



AGENCY

Certified Mail #: 7011 3500 0003 1848 4746

June 5, 2014

NOTICE OF RESPONSIBILITY

Site Name & Address:
LESSER COMMERCIAL PROPERTY
475 LESSER STREET
OAKLAND, CA 94601

ACEH Case No.: RO0003135
Global ID: T1000005847

Responsible Party:
FLAVOR RIGHT FOODS NW, INC.
c/o WILLIAM E. GRIESHOBER, JR.
1 ROBERT RICH WAY
BUFFALO, NY 14213

Date First Reported: 04/16/2014
Substance: Diesel Fuel

Funding for Oversight: LOPS - LOP State Fund

Multiple RPs?: Yes

Pursuant to sections 25297.1 and 25297.15 of the Health and Safety Code, you are hereby notified that the above site has been placed in the Local Oversight Program and the individual(s) or entity(ies) shown above, or on the attached list, has (have) been identified as the party(ies) responsible for investigation and cleanup of the above site. Section 25297.15 further requires the primary or active Responsible Party to notify all current record owners of fee title before the local agency considers cleanup or site closure proposals or issues a closure letter. For purposes of implementing section 25297.15, this agency has identified 475 Lesser Street LLC as the primary or active Responsible Party. It is the responsibility of the primary or active Responsible Party to submit a letter to this agency, within 20 calendar days of receipt of this notice that identifies all current record owners of fee title. It is also the responsibility of the primary or active Responsible Party to certify to the local agency that the required notifications have been made at the time a cleanup or site closure proposal is made or before the local agency makes a determination that no further action is required. If property ownership changes in the future, you must notify this local agency within 20 calendar days from when you are informed of the change.

Any action or inaction by this local agency associated with corrective action, including responsible party identification, is subject to petition to the State Water Resources Control Board. Petitions must be filed within 30 days from the date of the action/inaction. To obtain petition procedures, please FAX your request to the State Water Board at (916) 341-5808 or telephone (916) 341-5752.

Pursuant to section 25296.10(c)(6) of the Health and Safety Code, a responsible party may request the designation of an administering agency when required to conduct corrective action. Please contact this office for further information about the designation process.

Please contact your caseworker Jerry Wickham at this office at (510)567-6791 if you have questions regarding your site.

Date: 6/5/14

ARIU LEVI, Director
Contract Project Director

Action: Add RP
Reason: Add RP

Attachment A: Responsible Parties Data Sheet

ALAMEDA COUNTY ENVIRONMENTAL HEALTH
LUFT LOCAL OVERSIGHT PROGRAM

ATTACHMENT A - RESPONSIBLE PARTIES DATA SHEET

June 5, 2014

Site Name & Address

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OAKLAND, CA 94601**

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All Responsible Parties

RP has been named a Primary RP – 475 LESSER STREET LLC

731 Sansome Street, 2nd Floor, San Francisco, CA 94111

RP has been named a Primary RP – TIP TOP FOODS, INC. c/o INSTANTWHIP FOODS, INC.

2200 Cardigan Avenue, Columbus, OH 43215-1092

RP has been named a Primary RP – FLAVOR RIGHT FOODS NORTHWEST, INC.

1 Robert Rich Way, Buffalo, NY 14213

Responsible Party Identification Background

Alameda County Environmental Health (ACEH) names a "Responsible Party," as defined under 23 C.C.R. Sec. 2720. Section 2720 defines a responsible party 4 ways. An RP can be:

1. "Any person who owns or operates an underground storage tank used for the storage of any hazardous substance."
2. "In the case of any underground storage tank no longer in use, any person who owned or operated the underground storage tank immediately before the discontinuation of its use."
3. "Any owner of property where an unauthorized release of a hazardous substance from an underground storage tank has occurred."
4. "Any person who had or has control over an underground storage tank at the time of or following an unauthorized release of a hazardous substance."

ACEH has named the responsible parties for this site as detailed below.

Existence of an Unauthorized Release

Historical documents reportedly indicate that an 8,000-gallon diesel underground storage tank (UST) was closed in place at the site on April 9, 1987. Four soil borings were advanced at the site on March 26, 2014. Total petroleum hydrocarbons (TPH) as diesel was detected in each of the four grab groundwater samples collected from the soil borings at concentrations ranging from 67 to 790 parts per billion. TPH as diesel was detected in two of four soil samples at concentrations ranging from 2.4 to 6.0 parts per million. Based on these results, an unauthorized release or releases appears to have occurred from the UST system.

Responsible Party Identification

Tip Top Foods, Inc. c/o Instantwhip Foods, Inc. is a responsible party for the fuel leak because they owned or operated the underground storage tank immediately before the discontinuation of its use (Definition 2), were the former owner of property where an unauthorized release occurred (Definition 3), and had control of the UST at the time of or following an unauthorized release (Definition 4).

Flavor Right Foods Northwest, Inc., successor by merger to Tip Top Foods, Inc. is a responsible party for the fuel leak because they were the former owner of property where an unauthorized release occurred (Definition 3).

The 475 Lesser Street LLC is a responsible party because they are the current owner of the property where an unauthorized release occurred (Definition 3).