC.

26 **3. JURISDICTION AND VENUE**

27 For purposes of this Consent Judgment and any further court action that may become
28

1 necessary to enforce this Consent Judgment, the Parties stipulate that this Court has subject matter
2 jurisdiction over this Action, personal jurisdiction over the Parties, that venue is proper in this
3 Court, and that this Court has jurisdiction to enter this Consent Judgment pursuant to the terms set
4 forth herein.

5 **4. INJUNCTIVE RELIEF, WARNINGS**

6 **4.1** Beginning on the Effective Date, Defendants shall be permanently enjoined
7 from manufacturing for sale in the State of California, "Distributing into the State of
8 California," or directly selling in the State of California, any Covered Product which exposes a
9 person to a "Daily Lead Exposure Level" of more than 0.5 micrograms per day when the
10 maximum suggested dose is taken as directed on the Covered Product's label, unless such
11 Covered Product complies with the warning requirements in Section 4.2.

12 **4.1.1** As used in this Consent Judgment, the term "Distributing into the State
13 of California" shall mean to directly ship a Covered Product into California for sale in
14 California or to sell a Covered Product to a distributor that Defendants know will sell the
15 Covered Product in California.

16 **4.1.2** For purposes of this Consent Judgment, the "Daily Lead Exposure
17 Level" shall be measured in micrograms, and shall be calculated using the following formula:
18 micrograms of lead per gram of product, multiplied by grams of product per serving of the
19 product (using the largest serving size appearing on the product label), multiplied by servings
20 of the product per day (using the largest number of servings in a recommended dosage
21 appearing on the product label), which equals micrograms of lead exposure per day.

22 **4.2 Clear and Reasonable Warnings**

23 For those Covered Products that are subject to the warning requirement of Section 4.1,
24 Defendants shall provide the following warning:

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

27 The text in the brackets in the warning above is optional, except that the phrase "cancer
28

1 and” must be included in the warning only if the maximum daily dose recommended on the label
2 contains more than 15 micrograms of lead as determined pursuant to the quality control
3 methodology set forth in Section 4.4.

4 The warning shall be prominently affixed to or printed upon the product’s label of the
5 Covered Product as to be clearly conspicuous, as compared with other statements or designs on the
6 label as to render it likely to be read and understood by an ordinary purchaser or user of the
7 product. If the warning is displayed on the product’s label, it shall be at least the same size as the
8 largest of any other health or safety warnings on the product and the word “**WARNING**” shall be
9 in all capital letters and in bold print.

10 For any products sold via a website, the warning shall appear on the checkout page on the
11 website for the Covered Products being shipped to a California address.

12 Defendants shall not provide any other statements to accompany the Warning, but may
13 refer customers to its company website.

14 **5. SETTLEMENT PAYMENT**

15 **5.1** In full satisfaction of all potential civil penalties, payment in lieu of civil
16 penalties, attorney’s fees, and costs, Defendants shall make a total payment of \$50,000.00
17 (“Total Settlement Amount”) to ERC as described in Section 5.4 below. Defendants shall
18 make this payment by wire transfer to ERC’s escrow account, for which ERC will give
19 Defendants the necessary account information. The Total Settlement Amount shall be
20 apportioned as follows:

21 **5.2 Civil Penalty Assessment.** \$17,395.65 shall be considered a civil penalty
22 pursuant to California Health and Safety Code §25249.7(b)(1). ERC shall remit 75%
23 (\$13,046.74) of the civil penalty to the Office of Environmental Health Hazard Assessment
24 (“OEHHA”) for deposit in the Safe Drinking Water and Toxic Enforcement Fund in accordance
25 with California Health and Safety Code §25249.12(c). ERC will retain the remaining 25%
26 (\$4348.91) of the civil penalty.
27
28

1 **5.3 Reimbursement of Plaintiff's Fees and Costs.** \$17,053.59 shall be
2 distributed to Christina M. Caro as reimbursement of ERC's attorney's fees, while \$14,389.81
3 shall be distributed to ERC for its in-house legal fees, and \$1,160.95 shall be distributed to ERC
4 for its costs.

5 **5.4 Payment Schedule.** Within 30 days of the Effective Date, Defendants shall make
6 a lump sum payment to ERC of \$20,000.00. Defendants will make six monthly consecutive
7 payments thereafter of \$5,000.00 each. Defendants agree to remit payments to ERC by wire
8 transfer for which ERC will provide Defendants the relevant information for.

9 **6. MODIFICATION OF CONSENT JUDGMENT**

10 **6.1** This Consent Judgment, after its entry by the Court, may be modified by the
11 Parties only as follows: 1) by written agreement of the Parties and upon entry of a modified
12 Consent Judgment by the Court based on the written agreement of the Parties or 2) should there
13 be an amendment to Proposition 65 or should the Office of Environmental Health Hazard
14 Assessment ("OEHHA") promulgate regulations that establish a Maximum Allowable Dose
15 Level for lead that is more or less stringent than 0.5 micrograms per day, this Consent Judgment
16 shall be deemed modified by the Parties on the date the amendment becomes effective or the
17 regulations become effective to incorporate the new standard into this Consent Judgment.

18 **6.2** If either ERC or Defendants seek to modify this Consent Judgment under
19 Section 6.1, then the moving party must provide written notice to the non-moving party of its
20 intent ("Notice of Intent"). If the non-moving party seeks to meet and confer regarding the
21 proposed modification in the Notice of Intent, then that party must provide written notice
22 within thirty days of receiving the Notice of Intent. If the non-moving party provides
23 notification in a timely manner, then the Parties shall meet and confer in good faith as required
24 in this Section. The Parties shall meet in person or via telephone within thirty days of
25 notification of the intent to meet and confer. Within thirty days of such meeting, if the non-
26 moving party disputes the proposed modification, that party shall provide a written basis for its
27 position. The Parties shall continue to meet and confer for an additional thirty days in an effort

1 to resolve any remaining disputes. Should it become necessary, the Parties may agree in
2 writing to different deadlines for the meet-and-confer period.

3 **6.3** In the event that Defendants initiate or otherwise request a modification under
4 Section 6.1 primarily for their benefit only, and the meet and confer process leads to a joint
5 motion or application of the Consent Judgment, Defendants shall reimburse ERC its costs and
6 reasonable attorney's fees for the time spent in the meet-and-confer process and filing and
7 arguing the motion or application.

8 **6.4** Where the meet-and-confer process does not lead to a joint motion or
9 application in support of a modification of the Consent Judgment, then either Party may seek
10 judicial relief on its own. In such a situation, the prevailing Party may seek to recover costs
11 and reasonable attorney's fees. As used in the preceding sentence, the term "prevailing party"
12 means a party who is successful in obtaining relief more favorable to it than the relief that the
13 other party was amenable to providing during the Parties' good faith attempt to resolve the
14 dispute that is the subject of the modification.

15 **7. RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT**
16 **JUDGMENT**

17 **7.1** This Court shall retain jurisdiction of this matter to enforce, modify or terminate
18 this Consent Judgment, pursuant to Code of Civil Procedure § 664.6 or any other valid provision
19 of law.

20 **7.2** If ERC alleges that any Covered Product has lead levels over 0.5 micrograms
21 per day and has failed to provide a Warning pursuant to Section 4.1, then ERC shall inform
22 Defendants in a reasonably prompt manner of its test results, including information sufficient to
23 permit Defendants to identify the Covered Products at issue. Defendants shall, within thirty
24 days following such notice, provide ERC with information demonstrating Defendants'
25 compliance with the Consent Judgment, if warranted. The Parties shall first attempt to resolve
26 the matter prior to ERC taking any further legal action.

1 **8. APPLICATION OF CONSENT JUDGMENT**

2 This Consent Judgment may apply to, be binding upon, and benefit the Parties and their
3 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,
4 divisions, affiliates, franchisees, licensees, customers (excluding private labelers), distributors,
5 wholesalers, retailers, predecessors, successors, and assigns. This Consent Judgment shall have no
6 application to Covered Products which are distributed or sold exclusively outside the State of
7 California.

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

9 **9.1** This Consent Judgment is a full, final, and binding resolution between ERC, on
10 behalf of itself and in the public interest, and Defendants, of any alleged violation of
11 Proposition 65 or its implementing regulations for failure to provide Proposition 65 warnings of
12 exposure to lead from the handling, use, or consumption of the Covered Products and fully
13 resolves all claims that have been or could have been asserted in this action up to and including
14 the Effective Date for failure to provide Proposition 65 warnings for the Covered Products.
15 ERC, on behalf of itself and in the public interest, hereby releases Defendants and their
16 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,
17 divisions, affiliates, suppliers, franchisees, licensees, customers (not including private label
18 customers of Defendants), distributors, wholesalers, retailers, and all other upstream and
19 downstream entities in the distribution chain of any Covered Product, and the predecessors,
20 successors and assigns of any of them (collectively, "Released Parties"), from any and all
21 claims, actions, causes of action, suits, demands, liabilities, damages, penalties, fees, costs and
22 expenses asserted, or that could have been asserted, as to any alleged violation of Proposition
23 65 arising from the failure to provide Proposition 65 warnings on the Covered Products
24 regarding lead.

25 **9.2** ERC affirms that as of the date this Consent Judgment is executed it is not aware
26 of any actual or alleged violations of Proposition 65 by Defendants or by any other person
27 named in the Notice of Violations, other than those that are fully resolved by this Consent
28

1 Judgment, and that as of such date they are not presently investigating any potential Proposition
2 65 violations involving such persons.

3 **9.3** ERC on its own behalf only, on one hand, and Defendants on their own behalf
4 only, on the other, further waive and release any and all claims they may have against each
5 other for all actions or statements made or undertaken in the course of seeking or opposing
6 enforcement of Proposition 65 in connection with the Notices or Complaint up through and
7 including the Effective Date, provided, however, that nothing in Section 9 shall affect or limit
8 any Party's right to seek to enforce the terms of this Consent Judgment.

9 **9.4** It is possible that other claims not known to the Parties arising out of the facts
10 alleged in the Notices or the Complaint and relating to the Covered Products will develop or be
11 discovered. ERC on behalf of itself only, on one hand, and Defendants, on the other hand,
12 acknowledge that this Consent Judgment is expressly intended to cover and include all such
13 claims up through the Effective Date, including all rights of action therefore. ERC and
14 Defendants acknowledge that the claims released in Sections 9.1 and 9.3 above may include
15 unknown claims, and nevertheless waive California Civil Code section 1542 as to any such
16 unknown claims. California Civil Code section 1542 reads as follows:

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

22 ERC on behalf of itself only, on the one hand, and Defendants, on the other hand, acknowledge
23 and understand the significance and consequences of this specific waiver of California Civil
24 Code section 1542.

25 **9.5** Compliance with the terms of this Consent Judgment shall be deemed to
26 constitute compliance with Proposition 65 by any releasee regarding alleged exposures to lead
27 in the Covered Products as set forth in the Notices and Complaint.

28 **9.6** Nothing in this Consent Judgment is intended to apply to any occupational or
29 environmental exposures, as those terms are defined in Cal. Code Regs., tit. 27, §§ 25602(c) and
30

1 (f), arising under Proposition 65, nor shall it apply to any of Defendants' products other than the
2 Covered Products.

3 **10. SEVERABILITY OF UNENFORCEABLE PROVISIONS**

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

6 **11. GOVERNING LAW**

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

9 **12. PROVISION OF NOTICE**

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

14 **FOR ENVIRONMENTAL RESEARCH CENTER, INC.:**

15 Chris Heptinstall, Executive Director, Environmental Research Center
16 3111 Camino Del Rio North, Suite 400
17 San Diego, CA 92108
18 Tel: (619) 500-3090
19 Email: chris_erc501c3@yahoo.com

20 With a copy to:

21 Christina M. Caro (CBN 250797)
22 LAW OFFICE OF CHRISTINA M. CARO
23 2506 Haste Street
24 Berkeley, CA 94704
25 Tel: (510) 545-9346
26 Fax: (510) 295-2649
27 Email: christina@ccarolaw.com

28 **BIOPLEX NUTRITION, INC.,**
29 **CAMANO ISLAND MANAGEMENT, INC.,**
30 **FROZEN X-PLOSION, LLC**

31 Jeffrey A. Ericson
32 Camano Island Management
33 848 N. Sunrise Boulevard, Building B
34 Camano Island, WA 98282

1 With a copy to:
2 Paul S. Rosenlund
3 Michael L. Reitzell
4 DUANE MORRIS LLP
5 Spear Tower
6 One Market Plaza, Suite 2200
7 San Francisco, CA 94105
8 Tel: (415) 957-3178
9 Fax: (415) 520-5479
10 Email: PSRosenlund@duanemorris.com
11 mlreitzell@duanemorris.com

12 **13. COURT APPROVAL**

13 **13.1** Upon execution of this Consent Judgment by the Parties, ERC shall notice a
14 Motion for Approval and Entry of Consent Judgment in the Alameda County Superior Court,
15 pursuant to 11 California Code of Regulations §3000, *et seq.* This motion shall be served upon
16 all of the Parties to the Action and upon the California Attorney General. The Parties shall use
17 their best efforts to support entry of this Consent Judgment.

18 **13.2** If the California Attorney General objects to any term in this Consent Judgment,
19 the Parties shall use their best efforts to resolve the concern in a timely manner, and if possible
20 prior to the hearing on the motion.

21 **13.3** If this Stipulated Consent Judgment is not approved by the Court, it shall be
22 void and have no force or effect.

23 **14. EXECUTION AND COUNTERPARTS**

24 This Consent Judgment may be executed in counterparts, which taken together shall be
25 deemed to constitute one document. A facsimile or .pdf signature shall be construed as valid as
26 the original signature.

27 **15. DRAFTING**

28 No inference, assumption or presumption shall be drawn, and no provision of this
29 Agreement shall be construed against any of the Parties, based upon the fact that one of the Parties
30 and/or one of the Parties' attorneys prepared and/or drafted all or any portion of this Agreement. It
31 is conclusively presumed all of the Parties participated equally in the preparation and drafting of

1 this Agreement, and in this regard, the Parties hereby waive California Civil Code § 1654 which
2 states, in pertinent part: “the language of a contract should be interpreted most strongly against the
3 party who caused the uncertainty to exists.”

4 **16. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES**

5 If a dispute arises with respect to either Party’s compliance with the terms of this Consent
6 Judgment entered by the Court other than as defined in Section 6 above, the Parties shall meet in
7 person or by telephone and endeavor to resolve the dispute in an amicable manner. No action or
8 motion may be filed in the absence of such a good faith attempt to resolve the dispute beforehand.
9 In the event an action or motion is filed, however, the prevailing party may seek to recover costs
10 and reasonable attorney’s fees. As used in the preceding sentence, the term “prevailing party”
11 means a party who is successful in obtaining relief more favorable to it than the relief that the
12 other party was amenable to providing during the Parties’ good faith attempt to resolve the dispute
13 that is the subject of such enforcement action.

14 **17. ENTIRE AGREEMENT, AUTHORIZATION**

15 **17.1** This Consent Judgment contains the sole and entire agreement and
16 understanding of the Parties with respect to the entire subject matter herein, and any and all
17 prior discussions, negotiations, commitments and understandings related hereto. No
18 representations, oral or otherwise, express or implied, other than those contained herein have
19 been made by any Party. No other agreements, oral or otherwise, unless specifically referred to
20 herein, shall be deemed to exist or to bind any Party.

21 **17.2** Each signatory to this Consent Judgment certifies that he or she is fully
22 authorized by the Party he or she represents to execute this Consent Judgment, and has read,
23 understood, and agree to all of the terms and conditions of this Consent Judgment. Except as
24 explicitly provided herein, each Party shall bear its own fees and costs.

25 **18. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF**
26 **CONSENT JUDGMENT**

27 This Consent Judgment has come before the Court upon the request of ERC through a
28

1 motion to approve the Parties' settlement. ERC requests the Court to fully review this Consent
2 Judgment and, being fully informed regarding the matters which are the subject of this action, to:

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

6 (2) Make the findings pursuant to California Health and Safety Code section
7 25249.7(f)(4), approve the Settlement, and approve this Consent Judgment.

8

9

IT IS SO STIPULATED:

10

Dated: April 14, 2015

11

ENVIRONMENTAL RESEARCH
CENTER, INC.

12

13

By: 
Chris Heptinstall, Executive Director

14

15

Dated: _____, 2015

16

BIOPLEX NUTRITION, INC., CAMANO
ISLAND MANAGEMENT, INC., and
FROZEN X-PLOSION, LLC

17

18

By: Jeffrey A. Ericson, Authorized Agent

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20

21

APPROVED AS TO FORM:

22

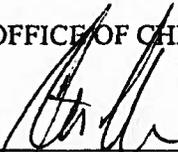
Dated: April 14, 2015

23

LAW OFFICE OF CHRISTINA M. CARO

24

25

By: 
Christina M. Caro
Attorney for Plaintiff Environmental
Research Center, Inc.

26

27

28

1 motion to approve the Parties' settlement. ERC requests the Court to fully review this Consent
2 Judgment and, being fully informed regarding the matters which are the subject of this action, to:

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

6 (2) Make the findings pursuant to California Health and Safety Code section
7 25249.7(f)(4), approve the Settlement, and approve this Consent Judgment.

8
9 **IT IS SO STIPULATED:**

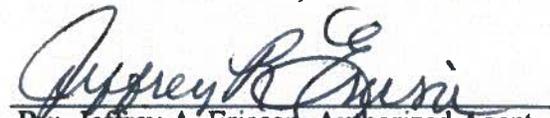
10 Dated: _____, 2015

ENVIRONMENTAL RESEARCH
CENTER, INC.

11
12
13 By: _____
14 Chris Heptinstall, Executive Director

15 Dated: 4/9 _____, 2015

BIOPLEX NUTRITION, INC., CAMANO
ISLAND MANAGEMENT, INC., and
FROZEN X-PLOSION, LLC

16
17
18 
19 By: Jeffrey A. Ericson, Authorized Agent

20
21 **APPROVED AS TO FORM:**

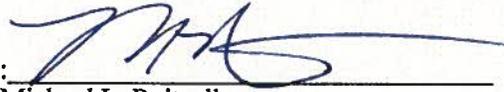
22
23 Dated: _____, 2015

LAW OFFICE OF CHRISTINA M. CARO

24
25 By: _____
26 Christina M. Caro
27 Attorney for Plaintiff Environmental
28 Research Center, Inc.

1 Dated: APRIL 15, 2015

DUANE MORRIS LLP

2
3 By: 

4 Michael L. Reitzell
5 Attorney for Defendants
6 Bioplex Nutrition, Inc., Camano Island
7 Management, Inc., and Frozen X-Plosion,
8 LLC

9
10
11 IT IS SO ORDERED, ADJUDGED AND DECREED.

12 Dated: JUL 29 2015, 2015

GEORGE C. HERNANDEZ, JR.

13 Judge of the Superior Court