

MATTHEW C. MACLEAR (SBN 209228)  
ANTHONY M. BARNES (SBN 199048)  
AQUA TERRA AERIS LAW GROUP  
828 San Pablo Ave, Suite 115B  
Albany, CA 94706  
Ph: 415-568-5200  
Email: mcm@atalawgroup.com

Attorneys for Plaintiff  
ENVIRONMENTAL RESEARCH CENTER, INC

PETER A. ARHANGELSKY SBN (291325)  
EMORD & ASSOCIATES, P.C.  
2730 South Val Vista Drive, Bldg. 6, Ste. 133  
Gilbert, AZ 85295  
Ph: (602) 388-8899  
Email: parhangelsky@emord.com  
Attorney for Defendants  
VITALAB CO., INC., SONNE'S ORGANIC  
FOODS, INC., SPRINGREEN PRODUCTS, INC.,  
and V.E. IRONS, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ALAMEDA

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

Plaintiff,

v.

VITALAB CO., INC., a Missouri corporation,  
SONNE'S ORGANIC FOODS, INC., a  
Massachusetts corporation, SPRINGREEN  
PRODUCTS, INC., a Missouri corporation,  
and V.E. IRONS, INC., a Massachusetts  
corporation, and DOES 1 - 25,

Defendants.

CASE NO. RG17851569

**STIPULATED CONSENT  
JUDGMENT**

Health & Safety Code § 25249.5 *et seq.*

Action Filed: March 3, 2017

Trial Date: None set

**1. INTRODUCTION**

1.1 On March 3, 2017, Plaintiff Environmental Research Center, Inc. ("ERC"), a non-profit corporation, as a private enforcer and in the public interest, initiated this action by filing a

**FILED**  
ALAMEDA COUNTY

MAY 24 2017

CLERK OF THE SUPERIOR COURT

By Dynette Remy Deputy

1 Complaint for Permanent Injunction, Civil Penalties and Other Relief (the "Complaint") pursuant  
2 to the provisions of California Health and Safety Code section 25249.5 *et seq.* ("Proposition  
3 65"), against VITALAB CO., INC. SONNE'S ORGANIC FOODS, INC., SPRINGREEN  
4 PRODUCTS, INC., V.E. IRONS, INC., (collectively "VITALAB"), and DOES 1 – 25. In this  
5 action, ERC alleges that a number of products manufactured, distributed, or sold by VITALAB  
6 contain lead, a chemical listed under Proposition 65 as a carcinogen and reproductive toxin, and  
7 expose consumers to this chemical at a level requiring a Proposition 65 warning. These products  
8 (referred to hereinafter individually as a "Covered Product" or collectively as "Covered  
9 Products") are:

10 VITALAB CO., INC. and SONNE'S ORGANIC FOODS, INC.

- 11 A. Sonne's Organic Foods Inc. Sonne's No. 7 Detoxificant
- 12 B. Sonne's Organic Foods Inc. Sonne's No. 9 Intestinal Cleanser
- 13 C. Sonne's Organic Foods Inc. Sonne's No. 10 Greenlife
- 14 D. Sonne's Organic Foods Inc. Sonne's No. 11 Greenlife Powder
- 15 E. Sonne's Organic Foods Inc. Sonne's No. 9A Herbal Supplement

16 VITALAB CO., INC., SPRINGREEN PRODUCTS, INC., and V.E. IRONS, INC.,

- 17 F. Springgreen NO. 77 Detoxificant
- 18 G. Springgreen No. 78 Calphonite
- 19 H. Springgreen No. 30 Springgreen
- 20 I. Springgreen No. 31 Springgreen Powder
- 21 J. Springgreen #89 7-Day Cleansing Kit
  - 22 a. Springgreen #89 7-Day Cleansing Kit Springgreen No. 77 Detoxificant
  - 23 b. Springgreen #89 7-Day Cleansing Kit Springgreen No. 79 Intestinal Cleanser
  - 24 c. Springgreen #89 7-Day Cleansing Kit Springgreen No. 30 Springgreen
  - 25 d. Springgreen #89 7-Day Cleansing Kit Springgreen No. 83 Wheat Germ Oil
  - 26 e. Springgreen #89 7-Day Cleansing Kit Springgreen No. 87 Natural Source Vitamin C
  - 27 f. Springgreen #89 7-Day Cleansing Kit No. 79A Herbal Supplements
- 28 K. Springgreen No. 79 Intestinal Cleanser

1 ERC and VITALAB are hereinafter referred to individually as a "Party" or collectively as  
2 the "Parties."

3 1.2 ERC is a 501 (c)(3) California non-profit corporation dedicated to, among other  
4 causes, helping safeguard the public from health hazards by reducing the use and misuse of  
5 hazardous and toxic chemicals, facilitating a safe environment for consumers and employees,  
6 and encouraging corporate responsibility.

7 1.3 For purposes of this Consent Judgment, the Parties agree that each defendant is a  
8 business entity each of which has employed ten or more persons at all times relevant to this action,  
9 and qualifies as a "person in the course of business" within the meaning of Proposition 65.  
10 VITALAB manufactures, distributes, and/or sells the Covered Products.

11 1.4 The Complaint is based on allegations contained in ERC's October 14, 2016  
12 Notice of Violation (NOV) served on DEFENDANTS VITALAB CO., INC. and SONNE'S  
13 ORGANIC FOODS, INC. for the SUBJECT PRODUCTS listed in section 1.1, subdivisions A  
14 through E, and the NOV dated December 22, 2016, served on DEFENDANTS VITALAB CO.,  
15 INC., SPRINGGREEN PRODUCTS, INC., and V.E. IRONS, INC. for the SUBJECT  
16 PRODUCTS listed in section 1.1, subdivisions F through K. The October 14, 2016 and  
17 December 22, 2016 Notices of Violation (collectively "Notices") were also served on the  
18 California Attorney General, other public enforcers, and VITALAB. True and correct copies of  
19 the 60-Day Notices are attached hereto as Exhibits A and B respectively and each is  
20 incorporated herein by reference. More than 60 days have passed since the Notices were served  
21 on the Attorney General, public enforcers, and VITALAB and no designated governmental  
22 entity has filed a complaint against VITALAB with regard to the Covered Products or the  
23 alleged violations.

24 1.5 ERC's Notices and Complaint allege that use of the Covered Products exposes  
25 persons in California to lead without first providing clear and reasonable warnings in violation  
26 of California Health and Safety Code section 25249.6. VITALAB denies all material  
27 allegations contained in the Notices and Complaint.  
28

1       1.6     The Parties have entered into this Consent Judgment in order to settle,  
2     compromise, and resolve disputed claims and thus avoid prolonged and costly litigation.  
3     Nothing in this Consent Judgment nor compliance with this Consent Judgment shall constitute or  
4     be construed as an admission by any of the Parties or by any of their respective officers,  
5     directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, franchisees,  
6     licensees, customers, suppliers, distributors, wholesalers, or retailers of any fact, issue of law, or  
7     violation of law.

8       1.7     Except as expressly set forth herein, nothing in this Consent Judgment shall  
9     prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in any  
10    current or future legal proceeding unrelated to these proceedings.

11      1.8     The Effective Date of this Consent Judgment is the date on which it is entered as  
12    a Judgment by this Court.

## 13    2.    **JURISDICTION AND VENUE**

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

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

22      3.1     Beginning on the Effective Date, VITALAB shall be permanently enjoined from  
23    manufacturing for sale in the State of California, "Distributing into the State of California", or  
24    directly selling in the State of California, any Covered Products which exposes a person to a  
25    "Daily Lead Exposure Level" of more than 0.5 micrograms of lead per day unless it meets the  
26    warning requirements under Section 3.2.

27      3.1.1   As used in this Consent Judgment, the term "Distributing into the State  
28    of California" shall mean to directly ship a Covered Product into California for sale in

1 California or to sell a Covered Product to a distributor that VITALAB knows or has reason to  
2 know will sell the Covered Product in California.

3           3.1.2 For purposes of this Consent Judgment, the "Daily Lead Exposure  
4 Level" shall be measured in micrograms, and shall be calculated using the following formula:  
5 micrograms of lead per gram of product, multiplied by grams of product per serving of the  
6 product (using the largest serving size appearing on the product label), multiplied by servings  
7 of the product per day (using the largest number of servings in a recommended dosage  
8 appearing on the product label), which equals micrograms of lead exposure per day.

9           **3.2 Clear and Reasonable Warnings**

10           If VITALAB is required to provide a warning pursuant to Section 3.1, one or more of the  
11 following warnings must be utilized ("Warning"):

12           A. **WARNING:** Consuming this product can expose you to chemicals including lead which  
13 is [are] known to the State of California to cause [cancer and] birth defects or other  
reproductive harm. For more information go to [www.P65Warnings.ca.gov/food](http://www.P65Warnings.ca.gov/food).

14           B. [Warning symbol required in Section 25603(a)(1) of Title 27, California Code of  
15 Regulations]**WARNING:** [Cancer and] Reproductive Harm –  
16 [www.P65Warnings.ca.gov/food](http://www.P65Warnings.ca.gov/food).

17 VITALAB shall use the phrase "cancer and" in the Warning only if the "Daily Lead Exposure  
18 Level" is greater than 15 micrograms of lead as determined pursuant to the quality control  
19 methodology set forth in Section 3.4.

20           The Warning shall be securely affixed to or printed upon the container or label of each  
21 Covered Product. In addition, for any Covered Product sold over the internet, the Warning shall  
22 appear on the checkout page when a California delivery address is indicated for any purchase of  
23 any Covered Product. An asterisk or other identifying method must be utilized to identify which  
24 products on the checkout page are subject to the Warning.

25           The Warning shall be at least the same size as the largest of any other health or safety  
26 warnings also appearing on its website or on the label or container of VITALAB's product  
27 packaging and the word "**WARNING**" shall be in all capital letters and in bold print. No  
28 statements intended to or likely to have the effect of diminishing the impact of, or reducing the

1 clarity of, the Warning on the average lay person shall accompany the Warning. Further, no  
2 statements may accompany the Warning that state or imply that the source of the listed chemical  
3 has an impact on or results in a less harmful effect of the listed chemical.

4 VITALAB must display the above Warning with such conspicuousness, as compared with  
5 other words, statements, design of the label, container, or on its website, as applicable, to render  
6 the Warning likely to be read and understood by an ordinary individual under customary  
7 conditions of purchase or use of the product.

### 8 3.3 Reformulated Covered Products

9 A Reformulated Covered Product is one for which the "Daily Lead Exposure Level" is no  
10 greater than 0.5 micrograms of lead per day as determined by the quality control methodology  
11 described in Section 3.4.

### 12 3.4 Testing and Quality Control Methodology

13 3.4.1 Beginning within one year of the Effective Date, VITALAB shall  
14 arrange for lead testing of the Covered Products at least once a year for a minimum of five  
15 consecutive years by arranging for testing of five randomly selected samples of each of the  
16 Covered Products, in the form intended for sale to the end-user, which VITALAB intends to  
17 sell or is manufacturing for sale in California, directly selling to a consumer in California or  
18 "Distributing into the State of California." If tests conducted pursuant to this Section  
19 demonstrate that no Warning is required for a Covered Product during each of five consecutive  
20 years, then the testing requirements of this Section will no longer be required as to that Covered  
21 Product. However, if during or after the five-year testing period, VITALAB changes ingredient  
22 suppliers for any of the Covered Products and/or reformulates any of the Covered Products,  
23 VITALAB shall test that Covered Product annually for at least four (4) consecutive years after  
24 such change is made.

25 3.4.2 For purposes of measuring the "Daily Lead Exposure Level," the highest  
26 lead detection result of the five (5) randomly selected samples of the Covered Products will be  
27 controlling.  
28

1           3.4.3 All testing pursuant to this Consent Judgment shall be performed using a  
2 laboratory method that complies with the performance and quality control factors appropriate  
3 for the method used, including limit of detection, qualification, accuracy, and precision that  
4 meets the following criteria: Inductively Coupled Plasma-Mass Spectrometry ("ICP-MS")  
5 achieving a limit of quantification of less than or equal to 0.010 mg/kg or any other testing  
6 method subsequently agreed to in writing by the Parties and approved by the Court through  
7 entry of a modified consent judgment.

8           3.4.4 All testing pursuant to this Consent Judgment shall be performed by an  
9 independent third party laboratory certified by the California Environmental Laboratory  
10 Accreditation Program or an independent third-party laboratory that is registered with the  
11 United States Food & Drug Administration.

12           3.4.5 Nothing in this Consent Judgment shall limit VITALAB's ability to  
13 conduct, or require that others conduct, additional testing of the Covered Products, including  
14 the raw materials used in their manufacture.

15           3.4.6 Within thirty (30) days of ERC's written request, VITALAB shall  
16 deliver lab reports obtained pursuant to Section 3.4 to ERC. VITALAB shall retain all test  
17 results and documentation for a period of five years from the date of each test.

18       **4. SETTLEMENT PAYMENT**

19           4.1 In full satisfaction of all potential civil penalties, additional settlement payments,  
20 attorney's fees, and costs, VITALAB shall make a total payment of \$101,000.00 ("Total  
21 Settlement Amount") to ERC within 10 days of the Effective Date ("Due Date"). VITALAB  
22 shall make this payment by wire transfer to ERC's escrow account, for which ERC will give  
23 VITALAB the necessary account information. The Total Settlement Amount shall be  
24 apportioned as follows:

25           4.2 \$35,776.33 shall be considered a civil penalty pursuant to California Health and  
26 Safety Code section 25249.7(b)(1). ERC shall remit 75% (\$26,832.25) of the civil penalty to  
27 the Office of Environmental Health Hazard Assessment ("OEHHA") for deposit in the Safe  
28

1 Drinking Water and Toxic Enforcement Fund in accordance with California Health and Safety  
2 Code section 25249.12(c). ERC will retain the remaining 25% (\$8,944.08) of the civil penalty.

3 4.3 \$4,916.43 shall be distributed to ERC as reimbursement to ERC for reasonable  
4 costs incurred in bringing this action.

5 4.4 \$26,832.20 shall be distributed to ERC as an Additional Settlement Payment  
6 ("ASP"), pursuant to California Code of Regulations, title 11, sections 3203, subdivision (d) and  
7 3204. ERC will utilize the ASP for activities that address the same public harm as allegedly  
8 caused by VITALAB in this matter. These activities are detailed below and support ERC's  
9 overarching goal of reducing and/or eliminating hazardous and toxic chemicals in dietary  
10 supplement products in California. ERC's activities have had, and will continue to have, a direct  
11 and primary effect within the State of California because California consumers will be benefitted  
12 by the reduction and/or elimination of exposure to lead in dietary supplements and/or by  
13 providing clear and reasonable warnings to California consumers prior to ingestion of the  
14 products.

15 Based on a review of past years' actual budgets, ERC is providing the following list of  
16 activities ERC engages in to protect California consumers through Proposition 65 citizen  
17 enforcement, along with a breakdown of how ASP funds will be utilized to facilitate those  
18 activities: (1) ENFORCEMENT (65-80%): obtaining, shipping, analyzing, and testing dietary  
19 supplement products that may contain lead and are sold to California consumers. This work  
20 includes continued monitoring and enforcement of past consent judgments and settlements to  
21 ensure companies are in compliance with their obligations thereunder, with a specific focus on  
22 those judgments and settlements concerning lead. This work also includes investigation of new  
23 companies that ERC does not obtain any recovery through settlement or judgment; (2)  
24 VOLUNTARY COMPLIANCE PROGRAM (10-20%): maintaining ERC's Voluntary  
25 Compliance Program by acquiring products from companies, developing and maintaining a case  
26 file, testing products from these companies, providing the test results and supporting  
27 documentation to the companies, and offering guidance in warning or implementing a self-  
28 testing program for lead in dietary supplement products; and (3) "GOT LEAD" PROGRAM (up



1 to 5%): maintaining ERC's "Got Lead?" Program which reduces the numbers of contaminated  
2 products that reach California consumers by providing access to free testing for lead in dietary  
3 supplement products (Products submitted to the program are screened for ingredients which are  
4 suspected to be contaminated, and then may be purchased by ERC, catalogued, sent to a  
5 qualified laboratory for testing, and the results shared with the consumer that submitted the  
6 product).

7 ERC shall be fully accountable in that it will maintain adequate records to document and  
8 will be able to demonstrate how the ASP funds will be spent and can assure that the funds are  
9 being spent only for the proper, designated purposes described in this Consent Judgment. ERC  
10 shall provide the Attorney General, within thirty days of any request, copies of documentation  
11 demonstrating how such funds have been spent.

12 4.5 \$14,177.50 shall be distributed to Aqua Terra Aeris Law Group as  
13 reimbursement of ERC's attorney's fees, while \$19,297.54 shall be distributed to ERC for its  
14 in-house legal fees. Except as explicitly provided herein, each Party shall bear its own fees and  
15 costs.

16 4.6 In the event that VITALAB fails to remit the Total Settlement Amount owed  
17 under Section 4 of this Consent Judgment on or before the Due Date, VITALAB shall be  
18 deemed to be in material breach of its obligations under this Consent Judgment. ERC shall  
19 provide written notice of the delinquency to VITALAB via electronic mail. If VITALAB fails  
20 to deliver the Total Settlement Amount within five (5) days from the written notice, the Total  
21 Settlement Amount shall accrue interest at the statutory judgment interest rate provided in the  
22 California Code of Civil Procedure section 685.010. Additionally, VITALAB agrees to pay  
23 ERC's reasonable attorney's fees and costs for any efforts to collect the payment due under this  
24 Consent Judgment.

## 25 5. MODIFICATION OF CONSENT JUDGMENT

26 5.1 This Consent Judgment may be modified only as to injunctive terms (i) by  
27 written stipulation of the Parties or pursuant to Section 5.4 and (ii) upon entry by the Court of a  
28 modified consent judgment.

1           5.2     If VITALAB seeks to modify this Consent Judgment under Section 5.1, then  
2 VITALAB must provide written notice to ERC of its intent ("Notice of Intent"). If ERC seeks  
3 to meet and confer regarding the proposed modification in the Notice of Intent, then ERC must  
4 provide written notice to VITALAB within thirty (30) days of receiving the Notice of Intent. If  
5 ERC notifies VITALAB in a timely manner of ERC's intent to meet and confer, then the  
6 Parties shall meet and confer in good faith as required in this Section. The Parties shall meet in  
7 person or via telephone within thirty (30) days of ERC's notification of its intent to meet and  
8 confer. Within thirty (30) days of such meeting, if ERC disputes the proposed modification,  
9 ERC shall provide to VITALAB a written basis for its position. The Parties shall continue to  
10 meet and confer for an additional thirty (30) days in an effort to resolve any remaining disputes.  
11 Should it become necessary, the Parties may agree in writing to different deadlines for the  
12 meet-and-confer period.

13           5.3     In the event that VITALAB initiates or otherwise requests a modification under  
14 Section 5.1, and the meet and confer process leads to a joint motion or application of the  
15 Consent Judgment, VITALAB shall reimburse ERC its costs and reasonable attorney's fees for  
16 the time spent in the meet-and-confer process and filing and arguing the motion or application.

17           5.4     Where the meet-and-confer process does not lead to a joint motion or  
18 application in support of a modification of the Consent Judgment, then either Party may seek  
19 judicial relief on its own.

20     **6.   RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT**  
21     **JUDGMENT**

22           6.1     This Court shall retain jurisdiction of this matter to enforce, modify, or terminate  
23 this Consent Judgment.

24           6.2     If ERC alleges that any Covered Product fails to qualify as a Reformulated  
25 Covered Product (for which ERC alleges that no Warning has been provided), then ERC shall  
26 inform VITALAB in a reasonably prompt manner of its test results, including information  
27 sufficient to permit VITALAB to identify the Covered Products at issue. VITALAB shall,  
28 within thirty (30) days following such notice, provide ERC with testing information, from an

1 independent third-party laboratory meeting the requirements of Sections 3.4.3 and 3.4.4,  
2 demonstrating VITALAB's compliance with the Consent Judgment, if warranted. The Parties  
3 shall first attempt to resolve the matter prior to ERC taking any further legal action.

#### 4 **7. APPLICATION OF CONSENT JUDGMENT**

5 This Consent Judgment may apply to, be binding upon, and benefit the Parties and their  
6 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,  
7 divisions, franchisees, licensees, customers (excluding private labelers), distributors, wholesalers,  
8 retailers, predecessors, successors, and assigns. This Consent Judgment shall have no  
9 application to any Covered Product which is distributed or sold exclusively outside the State of  
10 California and which is not used by California consumers.

#### 11 **8. BINDING EFFECT, CLAIMS COVERED AND RELEASED**

12 **8.1** This Consent Judgment is a full, final, and binding resolution between ERC,  
13 on behalf of itself and in the public interest, and VITALAB and its respective officers,  
14 directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, suppliers,  
15 franchisees, licensees, customers (not including private label customers of VITALAB),  
16 distributors, wholesalers, retailers, and all other upstream and downstream entities in the  
17 distribution chain of any Covered Product, and the predecessors, successors, and assigns of any  
18 of them (collectively, "Released Parties"). ERC hereby fully releases and discharges the  
19 Released Parties from any and all claims, actions, causes of action, suits, demands, liabilities,  
20 damages, penalties, fees, costs, and expenses asserted, or that could have been asserted from  
21 the handling, use, or consumption of the Covered Products, as to any alleged violation of  
22 Proposition 65 or its implementing regulations arising from the failure to provide Proposition  
23 65 warnings on the Covered Products regarding lead up to and including the Effective Date.

24 **8.2** ERC on its own behalf only, and VITALAB on its own behalf only, further  
25 waive and release any and all claims they may have against each other for all actions or  
26 statements made or undertaken in the course of seeking or opposing enforcement of Proposition  
27 65 in connection with the Notices and Complaint up through and including the Effective Date,  
28 provided, however, that nothing in Section 8 shall affect or limit any Party's right to seek to

1 enforce the terms of this Consent Judgment.

2       **8.3**     It is possible that other claims not known to the Parties, arising out of the facts  
3 alleged in the Notices and Complaint, and relating to the Covered Products, will develop or be  
4 discovered. ERC on behalf of itself only, and VITALAB on behalf of itself only, acknowledge  
5 that this Consent Judgment is expressly intended to cover and include all such claims up  
6 through and including the Effective Date, including all rights of action therefore. ERC and  
7 VITALAB acknowledge that the claims released in Sections 8.1 and 8.2 above may include  
8 unknown claims, and nevertheless waive California Civil Code section 1542 as to any such  
9 unknown claims. California Civil Code section 1542 reads as follows:

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

15 ERC on behalf of itself only, and VITALAB on behalf of itself only, acknowledge and  
16 understand the significance and consequences of this specific waiver of California Civil Code  
17 section 1542.

18       **8.4**     Compliance with the terms of this Consent Judgment shall be deemed to  
19 constitute compliance with Proposition 65 by any releasee regarding alleged exposures to lead  
20 in the Covered Products as set forth in the Notices and Complaint.

21       **8.5**     Nothing in this Consent Judgment is intended to apply to any occupational or  
22 environmental exposures arising under Proposition 65, nor shall it apply to any of VITALAB's  
23 products other than the Covered Products.

## 24 **9. SEVERABILITY OF UNENFORCEABLE PROVISIONS**

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

## 27 **10. GOVERNING LAW**

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

1     **11. PROVISION OF NOTICE**

2             All notices required to be given to either Party to this Consent Judgment by the other shall  
3 be in writing and sent to the following agents listed below via first-class mail. Courtesy copies via  
4 email may also be sent.

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

6 Chris Heptinstall, Executive Director, Environmental Research Center  
7 3111 Camino Del Rio North, Suite 400  
8 San Diego, CA 92108  
9 Tel: (619) 500-3090  
10 Email: chris\_erc501c3@yahoo.com

11 With a copy to:

12 MATTHEW C. MACLEAR  
13 ANTHONY M. BARNES  
14 AQUA TERRA AERIS LAW GROUP  
15 828 San Pablo Ave, Suite 115B  
16 Albany, CA 94706  
17 Ph: 415-568-5200  
18 Email: mcm@atalawgroup.com

19     **VITALAB CO., INC., SONNE'S ORGANIC FOODS, INC.,**  
20     **SPRINGGREEN PRODUCTS, INC., and V.E. IRONS, INC.**

21 c/o Vitalab Co, Inc.  
22 705 Mcgee St.  
23 Kansas City Missouri, 64106  
24 Telephone: (816) 221-3298

25 With a copy to:

26 PETER ARHANGELKSY  
27 Emord & Associates, P.C.  
28 2730 South Val Vista Drive, Suite 133  
Gilbert, AZ 85295  
Ph: (602) 388-8899  
Email: parhangelsky@emord.com

1     **12. COURT APPROVAL**

2             **12.1** Upon execution of this Consent Judgment by the Parties, ERC shall notice a  
3 Motion for Court Approval. The Parties shall use their best efforts to support entry of this  
4 Consent Judgment.

5             **12.2** If the California Attorney General objects to any term in this Consent Judgment,

1 the Parties shall use their best efforts to resolve the concern in a timely manner, and if possible  
2 prior to the hearing on the motion.

3       **12.3** If this Stipulated Consent Judgment is not approved by the Court, it shall be  
4 void and have no force or effect.

5       **13. EXECUTION AND COUNTERPARTS**

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

9       **14. DRAFTING**

10       The terms of this Consent Judgment have been reviewed by the respective counsel for each  
11 Party prior to its signing, and each Party has had an opportunity to fully discuss the terms and  
12 conditions with legal counsel. The Parties agree that, in any subsequent interpretation and  
13 construction of this Consent Judgment, no inference, assumption, or presumption shall be drawn,  
14 and no provision of this Consent Judgment shall be construed against any Party, based on the fact  
15 that one of the Parties and/or one of the Parties' legal counsel prepared and/or drafted all or any  
16 portion of the Consent Judgment. It is conclusively presumed that all of the Parties participated  
17 equally in the preparation and drafting of this Consent Judgment.

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

19       If a dispute arises with respect to either Party's compliance with the terms of this Consent  
20 Judgment entered by the Court, the Parties shall meet and confer in person, by telephone, and/or in  
21 writing and endeavor to resolve the dispute in an amicable manner. No action or motion may be  
22 filed in the absence of such a good faith attempt to resolve the dispute beforehand.

23       **16. ENFORCEMENT**

24       ERC may, by motion or order to show cause before the Superior Court of Alameda  
25 County, enforce the terms and conditions contained in this Consent Judgment. In any action  
26 brought by ERC to enforce this Consent Judgment, ERC may seek whatever fines, costs,  
27 penalties, or remedies as are provided by law for failure to comply with the Consent Judgment.  
28 To the extent the failure to comply with the Consent Judgment constitutes a violation of

1 Proposition 65 or other laws, ERC shall not be limited to enforcement of this Consent Judgment,  
2 but may seek in another action whatever fines, costs, penalties, or remedies as are provided by  
3 law for failure to comply with Proposition 65 or other laws.

4 **17. ENTIRE AGREEMENT, AUTHORIZATION**

5 **17.1** This Consent Judgment contains the sole and entire agreement and  
6 understanding of the Parties with respect to the entire subject matter herein, and any and all  
7 prior discussions, negotiations, commitments, and understandings related hereto. No  
8 representations, oral or otherwise, express or implied, other than those contained herein have  
9 been made by any Party. No other agreements, oral or otherwise, unless specifically referred to  
10 herein, shall be deemed to exist or to bind any Party.

11 **17.2** Each signatory to this Consent Judgment certifies that he or she is fully  
12 authorized by the Party he or she represents to stipulate to this Consent Judgment.

13 **18. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF**  
14 **CONSENT JUDGMENT**

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


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

21 (2) Make the findings pursuant to California Health and Safety Code section  
22 25249.7(f)(4), approve the Settlement, and approve this Consent Judgment.

23 **IT IS SO STIPULATED:**

24 Dated: 3/30/, 2017

ENVIRONMENTAL RESEARCH  
CENTER, INC.

25  
26 By:   
27 Chris H. Marshall, Executive Director  
28

1 Dated: March 31, 2017

VITALAB CO., INC.

2 By: Sharla Swope  
3 Sharla Swope, President

4  
5 Dated: March 31, 2017

SONNE'S ORGANIC FOODS, INC

6 By: Sharla Swope  
7 Sharla Swope, President

8  
9  
10 Dated: March 31, 2017

V.E. IRONS, INC.

11 By: Sharla Swope  
12 Sharla Swope, President

13  
14 Dated: March 31, 2017

SPRINGGREEN PRODUCTS, INC.

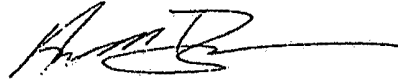
15 By: Sharla Swope  
16 Sharla Swope, President  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



1  
2 **APPROVED AS TO FORM:**

3 Dated: March 30, 2017

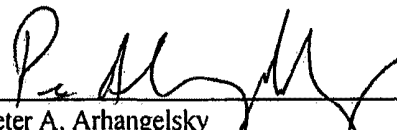
AQUA TERRA AERIS LAW GROUP

4  
5 

6 By: \_\_\_\_\_  
7 Matthew C. Maclear  
8 Anthony M. Barnes  
9 Attorneys for Plaintiff Environmental  
Research Center, Inc.

10 Dated: March 31, 2017

EMORD & ASSOCIATES

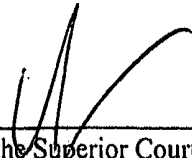
11  
12 By:   
13 Peter A. Arhangelsky  
14 Attorney for Defendants Vitalab Co., Inc.,  
15 Sonne's Organic Foods, Inc., V.E. Irons,  
16 Inc., and Springgreen Products, Inc.

17 **ORDER AND JUDGMENT**

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

20 IT IS SO ORDERED, ADJUDGED AND DECREED.

21 Dated: 5/24, 2017

22   
23 \_\_\_\_\_  
24 Judge of the Superior Court