

BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10

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In the Matter of:

MULTISTAR INDUSTRIES, INC.

Othello, Washington,

Respondent.

DOCKET NO. EPCRA-10-2019-0123

RESPONDENT MULTISTAR INDUSTRIES,  
INC.'S ANSWER TO COMPLAINT AND  
NOTICE OF OPPORTUNITY FOR  
HEARING

Proceeding pursuant to CERCLA Section  
109(b), 42 U.S.C. § 9609; and EPCRA Section  
325(b) and (c), 42 U.S.C. § 11045(b) and (c)

Respondent Multistar Industries, Inc. hereby responds to the Complaint and Notice of  
Opportunity for Hearing filed in this matter as follows:

ANSWER TO FACTUAL ALLEGATIONS

1.1. Paragraph 1.1 of the Complaint does not contain any material factual allegations  
requiring an answer under 40 CFR 22.15.

1.2. Paragraph 1.2 of the Complaint does not contain any material factual allegations  
requiring an answer under 40 CFR 22.15.

1.3. Paragraph 1.3 of the Complaint does not contain any material factual allegations  
requiring an answer under 40 CFR 22.15.

2.1. Paragraph 2.1 of the Complaint does not contain any material factual allegations  
requiring an answer under 40 CFR 22.15.

2.2. Paragraph 2.2 of the Complaint does not contain any material factual allegations  
requiring an answer under 40 CFR 22.15.

2.3. Paragraph 2.3 of the Complaint does not contain any material factual allegations

1 requiring an answer under 40 CFR 22.15.

2           2.4. Paragraph 2.4 of the Complaint does not contain any material factual allegations  
3 requiring an answer under 40 CFR 22.15.

4           2.5. Paragraph 2.5 of the Complaint does not contain any material factual allegations  
5 requiring an answer under 40 CFR 22.15.

6           2.6. Paragraph 2.6 of the Complaint does not contain any material factual allegations  
7 requiring an answer under 40 CFR 22.15.

8           2.7. Paragraph 2.7 of the Complaint does not contain any material factual allegations  
9 requiring an answer under 40 CFR 22.15.

10          2.8. Paragraph 2.8 of the Complaint does not contain any material factual allegations  
11 requiring an answer under 40 CFR 22.15.

12          2.9. Paragraph 2.9 of the Complaint does not contain any material factual allegations  
13 requiring an answer under 40 CFR 22.15.

14          2.10. Paragraph 2.10 of the Complaint does not contain any material factual allegations  
15 requiring an answer under 40 CFR 22.15.

16          2.11. Paragraph 2.11 of the Complaint does not contain any material factual allegations  
17 requiring an answer under 40 CFR 22.15.

18          2.12. Paragraph 2.12 of the Complaint does not contain any material factual allegations  
19 requiring an answer under 40 CFR 22.15.

20          2.13. Paragraph 2.13 of the Complaint does not contain any material factual allegations  
21 requiring an answer under 40 CFR 22.15.

22          2.14. Paragraph 2.14 of the Complaint does not contain any material factual allegations  
23 requiring an answer under 40 CFR 22.15.

1           2.15. Paragraph 2.15 of the Complaint does not contain any material factual allegations  
2 requiring an answer under 40 CFR 22.15.

3           2.16. Paragraph 2.16 of the Complaint does not contain any material factual allegations  
4 requiring an answer under 40 CFR 22.15.

5           2.17. Paragraph 2.17 of the Complaint does not contain any material factual allegations  
6 requiring an answer under 40 CFR 22.15.

7           2.18. Paragraph 2.18 of the Complaint does not contain any material factual allegations  
8 requiring an answer under 40 CFR 22.15.

9           2.19. Paragraph 2.19 of the Complaint does not contain any material factual allegations  
10 requiring an answer under 40 CFR 22.15.

11           2.20. Paragraph 2.20 of the Complaint does not contain any material factual allegations  
12 requiring an answer under 40 CFR 22.15.

13           2.21. Paragraph 2.21 of the Complaint does not contain any material factual allegations  
14 requiring an answer under 40 CFR 22.15.

15           2.22. Paragraph 2.22 of the Complaint does not contain any material factual allegations  
16 requiring an answer under 40 CFR 22.15.

17           3.1. Respondent admits the allegations contained in Paragraph 3.1 of the Complaint.

18           3.2. Respondent admits the allegations contained in Paragraph 3.2 of the Complaint.

19           3.3. Respondent admits the allegations contained in Paragraph 3.3 of the Complaint.

20           3.4. Respondent admits the allegations contained in Paragraph 3.4 of the Complaint.

21           3.5. Respondent admits the allegations contained in Paragraph 3.5 of the Complaint.

22           3.6. Respondent admits the allegations contained in Paragraph 3.6 of the Complaint.

23           3.7. Respondent admits the allegations contained in Paragraph 3.7 of the Complaint.

1 3.8. Respondent admits the allegations contained in Paragraph 3.8 of the Complaint.

2 3.9. Respondent admits the allegations contained in Paragraph 3.9 of the Complaint.

3 3.10. Respondent admits the allegations contained in Paragraph 3.10 of the Complaint.

4 3.11. Respondent admits the allegations contained in Paragraph 3.11 of the Complaint.

5 3.12. Respondent admits the allegations contained in Paragraph 3.12 of the Complaint.

6 3.13. Respondent denies the allegations contained in Paragraph 3.13 of the Complaint.

7 3.14. Respondent denies the allegations contained in Paragraph 3.14 of the Complaint.

8 3.15. Respondent admits the allegations contained in Paragraph 3.15 of the Complaint.

9 3.16. Respondent admits the allegations contained in Paragraph 3.16 of the Complaint.

10 3.17. Respondent admits the allegations contained in Paragraph 3.17 of the Complaint.

11 3.18. Respondent admits the allegations contained in Paragraph 3.18 of the Complaint.

12 3.19. Respondent admits the allegations contained in Paragraph 3.19 of the Complaint.

13 3.20. Respondent admits the allegations contained in Paragraph 3.20 of the Complaint.

14 3.21. Paragraph 3.21 of the Complaint does not contain any material factual allegations  
15 requiring an answer under 40 CFR 22.15.

16 4.1. Respondent's answers to Paragraphs 3.1 through 3.21 of the Complaint are  
17 incorporated by reference and restated herein.

18 4.2. Respondent lacks sufficient knowledge or information to form a belief as to the  
19 truth of the allegations contained in Paragraph 4.2 of the Complaint, and therefore denies the same.

20 4.3. Respondent admits the allegations contained in Paragraph 4.3 of the Complaint.

21 4.4. Respondent admits the allegations contained in Paragraph 4.4 of the Complaint.

22 4.5. Respondent denies the allegations contained in Paragraph 4.5 of the Complaint.

23 4.6. Paragraph 4.6 of the Complaint does not contain any material factual allegations

1 requiring an answer under 40 CFR 22.15.

2 4.7. Respondent admits the allegations contained in Paragraph 4.7 of the Complaint.

3 4.8. Respondent denies the allegations contained in Paragraph 4.8 of the Complaint.

4 4.9. Respondent admits the allegations contained in Paragraph 4.9 of the Complaint.

5 4.10. Respondent denies the allegations contained in Paragraph 4.10 of the Complaint.

6 4.11. Respondent admits the allegations contained in Paragraph 4.11 of the Complaint.

7 4.12. Paragraph 4.12 of the Complaint does not contain any material factual allegations  
8 requiring an answer under 40 CFR 22.15.

9 4.13. Respondent denies the allegations contained in Paragraph 4.13 of the Complaint.

10 4.14. Paragraph 4.14 of the Complaint does not contain any material factual allegations  
11 requiring an answer under 40 CFR 22.15.

12 4.15. Respondent lacks sufficient knowledge or information to form a belief as to the  
13 truth of the allegations contained in Paragraph 4.15 of the Complaint, and therefore denies the  
14 same.

15 4.16. Paragraph 4.16 of the Complaint does not contain any material factual allegations  
16 requiring an answer under 40 CFR 22.15.

17 4.17. Respondent lacks sufficient knowledge or information to form a belief as to the  
18 truth of the allegations contained in Paragraph 4.17 of the Complaint, and therefore denies the  
19 same.

20 4.18. Paragraph 4.18 of the Complaint does not contain any material factual allegations  
21 requiring an answer under 40 CFR 22.15.

22 4.19. Respondent lacks sufficient knowledge or information to form a belief as to the  
23 truth of the allegations contained in Paragraph 4.19 of the Complaint, and therefore denies the

1 same.

2 4.20. Paragraph 4.20 of the Complaint does not contain any material factual allegations  
3 requiring an answer under 40 CFR 22.15.

4 4.21. Respondent lacks sufficient knowledge or information to form a belief as to the  
5 truth of the allegations contained in Paragraph 4.21 of the Complaint, and therefore denies the  
6 same.

7 4.22. Paragraph 4.22 of the Complaint does not contain any material factual allegations  
8 requiring an answer under 40 CFR 22.15.

9 5.1 Paragraph 5.1 of the Complaint does not contain any material factual allegations  
10 requiring an answer under 40 CFR 22.15.

11 5.2. Paragraph 5.2 of the Complaint does not contain any material factual allegations  
12 requiring an answer under 40 CFR 22.15.

13 5.3. Paragraph 5.3 of the Complaint does not contain any material factual allegations  
14 requiring an answer under 40 CFR 22.15.

15 5.4. Paragraph 5.4 of the Complaint does not contain any material factual allegations  
16 requiring an answer under 40 CFR 22.15.

17 5.5. Paragraph 5.5 of the Complaint does not contain any material factual allegations  
18 requiring an answer under 40 CFR 22.15.

19 5.6. Paragraph 5.6 of the Complaint does not contain any material factual allegations  
20 requiring an answer under 40 CFR 22.15.

21 6.1. Paragraph 6.1 of the Complaint does not contain any material factual allegations  
22 requiring an answer under 40 CFR 22.15.

23 6.2. Paragraph 6.2 of the Complaint does not contain any material factual allegations

1 requiring an answer under 40 CFR 22.15.

2 6.3. Paragraph 6.3 of the Complaint does not contain any material factual allegations  
3 requiring an answer under 40 CFR 22.15.

4 6.4. Paragraph 6.4 of the Complaint does not contain any material factual allegations  
5 requiring an answer under 40 CFR 22.15.

6 7.1. Paragraph 7.1 of the Complaint does not contain any material factual allegations  
7 requiring an answer under 40 CFR 22.15.

8 8.1. Paragraph 8.1 of the Complaint does not contain any material factual allegations  
9 requiring an answer under 40 CFR 22.15.

10 8.2. Paragraph 8.2 of the Complaint does not contain any material factual allegations  
11 requiring an answer under 40 CFR 22.15.

12 8.3. Paragraph 8.3 of the Complaint does not contain any material factual allegations  
13 requiring an answer under 40 CFR 22.15.

#### 14 DEFENSES

15 Complainant's claims accrued more than five years ago and no action, suit or proceeding  
16 for enforcement of the proposed penalty has been commenced in a court of law as required under  
17 28 U.S.C. § 2462. Commencement of administrative proceedings does not toll the limitations  
18 period under 28 U.S.C. § 2462. Therefore, Complainant's claims are barred by 28 U.S.C. § 2462.

#### 19 BASIS FOR OPPOSING THE PROPOSED RELIEF

20 Respondent opposes the proposed relief because the release of ammonia did not equal or  
21 exceed 100 pounds and because the amount of the proposed penalty is unreasonably high.

#### 22 REQUEST FOR HEARING

23 Respondent requests a hearing upon the issues raised by the Complaint and Answer.

1 DATED this 9<sup>th</sup> day of September 2019.

2 THE GILLETT LAW FIRM

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5 Michael B. Gillett

6 Attorney for Respondent Multistar Industries, Inc.

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CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that on the 9<sup>th</sup> day of September 2019, I caused a true and correct copy of the foregoing document to be served upon counsel of record in the following manner:

***Attorney for Complainant U.S. Environmental Protection Agency:***

Julie Vergeront  
Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region 10  
1200 Sixth Avenue  
Suite 155, Mail Stop: 11-C07  
Seattle, Washington 98101  
Telephone: (206) 553-1497  
Email: Vergeront.julie@epa.gov

- U.S. Mail
- Hand Delivery/Legal Messenger
- Overnight Delivery
- Electronic Mail

The foregoing statement is made under penalty of perjury and under the laws of the State of Washington and is true and correct.

Signed at Seattle, Washington, this 9<sup>th</sup> day of September 2019.

  
Michael B. Gillett