

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 ARCH STREET  
PHILADELPHIA, PENNSYLVANIA 19103**

U.S. EPA-REGION 3-RHC  
FILED-7FEB2018pm1:38

**In the Matter of:** :  
**Silky Associates, LLC,** : **Docket No. RCRA-03-2018-0131**  
**Respondent.** :

**ORDER TO AMEND EPA’S ADMINISTRATIVE ENFORCEMENT DOCKET**


On December 10, 2018 the United States Environmental Protection Agency (“EPA”) Office of Administrative Law Judges (“OALJ”) issued an Order of Remand in the above-captioned matter. (“Order of Remand”). The Order of Remand addressed whether a letter submitted by the Respondent, Silky Associates, LLC, to EPA Region III satisfied the procedural and substantive requirements for an Answer to a Complaint as provided by the *Consolidated Rules of Practice*, 40 C.F.R. § 22.15.

On July 24, 2018, EPA Region III filed an Administrative Complaint, Compliance Order and Notice of an Opportunity for a Hearing against Respondent alleging violations of the RCRA Underground Storage Tank regulations. On August 21, 2018, a representative of the Respondent sent a letter to the EPA UST Program Officer for the case in which Respondent addressed the Compliance Order and the issue of Respondent’s compliance with the UST regulations. During an August 27, 2018 call with EPA, Respondent’s representative indicated that Respondent wanted the August 21, 2018 letter to be considered as Respondent’s Answer to the Complaint. (Order of Remand at 1). As a result, treating Respondent’s letter as an Answer, EPA’s counsel filed the letter with EPA Region III’s Regional Hearing Clerk who promptly entered it into EPA’s Administrative Enforcement Docket. (“Docket”). The letter was identified in the Docket as Respondent’s Answer to the Complaint.

In the Order of Remand, OALJ held that Respondent’s August 21, 2018 letter does not satisfy the requirements for an Answer under the Consolidated Rules of Practice because it “was not filed with the Regional Hearing Clerk, did not request a hearing upon the issues, and did not clearly and directly admit, deny or explain *each* of the factual allegations contained in the Complaint.” (Order of Remand at 2). Additionally, OALJ noted that “Respondent was provided the opportunity to file an Answer with this Tribunal yet failed to do so.” (*Id.*) As a result, OALJ held that “[b]ecause an Answer has not been filed, it is inappropriate for this Tribunal to retain jurisdiction of this matter or to continue to serve as Presiding Officer.” (*Id.*) Therefore, OALJ remanded this case to the Regional Judicial Officer for EPA Region III “for disposition consistent with the Rules of Practice.” (*Id.*)

Thereby, the Regional Hearing Clerk of EPA Region III, is **HEREBY ORDERED** to amend EPA's Administrative Enforcement Docket to reflect OALJ's holding that the August 21, 2018 letter submitted by Respondent does not qualify as an Answer in the above-caption matter.

**SO ORDERED.**



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Joseph J. Lisa  
Regional Judicial and Presiding Officer  
US EPA Region III

Dated: Feb 7, 2019

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that, on FEB 07 2019, I filed the foregoing Order to Amend EPA's Administrative Enforcement Docket and caused the Order to be served on the following persons in the matter indicated below.

Copy by Inter-Office Mail:

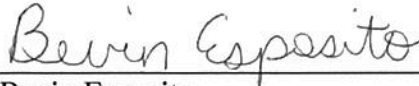
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*For Complainant*

Copy by Certified Mail/Return Receipt Requested:

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*For Respondent*

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Environmental Protection Agency  
Office of Administrative Law Judges  
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Washington, D.C. 20460-2001



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Bevin Esposito  
Regional Hearing Clerk  
U.S. EPA, Region III