REGION 9
SAN FRANCISCO, CA 94105

Via Email:

Juan Salazar
Plant Manager
Camino Real Fine Foods, Inc.
2638 E. Vernon Ave.
Vernon, CA 90058

RE: Notice of Potential Enforcement Action of Section 312 of the Emergency Planning and Community Right-to-Know Act and Section 112(r) of the Clean Air Act

Dear Plant Manager Juan Salazar:

As you know, representatives from the U.S. Environmental Protection Agency, Region 9 ("EPA") conducted an inspection on July 20, 2022, of the Camino Real Fine Foods, Inc.'s ("Company") facility located at 2638 E. Vernon Avenue Vernon, CA 90058 ("Facility"). The purpose of the inspection was to determine compliance with requirements under the Emergency Planning and Community Right-to-Know Act ("EPCRA") sections 304-312, 42 U.S.C. §§ 11004-11022; the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") section 103, 42 U.S.C § 9603; the Risk Management Program ("RMP") of the Clean Air Act ("CAA"), section 112(r)(7), 42 U.S.C. § 7412(r)(7); and the General Duty Clause ("GDC") of the CAA, section 112(r)(1), 42 U.S.C. § 7412(r)(1).

Based upon the information obtained during our investigation, EPA is prepared to initiate a civil administrative action against the Company to ensure compliance with federal law and assess a penalty pursuant to EPCRA sections 325(c) and (d)42 U.S.C. § 11045(c)-(d), and CAA section 113, 42 U.S.C. § 7413. The anticipated administrative action includes violations of EPCRA section 312, 42 U.S.C. § 11022, and CAA sections 112(r)(1) and 112(r)(7), 42 U.S.C. §§ 7412(r)(1) and (7), and the respective implementing regulations.

After reviewing the Company's responses to the inspection report and EPA's previous information requests, EPA is considering the allegations described below against the Company. For each allegation, the corresponding area of concern ("AOC") mentioned in EPA's Inspection Report sent to the Company on June 14, 2023, is provided below.

EPCRA, 40 C.F.R. part 370

1) **EPCRA section 312, Tier II Reporting.** The Company did not submit or submitted late the Hazardous Materials and Waste Inventory Reports (or Tier II Inventories) in 2020 and 2022 (for

reporting years 2019 and 2021 respectively), in violation of 40 C.F.R. § 370.45. (AOC 1)

CAA, 40 C.F.R. § 68 – Risk Management Program

1) **Process Safety Information.** The Company did not document that equipment at the Facility complied with recognized and generally accepted good engineering practices ("RAGAGEP")[1], or for existing equipment that was designed and constructed in accordance with codes, standards or practices that are no longer in use, the Company did not determine and document that equipment was designed, maintained, inspected, tested and was operating in a safe manner, in violation of 40 C.F.R. § 68.65(d)(2) and (d)(3).
    - **a.** The entry doors for the Mechanical Freezer Systems 1 & 2 Frick and FRN freezer compressor buildings, and the exit doors from the FES building do not have panic hardware.[2] (AOC 2)
    - **b.** Extension cords are being used as permanent wiring in the Mechanical Freezer Systems 1 & 2 Frick compressor building.[3] (AOC 4)
    - c. The exit door from the Mechanical Freezer Systems 1 & 2 Frick compressor building is not tight fitting at the bottom; the door to the Main Refrigeration System compressors room is constructed of plastic strips instead of a tight sealing door; and the electrical room is not separated from the ammonia machinery room by tight-fitting construction.[4] (AOC 5)
    - **d.** Ammonia piping was not labeled for the following: between the Frick compressor building and the FES building in Mechanical Freezer Systems 1 & 2; the condenser piping and leading into the absorption tank; on the roof; the Main Refrigeration system; and the ammonia recirculation vessel and piping in the main freezer.[5] (AOC 6)
    - **e.** The main shutoff valve (King Valve) for Mechanical Freezer Systems 1 & 2 in the FES compressor building was not identified.[6] (AOC 7)
    - **f.** The emergency exhaust fan/temperature control fan discharges horizontally from the FES building in Mechanical Freezer Systems 1 & 2 onto an occupied maintenance area. The emergency exhaust from the Frick compressor building in Mechanical Freezer Systems 1 & 2 discharges vertically downward adjacent to the condenser and above an

[1] This letter references current codes and standards.
[2] IIAR 9-2020, Section 7.3.9.2 states "Doors that are part of the means of egress shall be equipped with panic hardware."
[3] NFPA 1-2012, Section 11.1.7.6 states "Extension cords shall not be used as a substitute for permanent wiring."
[4] ANSI/IIAR 9-2020, Section 7.3.2.1 states, "The machinery room shall be separated from the remainder of the building by tight-fitting construction" and Section 7.3.9.2 states "Machinery room doors shall be self-closing and tight fitting."
[5] ANSI/IIAR 2-2014, Section 5.14.5; IIAR Bulletin 109, Section 4.7.6; IIAR Bulletin 114, Sections 4.1.1 through 4.1.8; and ANSI/ American Society of Mechanical Engineers ("ASME") 13.1 require ammonia piping mains, headers, and branches to be identified with the contents ("AMMONIA.") as well as labeling that includes the physical state of the ammonia, the pressure level of ammonia being low or high, pipe service, and direction of flow. ANSI/IIAR 9-2020, Section 7.2.9.4 states "ammonia piping mains, headers, and branches shall be identified with the following information 1) "AMMONIA" 2) physical state of the ammonia 3) relative pressure level of ammonia, being low or high as applicable 4) Pipe service, which shall be permitted to be abbreviated 5) direction of flow."
[6] ANSI/IIAR Bulletin 109, Section 4.10.3 states "The main shut-off valve(s) (king valve(s)); hot gas defrost line main shut-off valve; and NH3 pump liquid main shut-off valve(s) and/or disconnects; of the ammonia system should be readily accessible and identified with a prominent sign having letters sufficiently large to be easily read." ANSI/IIAR 9-2020, Section 7.2.9.3 states "Valves required for emergency shutdown of the system shall be clearly and uniquely identified at the valve itself and in the system schematic drawings".

outdoor break area.[7] (AOC 8)

g. The ammonia alarms on the exterior of the Mechanical Freezer Systems 1 & 2 FES building are not labeled.[8] (AOC 9)

h. There were no ammonia alarms inside the Mechanical Freezer Systems 1 & 2 Frick or FES compressor buildings.[9] (AOC 10)

i. The natural gas piping and hydraulic oil piping on the roof were unlabeled.[10] (AOC 12)

j. Surface corrosion was present on ammonia piping below the Mechanical Freezer System 4 economizer vessel; corroded piping and valves were also present on top of the Main Refrigeration System low stage accumulator vessel; uninsulated piping was also causing corrosion of the uninsulated pipe in the Main Refrigeration System; and an oil pot was corroding due to contact with a concrete wall and concrete rebar.[11] (AOC 13)

k. Ammonia piping was not being supported by the pipe support collar in Mechanical Freezer 4; and ammonia piping was supporting other ammonia piping near the top of the Main Refrigeration System low stage accumulator.[12] (AOC 14)

l. The ammonia transfer vessel nameplate was corroded beyond recognition in the Mechanical Freezer System 4.[13] (AOC 15)

m. The site glass on the Main Refrigeration System intercooler level gauge was frosted over.[14] (AOC 16)

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[7] ANSI/IIAR 2-1999, Section 6.2.3.11 states "The discharge of air shall be to the atmosphere in such a manner as to not cause an inconvenience or danger." IIAR 2-2021 Section 6.14.3.4 states, "Machinery room emergency exhaust shall discharge vertically upward with a minimum discharge velocity of 2,500 ft/min (762 m/min) at the required emergency ventilation flow rate." Specifically related to the one downdraft fan, it should be noted that IIAR has required updraft engine room exhaust fans for decades. Beginning in the 1999, IIAR 2 stated that the "preferred direction of discharge is vertically upwards" as this allows for better dispersion of ammonia during an emergency release.

[8] ANSI/IIAR 9-2020, Section 7.3.12.6 states "Ammonia leak detection alarms shall be identified by signage adjacent to visual and audible alarm devices."

[9] ANSI/IIAR 9-2020, Section 7.3.12.1(3) states "Audible and visual alarms shall be provided inside the room. Additional audible and visual alarms shall be located outside of each entrance to the machinery room."

[10] ANSI/ASME A13.1-2015 Section 3.1 states "Positive identification of the contents of a piping system shall be by lettered legend, giving the name of the contents in full or abbreviated form. Arrows shall be used to indicate direction of flow. Where flow can be in both directions, arrows in both directions shall be displayed. Contents shall be identified by a legend with sufficient additional details such as temperature, pressure, etc., as are necessary to identify the hazard."

[11] IIAR Bulletin 109, Section 4.7.4 states if corrosion exists on uninsulated piping, the pipe should be cleaned down to bare metal and painted with a rust preventive paint, and badly corroded pipe should be replaced. ANSI/IIAR 6 – 2019, Section 10.1.1 states "where pitting, surface damage, general corrosion, or a combination thereof is visually observed on a metal surface of the pressure vessel, the deficient areas shall be further evaluated per Section 10.1.1.

[12] ANSI/IIAR 2-2008, Section 10.4.1 states "Piping hangers and supports shall carry the weight of the piping, as well as any other anticipated loads and Section 10.5.2 states "Piping joints shall be supported and in alignment such that the joint assembly does not induce distortion and stress.". ANSI/IIAR 6-2019, Section 7.2.7.1 states "Piping, tubing, and equipment shall be supported to prevent excessive vibration and movement." ASHRAE 15-2013, Section 8.10.4 states "Refrigerant piping shall be properly isolated and supported to prevent damaging vibration, stress, or corrosion."

[13] IIAR 2-2021, Section 5.14.3 states, "*Equipment Labels. Refrigeration equipment shall be uniquely labeled in a manner consistent with system documentation." IIAR 6-2019 Table 11.1.c regarding inspecting the state of equipment states, "Visually inspect for damage or moisture incursion insulation (i.e., dampness, condensation, frost, ice buildup)."

[14] ANSI/IIAR 2-2008, Section 14.3.1 states "Suction lines, low-temperature liquid lines, accumulators, surge drums and similar cold surfaces shall be insulated to prevent condensation and corrosion." ANSI/IIAR 9-2020, Section 7.2.6.1 states "Piping and equipment surfaces not intended for heat exchange shall be insulated, treated, or otherwise protected to mitigate condensation and excessive frost buildup where the surface temperature is below the dew point of the surrounding air during normal operation and in an area where condensation and frost could develop and become a hazard to occupants or cause damage to the structure, electrical equipment, or refrigeration system."

n. The electrical panels in the electrical room adjacent to the Main Refrigeration System compressor room did not contain warning labels related to the potential for hazardous energy or arc flash concerns.[15] (AOC 17)

o. The piping penetrations through the interior wall of the Main Refrigeration System compressor room was not tight sealing.[16] (AOC 18)

2) **Process Hazard Analysis ("PHA").**
   a. The 2023 PHA did not adequately address the hazards of the process, and did not specifically address external events, in violation of 40 C.F.R. § 68.67(c). (AOC 20)
   b. The 2023 PHA did not include a section to track the progress and resolution of the six recommendations produced by the PHA, and did not include due dates, completion dates, or any written schedule to implement the recommendations, in violation of 40 C.F.R. § 68.67(e). (AOC 21)

3) **Operating Procedures.**
   a. The Company did not develop and implement written operating procedures providing clear instructions for safely conducted activities for employees that speak Spanish. Operating procedures for the ammonia refrigeration system were only available in English, even though it appears that Spanish may be the primary language of several ammonia operators, in violation of 40 C.F.R. § 68.69(a). (AOC 22)
   b. The Company did not complete annual recertifications of its standard operating procedures ("SOPs"). Several SOPs were created in 2013 and appeared to have not been updated or reviewed since then, in violation of 40 C.F.R. § 68.69(c). (AOC 23)

4) **Training.** Training materials such as refresher training records were not made available in Spanish for ammonia operators whose primary language is Spanish, in violation of 40 C.F.R. § 68.71(b). (AOC 24)

5) **Mechanical Integrity.** The Company did not correct deficiencies in equipment that are outside acceptable limits (defined by the process safety information in § 68.65) before further use or in a safe and timely manner when necessary means are taken to ensure safe operation, in the following instances, in violation of 40 C.F.R. § 68.73(e).
   a. Exposed electrical wiring is present above the compressor in the Mechanical Freezer Systems 1 & 2 compressor building; and open electrical conduit and exposed wiring is

[15] NFPA 70-2020, Section 110.16 states, "Electrical equipment, such as switchboards, switchgear, panelboards, industrial control panels, meter socket enclosures, and motor control centers … likely to require examination, adjustment, servicing, or maintenance while energized, shall be field or factory marked to warn qualified persons of potential electric arc flash hazards. The marking shall meet the requirements in 110.21(B) and shall be located so as to be clearly visible to qualified persons before examination, adjustment, servicing, or maintenance of the equipment."

[16] ANSI/IIAR 2-2008, Section 12.1.1.3 states "Walls, floor, and ceiling shall be tight and of noncombustible construction. Walls, floor, and ceiling separating the refrigerating machinery room from other occupied spaces shall be of at least one-hour fire-resistive construction. ANSI/IIAR 9-2020, Section 7.3.6.2 states "Pipes penetrating the machinery room envelope shall be sealed to walls, ceilings, or floors through which they pass to prevent leakage of ammonia vapor to adjoining spaces and to maintain the fire rating of the machinery room envelope."

present adjacent to ammonia piping in Mechanical Freezer System 3.[17] (AOC 3)

b. The vapor barrier and insulation were damaged in numerous locations on the roof; and damaged vapor barrier and missing insulation were present on ammonia piping causing the Main Refrigeration System to be encased in ice.[18] (AOC 11)
c. The ammonia recirculation vessel and piping in the Main Freezer has significant ice buildup preventing use of the shutoff valves.[19] (AOC 19)

6) **Incident Investigation.** The Company's Incident Investigation Report for the 2018 incident lacked adequate detail regarding the resolution of the proposed corrective actions, in violation of 40 C.F.R. § 68.81(e). (AOC 26)

7) **Employee Participation.** The Employee Participation Policy did not consider language as a potential barrier for employee access to RMP-related training, documentation, and participation, in violation of 40 C.F.R. § 68.83(c). (AOC 27)

8) **Contractors.** The Company did not provide documentation of a contractor policy, a list of contractors that work in and around the ammonia refrigeration system, or evaluation records of contractors, in violation of 40 C.F.R. § 68.87(b). (AOC 28)

9) **Updates.** The Company did not submit its latest RMP submission on time that was due on March 8, 2023, but submitted on June 6, 2023, in violation of 40 C.F.R. § 68.190. (AOC 30)

Before filing a Determination of Violation, Compliance Order and Notice of Right to Request a Hearing ("Complaint"), EPA is extending to the Company an opportunity to advise EPA of any other information that the Company believes should be considered before the filing of such a Complaint. Relevant information may include any evidence of reliance on compliance assistance, additional compliance tasks performed subsequent to the inspection, or financial factors bearing on the ability to pay a civil penalty. EPA has reviewed the documents included in the Company's previous transmittals. These documents do not need to be resubmitted.

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[17] NFPA 70-2008, Section 110.12(B) states there "shall be no damaged parts that adversely affect safe operation or mechanical strength of the equipment such as parts that are broken, bent, cut, or deteriorated by corrosion, chemical action, or overheating."

[18] ANSI/IIAR 2-1999, Appendix C, Section C.1 states "The purpose of the insulation is to prevent water condensation and/or ice formation on piping, valves, and equipment in order to increase thermal operating efficiency, maintenance and operational access to isolating valves, and corrosion protection." ANSI/IIAR 2-2008, Section 14.3.1 states "Suction lines, low-temperature liquid lines, accumulators, surge drums and similar cold surfaces shall be insulated to prevent condensation and corrosion." ANSI/IIAR 2-2014, Section 5.10.1 states, "piping and equipment surfaces not intended for heat exchange shall be insulated, treated, or otherwise protected to mitigate condensation and excessive frost buildup." IIAR Bulletin 109, Section 4.7.5 requires that insulated piping showing signs of vapor barrier failure have the insulation removed and the pipe inspected. ANSI/IIAR 9-2020, Section 7.2.6 states, "Piping and equipment surfaces not intended for heat exchange shall be insulated, treated, or otherwise protected to mitigate condensation and excessive frost buildup where the surface temperature is below the dew point of the surrounding air during normal operation and in an area where condensation and frost could develop and become a hazard to occupants or cause damage to the structure, electrical equipment, or refrigeration system."

[19] IIAR Bulletin 109, Section 4.10.7 states, "ice formations that could endanger refrigerant piping or other components should be removed and the condition(s) that cause the ice buildup corrected."

Please note that, pursuant to regulations located at 40 C.F.R. Part 2, Subpart B, you are entitled to assert a business confidentiality claim covering any part of any submitted information as defined in 40 C.F.R. § 2.201(c). Asserting a business confidentiality claim does not relieve you from the obligation to respond fully to this letter. Failure to assert such a claim makes the submitted information subject to public disclosure upon request and without further notice to you, pursuant to the Freedom of Information Act, 5 U.S.C. §§ 552 et seq. Information subject to a business confidentiality claim may be available to the public only to the extent set forth in the above-cited regulation. EPA has authority to use the information requested herein in an administrative, civil, or criminal action. In addition, EPA has not waived any rights to take enforcement action for past or future violations.

Any penalty proposed for violation of the CAA and EPCRA will be calculated pursuant to EPA's June 2012 "Combined Enforcement Policy for Clean Air Act section 112(r)(1), the General Duty Clause, and Clean Air Act section 112(r)(7) and 40 C.F.R. Part 68, Chemical Accident Prevention Provisions"[20] ("112(r) Penalty Policy") and EPA's September 30, 1999 "Enforcement Response Policy for sections 304, 311, and 312 of the Emergency Planning and Community Right-to-Know Act and section 103 of the Comprehensive Environmental Response, Compensation and Liability Act" ("EPCRA/CERCLA Penalty Policy"), respectively.[21] These policies are subject to inflation adjustments pursuant to Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended per the Civil Monetary Inflation Adjustment Rule, and EPA guidance.[22]

EPA may, as a matter of enforcement discretion, consider the Company's performance of a Supplemental Environmental Project ("SEP") as one factor in determining an appropriate settlement. Civil penalties may be mitigated under the EPA SEP Policy, which describes the terms under which a commitment to perform an environmental project may mitigate, in part, a civil penalty. EPA evaluates proposed projects under the framework established in the Supplemental Environmental Projects Policy 2015 Update.[23] SEP is an environmentally beneficial project or activity that is not required by law, but that a respondent agrees to undertake as part of the settlement of an enforcement action. SEPs secure environmental and/or public health benefits in addition to those achieved by compliance with applicable laws.

Your response to this letter must be made by a letter, signed by a person or persons duly authorized to represent the Company. Please send any such response by email to Anuka King, Inspector and Enforcement Officer, king.anuka@epa.gov, and Ylan Nguyen, Assistant Regional Counsel, Office of Regional Counsel, nguyen.ylan@epa.gov. Please provide such information so that it is received no later than thirty (30) calendar days after receipt of this letter. EPA anticipates filing a Complaint in this matter within sixty (60) days after receipt of this letter unless the Company first advises EPA, with supporting information, of substantial reasons not to proceed as planned.

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[20] www.epa.gov/sites/production/files/documents/112rcep062012.pdf.

[21] www.epa.gov/sites/production/files/documents/epcra304.pdf.

[22] Amendments to the EPA's Civil Penalty Policies to Account for Inflation (effective January 15, 2024), https://www.epa.gov/system/files/documents/2024-01/amendmentstotheepacivilpenaltypolicyinflation011524.pdf.

[23] https://www.epa.gov/sites/default/files/2015-04/documents/sepupdatedpolicy15.pdf.

Even if you are unaware of any mitigating or exculpatory factors, EPA encourages the Company to explore the possibility of settlement. If you are interested in commencing settlement discussions, please contact Anuka King of my staff at (415) 972-3470 or king.anuka@epa.gov, or have your counsel contact Ylan Nguyen, Assistant Regional Counsel, at (415) 972-3875 or nguyen.ylan@epa.gov, to schedule a meeting or conference call. We thank you in advance for your cooperation.

Thank you for your prompt attention to this matter.

Sincerely,

RICHARD SAKOW

Digitally signed by RICHARD SAKOW
Date: 2024.06.06 12:38:36 -07'00'

Rick Sakow, Manager
Hazardous Waste and Chemicals Section
Enforcement and Compliance Assurance Division

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