



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
 REGION III  
 1650 Arch Street  
 Philadelphia, Pennsylvania 19103-2029

Via UPS Overnight

Mr. Lakhmir Bagga  
 Silky Associates, LLC  
 200 E. Williamsburg Road  
 Sandston, VA 23150

AUG 16 2017

Re: Opportunity to Show Cause pursuant to Subtitle I of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §§ 6991-6991i, and regulations promulgated pursuant thereto, regarding Underground Storage Tanks located at Lucky Mart in Sandston, Virginia.

Dear Mr. Bagga:

This letter is in reference to an ongoing investigation the U.S. Environmental Protection Agency ("EPA" or the "Agency") is conducting with regard to the Lucky Mart facility located at 200 E Williamsburg Road in Sandston, Virginia (the "Facility"). An inspection of the Facility was conducted on July 18, 2016 by EPA to examine compliance with Subtitle I of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6991 *et seq.* ("RCRA") and regulations promulgated pursuant thereto at 40 C.F.R. Part 280, which regulate underground storage tanks ("USTs") used to contain regulated substances including, but not limited to, petroleum products (e.g., gasoline, kerosene and diesel). EPA followed up its July 18, 2016 inspection with an information request letter sent on March 7, 2017.

From the information currently available, EPA believes that Silky Associates, LLC, as owner and operator of USTs, including a 10,000 gallon steel premium gasoline tank (UST-001), two (2) 10,000 gallon steel regular gasoline tanks (UST-002 and UST-003), a 4,000 gallon steel kerosene tank (UST-004) and a 4,000 gallon steel diesel tank, has violated Subtitle I of RCRA, and the Commonwealth of Virginia's UST program. EPA believes that there is a sufficient basis for the issuance of an Administrative Complaint seeking the assessment of a civil penalty and containing a Compliance Order requiring Silky Associates, LLC to comply with RCRA. Prior to issuing an Administrative Complaint, EPA is herein providing Silky Associates, LLC the opportunity to confer with EPA to show cause as to any reasons why an Administrative Complaint should not be issued for any or all of the violations identified below. EPA is also inviting Silky Associates, LLC to meet to discuss the possibility of entering into a settlement of the violations with the Agency without litigation.

## Part I: Preliminary Conclusions Regarding Violations

The specific regulations which EPA has reason to believe have been violated are found in the Commonwealth of Virginia's federally authorized UST management program. Effective October 28, 1998, pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, and 40 C.F.R. Part 281, Subpart A, the Commonwealth of Virginia was granted final authorization to administer a state UST management program ("Virginia UST management program") in lieu of the Federal underground storage tank management program established under Subtitle I of RCRA. The provisions of the Virginia UST management program, through this final authorization, are enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e. The Virginia UST management program regulations are set forth in the Virginia Administrative Code, Title 9, Agency 25, Chapter 580, Sections 10 *et seq.* A copy of the Virginia UST management program regulations, 9 VAC 25-580-10, *et seq.*, can be provided upon request.

### Suspected Violations Identified by EPA:

1. 9 V.A.C. § 25-580-140(1) requires, in relevant part, that tanks be "monitored at least every 30 days for releases using one of the methods listed in subsection 4 through 8 of 9 V.A.C. § 25-580-60..." Based on EPA's July 18, 2016 inspection and Silky Associates, LLC's response to EPA's March 7, 2017 information request letter, EPA believes that Silky Associates, LLC:
  - a. failed to perform tank release detection at least every 30 days for UST-001, UST-002, UST-003 and UST-004 from August 2016 through March 2017; and
  - b. failed to perform tank release detection at least every 30 days for UST-005 from July 2016 through at least April 2017.
2. 9 V.A.C. § 25-580-170(1) requires, in relevant part, that with respect to automatic line leak detectors, "[a]n annual test of the operation of the leak detector must be conducted in accordance with the manufacturer's requirements." Based on EPA's July 18, 2016 inspection and Silky Associates, LLC's response to EPA's March 7, 2017 information request letter, EPA believes that Silky Associates, LLC:
  - a. failed to conduct required annual operational testing of the mechanical line leak detector on pressurized piping associated with UST-001 from November 2012 through at least April 2017; and
  - b. failed to conduct required annual operational testing of the mechanical line leak detectors on pressurized piping associated with UST-002, UST-004 and UST-005 from November 2012 through November 5, 2013 and from November 6, 2014 through at least April 2017.
3. 9 V.A.C. § 25-580-140(2)(a)(2) requires underground piping that routinely contains regulated substances and that conveys regulated substances under pressure to have either an annual line tightness test conducted in accordance with 9 V.A.C. § 25-580-170(2) or monthly monitoring conducted in accordance with 9 V.A.C. § 25-580-170(3). Based on



EPA's July 18, 2016 inspection and Silky Associates, LLC's response to EPA's March 7, 2017 information request letter, EPA believes that Silky Associates, LLC:

- a. failed to conduct required annual line tightness testing or monthly monitoring of the pressurized piping associated with UST-001 from January 30, 2013 through at least April 2017;
  - b. failed to conduct required annual line tightness testing or monthly monitoring of the pressurized piping associated with UST-002 from January 30, 2013 through November 5, 2013, and from November 6, 2014 through at least April 2017; and
  - c. failed to conduct required annual line tightness testing or monthly monitoring of the pressurized piping associated with UST-004 and UST-005 from November 2012 through November 5, 2013, and from November 6, 2014 through at least April 2017.
4. 9 V.A.C. § 25-580-60(4) requires, to prevent spilling and overfilling associated with product transfer associated with product transfer to the UST system, all UST systems to comply with the new UST system spill and overfill prevention requirements specified in subsection 3 of 9 V.A.C. § 25-580-50. Based on EPA's July 18, 2016 inspection and Silky Associates, LLC's response to EPA's March 7, 2017 information request letter, EPA believes that Silky Associates, LLC failed to have overfill protection equipment as specified in subsection 3 of 9 V.A.C. § 25-580-50 for UST-001, UST-002, UST-003, UST-004 and UST-005 from November 2012 through at least April 2017.
  5. 9 V.A.C. § 25-580-90(2)(a) requires, in relevant part, that "[a]ll cathodic protection systems must be tested within six months of installation and at least every three years after that..." Based on EPA's July 18, 2016 inspection and Silky Associates, LLC's response to EPA's March 7, 2017 information request letter, EPA believes that Silky Associates, LLC failed to test the cathodic protection system at the Facility at least every three (3) years from April 17, 2015 through at least April 2017.

#### Other Areas of Concern:

On July 18, 2016, the inspector noted that the spill buckets for UST-001, UST-003, UST-004 and UST-005 were each filled with approximately one inch of water. ***EPA recommends that Silky Associates, LLC periodically check the spill buckets and ensure they remain free of liquid and debris in order for them to be able to perform their required function of collecting spills during filling operations.*** Additionally, the inspector collected paperwork dated April 17, 2012 concerning repair work on the cathodic protection system conducted by UST Corrosion Management, Inc. which states that the tanks and lines all passed the Impressed Current System resurvey. ***EPA requests that Silky Associates, LLC provide the underlying testing documentation for the 2012 resurvey.***





### Part 3: Opportunity to Meet with EPA

If Silky Associates, LLC has additional information relevant to this matter which it believes EPA should consider prior to filing a formal Administrative Complaint, EPA requests that it provide such information, and/or show cause why an Administrative Complaint should not be issued, within twenty-one (21) calendar days of receipt of this letter. In addition, EPA invites Silky Associates, LLC to meet with EPA within forty-five (45) calendar days of receipt of this letter to discuss the potential administrative resolution to the violations. EPA is proposing the execution of an Administrative Consent Agreement and Final Order (ACAFO@) to address potential monetary penalties for Silky Associates, LLC's noncompliance. If Silky Associates, LLC does not respond within twenty-one (21) calendar days of receipt of this letter, the Agency may proceed with an appropriate enforcement response without further prior notice.

Silky Associates, LLC is entitled to assert a claim of business confidentiality covering any part or all of the submitted information in the manner described in volume 40 of the Code of Federal Regulations ("C.F.R."), Section 2.203(b). Information subject to the claim of business confidentiality will be made available to the public only in accordance with the procedures set forth in 40 C.F.R. Part 2, Subpart B. Unless a business confidentiality claim is asserted at the time the information is submitted, EPA may make such information available to the public without further notice to you.

Section 9006(d) of RCRA, 42 U.S.C. § 6991e(d), authorizes EPA to assess a civil penalty against any owner or operator of an underground storage tank who fails to comply with, *inter alia*, any requirement or standard promulgated under Section 9003 of RCRA, 42 U.S.C. § 6991b (40 C.F.R. Part 280) or any requirement or standard of a State underground storage tank program that has been approved by EPA pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, in amounts not to exceed for each tank for each day of violation (after adjusting for inflation pursuant to 40 C.F.R. Part 19) up to \$16,000 for violations occurring on or before November 2, 2015, and up to \$22,957 for violation occurring after November 2, 2015. For purposes of determining the amount of any penalty to be assessed, Section 9006(c) of RCRA, 42 U.S.C. § 6991e(c), requires EPA to take into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements. In developing a proposed penalty for the violations alleged herein, EPA will take into account the particular facts and circumstances of this case with specific reference to EPA's November 1990 *U.S. EPA Penalty Guidance for Violations of UST Regulations* (<https://www.epa.gov/sites/production/files/2014-02/documents/d9610.12.pdf>), and applicable inflationary adjustment policies. Hard copies of these policies can be provided upon request.

With regard to the Small Business Regulatory Enforcement and Fairness Act ("SBREFA"), please see the "Information for Small Businesses" memo, enclosed, which might be applicable to you. This enclosure provides information on contacting the SBREFA Ombudsman to comment on federal enforcement and compliance activities and also provides information on compliance assistance. As noted in the enclosure, any decision to participate in such program or to seek compliance assistance does not relieve Silky Associates, LLC of its obligation to respond in a timely manner to an EPA request or other enforcement action, create any rights or defenses under law, and will not affect EPA's decision to pursue this enforcement action. To preserve its legal rights, Silky Associates, LLC must comply with all



rules governing the administrative enforcement process. The Ombudsman and fairness boards do not participate in the resolution of EPA's enforcement action. EPA has not made a determination as to whether or not you (or your company) are covered by the SBREFA.

Additionally, certain companies may be required to disclose to the Securities and Exchange Commission (ASEC@) the existence of certain pending or known to be contemplated environmental legal proceedings (administrative or judicial) arising under Federal, State or local environmental laws. Please see the attached ANotice of Securities and Exchange Commission Registrants= Duty to Disclose Environmental Legal Proceedings@ for more information about this requirement and to aid you in determining whether Silky Associates, LLC may be subject to the same.

Please send any and all information, and direct any request for a settlement conference, to the attention of:

Melissa Toffel  
U.S. EPA, Region III  
RCRA Underground Storage Tank Branch (3LC31)  
1650 Arch Street  
Philadelphia, PA 19103  
Phone: (215) 814-2060  
E-mail: [toffel.melissa@epa.gov](mailto:toffel.melissa@epa.gov)

If you are represented by counsel, your counsel may contact Jennifer M. Abramson, Senior Assistant Regional Counsel, at (215) 814-2066.

Sincerely,



Carol Amend, Associate Director  
Land and Chemicals Division  
Office of RCRA Programs

Enclosures

cc: M. Toffel, EPA (w/o enclosures)  
J. Abramson, EPA (w/o enclosures)  
R. Ellison, VADEQ (w/o enclosures)

