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In the Matter of: : **PROPOSED STIPULATION**
: **AND CONSENT ORDER**
Monarch Nutraceuticals, Inc. : **No. 1609034**
UTP000001524 :

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This **STIPULATION AND CONSENT ORDER** is issued by the Director of the Division of Waste Management and Radiation Control pursuant to the Utah Solid and Hazardous Waste Act (the Act), Utah Code Ann. § 19-6-101, *et seq.* The Director has authority to issue such **ORDERS** in accordance with Utah Code Ann. § 19-6-112.

FINDINGS

1. Monarch Nutraceuticals, Inc. (Monarch) is a Delaware corporation, licensed to do business in Utah. Monarch is the operator of the facility located at 933 Wall Ave, Ogden, Utah.
2. Monarch processes ingredients for dietary and nutritional supplements.
3. Monarch is a “person” as defined in Utah Code Ann. § 19-1-103(4) and is subject to all applicable provisions of the Utah Administrative Code and the Act.
4. On October 7, 2015, the Division of Waste Management and Radiation Control (Division) conducted a compliance evaluation inspection (inspection) at Monarch. Inspectors documented that Monarch blends raw ingredients to produce intermediary products used for dietary supplements.
5. Monarch generates a dust waste stream and an aqueous waste stream (collectively Waste Streams). Monarch has historically relied upon its operator knowledge of the ingredients and managed the waste streams as non-hazardous waste. The dust waste was disposed as municipal solid waste. E.T. Technologies managed and disposed Monarch’s aqueous waste.
6. As a follow-up to the inspection, Monarch submitted to the Division on October 28, 2015 raw material and work in progress data sheets regarding products containing chromium and selenium processed at Monarch.
7. On December 10, 2015, the Division requested additional analytical information on the liquid and dust waste streams generated from the processing of chromium and selenium containing products.

8. From December 2015 through May 2016, Monarch sampled its Waste Streams. Preliminary sampling results indicated that certain liquid waste streams contained elevated levels of chromium.
9. A sample collected on January 27, 2016 after the facility processed ingredients containing chromium and selenium was characterized as hazardous waste for chromium using the Toxicity Characteristic Leachate Procedure (TCLP).
10. Monarch later engaged an environmental engineering firm to conduct additional sampling and analysis using a Sampling and Analysis Plan approved by the Director. The additional samples of the aqueous waste also exceeded TCLP limits for chromium. The decant liquid: 6.72 mg/l for chromium. The tank bottom sludge: 8.91 mg/l for chromium.

STIPULATION AND CONSENT ORDER

11. The parties now wish to fully resolve any violations regarding the mismanagement of the Waste Streams without further administrative or judicial proceedings.
12. In full settlement of its violations for the mischaracterization, management and disposal of the Waste Streams, Monarch agrees to pay a penalty of \$5,500.00. Payment shall be made within 30 days of entry into this **STIPULATION AND CONSENT ORDER**. Payment shall be made to the State of Utah, Department of Environmental Quality, c/o Scott T. Anderson, Director, Utah Division of Waste Management and Radiation Control, P.O. Box 144880, Salt Lake City, Utah, 84114-4880. This amount has been determined in accordance with the Board's Civil Penalty Policy, R315-102 of the Utah Administrative Code, which considers such factors as the gravity of the violation, the extent of deviation from the rules, the potential for harm to human health and the environment, good faith efforts to comply and other factors.

EFFECT OF CONSENT ORDER

13. For the purposes of this **STIPULATION AND CONSENT ORDER**, the parties agree to the above stated facts. The stipulations contained herein are for the purposes of settlement and shall not be considered admissions by any party and shall not be used by any person related or unrelated to this **STIPULATION AND CONSENT ORDER** for purposes other than determining the basis of this **STIPULATION AND CONSENT ORDER**. Nothing contained herein shall be deemed to constitute a waiver by the State of its right to initiate enforcement action, including civil penalties, against Monarch in the event of future non-compliance with this **STIPULATION AND CONSENT ORDER**, with the Act and with the Utah Administrative Code; nor shall the State be precluded in any way from taking appropriate action should such a situation arise again at Monarch. However, entry into this **STIPULATION AND CONSENT ORDER** shall relieve Monarch of all liability for violations which did arise or could have arisen with respect to the allegations contained in the **STIPULATION AND CONSENT ORDER**.

EFFECTIVE DATE

14. This **STIPULATION AND CONSENT ORDER** shall become effective upon execution by Monarch and the Director.

Dated this _____ day of _____, 2016

Monarch Nutraceuticals, Inc.

Division of Waste Management and
Radiation Control

Jeffery Hinrichs, President

Scott T. Anderson, Director

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

Violation number: 1

Violation description: Failure to make a hazardous waste determination.

1. Gravity Based Penalty
 - (a) Potential for Harm - **Moderate**. The waste streams were not properly characterized and therefore sent to a solid waste landfill instead of a hazardous waste landfill. A solid waste landfill does not meet the design specification of a hazardous waste landfill. The waste could leach into the environment impacting public health.
 - (b) Extent of Deviation – **Major**. The facility did not properly characterize its waste streams and sent hazardous waste to a landfill not permitted to receive and manage hazardous waste.
 - (c) Multiple/Multi-day – NA
2. Adjustment Factors (if applicable)
 - (a) Good faith - NA
 - (b) Willfulness/Negligence – NA
 - (c) History of Compliance or Noncompliance – NA
 - (d) Ability to pay – NA
 - (e) Other Unique Factors – NA
3. Economic Benefit – Economic benefit was considered but not applied; benefit negligible.
4. Recalculation of Penalty based on New Information – NA

TOTAL: \$5,500

Company Name: Monarch Nutraceuticals EPA ID#: UTP00001524

Prepared By: Jon Parry

Date Prepared: 9/22/2016

Finding number 1	1				
Finding Description	Failure to Characterize				
1. Gravity based penalty from the matrix	\$5,500.00				
(a) Potential for Harm	Moderate				
(b) Extent of Deviation	Major				
2. Select an amount from the appropriate multiday matrix cell					
(a) Number of days of violation	1				
3. Multiply Item 2 by the number of days of violation minus 1 (or other number, as appropriate)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
4. Add items 1 and 3	\$5,500.00	\$0.00	\$0.00	\$0.00	\$0.00
5. Good Faith					
(a) Percent increase					
(b) Percent decrease	0%				
6. Willfulness/negligence					
(a) Percent increase					
(b) Percent decrease					
7. History of compliance/noncompliance					
(a) Percent increase					
(b) Percent decrease					
8. Other unique factors					
(a) Percent increase					
(b) Percent decrease					
9. Total items 5 through 8	0%	0%	0%	0%	0%
10. Multiply item 4 by item 9	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
11. Add items 4 and 10	\$5,500.00	\$0.00	\$0.00	\$0.00	\$0.00
12. Adjustment for environmental project					
13. Subtract item 12 from item 11	\$5,500.00	\$0.00	\$0.00	\$0.00	\$0.00
14. Calculate economic benefit					
15. Add items 13 and 14	\$5,500.00	\$0.00	\$0.00	\$0.00	\$0.00
16. Adjustment amount for ability to pay					
17. Adjustment amount for litigation risk					
18. Add items 16 and 17	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
19. Subtract item 18 from item 15 for final settlement total	\$5,500.00	\$0.00	\$0.00	\$0.00	\$0.00

TOTAL THIS PAGE		RUNNING TOTAL
=	\$5,500	= \$5,500