GABRIEL

Environmental Services

May 15, 2007

Regional Hearing Clerk (E – 13J)
USEPA Region 5
77 W. Jackson Blvd.
Chicago, IL 60604

Re: Answer to Complaint – Mickey's Linen & Towel Supply – Docket # EPCRA – 05-2007-0015

On behalf of Mickey's Linen & Towel Supply, Inc., attached is the Answer to the aforenoted Complaint.

Mickey's Linen & Towel Supply herewith requests a settlement conference to discuss the allegations, and, specifically, the proposed penalty.

Gabriel is not an attorney acting for Mickey's Linen. We are consultants acting on behalf of our client; said filing is being done as a Pro Se matter.

Sincerely,

John Polich, P.E.
President
Gabriel Environmental Services

CC: Susan Tennenbaum
Office of Regional Counsel (C-14J)
USEPA Region 5
77 W. Jackson Blvd.
Chicago, IL 60604

ANSWER TO COMPLAINT

RESPONSE: Paragraphs 1 through 6, 12 through 14, and 18 through 23 of the Complaint appear to contain factual information or conclusions of the law; resultantly, we believe that no response is required. Paragraphs 7 through 11 contain information about the Respondent; Respondent does not deny the information contained. For Paragraphs 15 through 17, Respondent admits there may have been sulfuric acid present at the facility in a quantity equal to or greater than the threshold limit. In the matter of the allegations alleged in Paragraphs 18 through 20, Mickey's Linen & Towel ("Mickey's"), despite its longstanding record of complying with environmental laws was unaware of the reporting requirements for sulfuric acid. Mickey's incorporates herein the additional circumstances constituting the grounds for defense and mitigating matters set forth below.

COUNT 1

FAILURE TO SUBMIT TO THE SERC OR FIRE DEPARTMENT A COMPLETED EMERGENCY AND HAZARDOUS CHEMICAL INVENTORY FORM INCLUDING SULFURIC ACID FOR CALENDAR 2003

RESPONSE: For Paragraphs 24 through 26, Mickey's Linen & Towel admits it did not submit the requisite forms in a timely matter, but notes it was unaware of this requirement despite its longstanding record of complying with environmental laws, until informed during the inspection in 2006. Once informed, Mickey's immediately filed all the required information.

COUNT 2

FAILURE TO SUBMIT TO THE SERC OR FIRE DEPARTMENT A COMPLETED EMERGENCY AND HAZARDOUS CHEMICAL INVENTORY FORM INCLUDING SULFURIC ACID FOR CALENDAR 2004

RESPONSE: For Paragraphs 27 through 29 the Respondent would reply as in Count 1. Once informed, Mickey's filed all the required information immediately.

COUNT 3

FAILURE TO SUBMIT TO THE SERC OR FIRE DEPARTMENT A COMPLETED EMERGENCY AND HAZARDOUS CHEMICAL INVENTORY FORM INCLUDING SULFURIC ACID FOR CALENDAR 2005

RESPONSE: For Paragraphs 30 through 32, Respondent would reply as in Count 1. Mickey's submitted a completed Emergency and Hazardous Chemical Inventory Form for Sulfuric Acid, the only chemical required, on May 18, 2006, for reporting year 2005. Once informed, Mickey's filed all the required information immediately.

COUNT 4

RESPONDENT DID NOT SUBMIT TO THE CHICAGO FIRE DEPARTMENT A COMPLETED EMERGENCY AND HAZARDOUS CHEMICAL INVENTORY FORM INCLUDING SULFURIC ACID FOR CALENDAR 2005, UNTIL ON OR ABOUT May 18, 2006

RESPONSE: For Paragraphs 33 through 35 of the Complaint, Respondent would reply as in Count 1. Mickey's submitted a completed Emergency and Hazardous Chemical Inventory Form including Sulfuric Acid on May 18, 2006, for reporting years 2005. Once informed, Mickey's filed all the required information immediately.

PROPOSED EPCRA PENALTY/FOLLOWUP ACTIVITY

RESPONSE: Mickey's will prepare and submit completed Emergency and Hazardous Chemical Inventory Forms for 2003 and 2004 to the appropriate State Emergency Response Commission, Local Emergency Response Commission, as well as the Chicago Fire Department.

RESPONSE: Mickey's believes the proposed penalty is excessive, and herewith requests a settlement conference to discuss the allegations and the penalty. Mickey's also requests a hearing if this matter is not resolved after the settlement conference.

Mickey's notes that immediately following the USEPA inspector's visit, when informed of its obligations under EPCRA, it took proactive steps to file the appropriate paperwork. Resultantly, the 2005 filing was just over two (2) months late.

Mickey's further notes it has always acted diligently in fulfilling its environmental responsibilities with a current and up to date written Spill Prevention Control and Countermeasure (SPCC) Plan, Hazardous Communication Plan and DAR, and has complied with regulations relating to secondary containment for acids/caustics. Mickey's has also complied with IEPA/MWRD/USEPA filings and permit requirements.

Mickey's adds that regarding Count 4, the Chicago Fire Department has inspected its facility on numerous occasions and was/is very aware of the chemicals on Mickey's premises.

Given its timely filing immediately after notification, the fact that the 2005 filing was only a little over two (2) months late, **Mickey's would like to formally request that Counts 3 and 4 be consolidated into one count with one proposed penalty of $16,119, and that an added discount be applied to this amount as well as the amounts in Counts 1 and 2 for its positive response to USEPA's filing requests.**

Mickey's was unaware of the filing requirement and has been responsible and cooperated by supplying information extremely quickly and without hesitation. This includes gathering any information requested pertaining to inventories, site visits, usage figures, MSDS Sheets, taking pictures, etc. Mickey's would further note that it did not gain any substantial economic benefit from not filing as it had already compiled the relevant records of its use of sulfuric acid and had maps on-site of the location of the chemical.

Mickey's has an ongoing employee training program to insure that its employees and the public are protected from environmental harm.

Systems have been put in place to ensure the proper EPCRA filing time frames will be strictly adhered to. This was done by adding the March 1st deadline to Mickey's Calendar Of Events as well as having Gabriel Environmental add this to their schedule of reporting requirements for Mickey's.

This inspection was not the result of an injury or accident. It is important to note that Mickey's has never had a spill or any type of chemical accident posing imminent danger to the employees, neighbors or the environment. The Sulfuric Acid use and storage system has been automated and "jobbed out" to licensed professionals who fill and inspect the conditions on each visit. It is also important to note the Sulfuric Acid is not only stored in its own tank but has both secondary containment as well as tertiary containment.

Mickey's is an environmentally conscience company. Its entire business has been built on the premise of recycling. Mickey's helps the environment by supplying linens and similar products that are washed and reused, which reduces the amount of disposables that are discarded and consume a large amount of space at landfills. By recycling these products, Mickey's saves energy use in limiting the need to use virgin materials in producing linens and other products and protects our natural resources, including protecting environmentally sensitive areas containing the natural habitat of trees and wildlife.

Mickey's is a family owned company that wants to and tries to do the "Right thing." **To reduce and mitigate any penalty, Mickey's is open to discussing possible supplemental environmental projects at its facility.**