UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 Renner Boulevard
Lenexa, Kansas 66219

2 2 DEC 2016

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Article No.: 7014 1200 0000 6126 0693

Mr. Kevin Bradley
Director of Business Development
P.O. Box 610
6601 County Road R
Denmark, Wisconsin 54208

Re: Request for Information Pursuant to Section 308 of the Clean Water Act (33 U.S.C. § 1318)

IMMEDIATE ATTENTION REQUIRED

Dear Mr. Bradley:

This letter requests information regarding the facility operated by Big Ox Energy, LLC, in South Sioux City, Nebraska. The U.S. Environmental Protection Agency, Region 7, has received information regarding releases of hydrogen sulfide (H_2S) at the Big Ox facility and indicating that H_2S in the City of South Sioux City's wastewater collection systems has presented an ongoing concern.

As discussed in a phone conversation between you and EPA staff on November 21, 2016, this letter, with its enclosures, is a request for information regarding the ongoing H_2S impacts to the environment which have resulted in citizens being evacuated from their residences in South Sioux City, Nebraska. This information request is issued pursuant to Section 308(a) of the Clean Water Act, 33 U.S.C. § 1318(a). Section 308(a) of the CWA authorizes the EPA to require any person subject to the CWA to provide information required to carry out the objectives of the CWA, including to determine whether there has been a violation of the CWA. Pursuant to Section 308, you are required to provide the information identified in the enclosed Information Request (Enclosure 1). Please read the instructions in the enclosure carefully before preparing your response. A signed Statement of Certification (Enclosure 2) must accompany your response.

The information required herein must be submitted notwithstanding any claim you may have concerning confidentiality. If you wish to assert a claim of confidentiality concerning information submitted in response to this letter, you may do so pursuant to the provisions of 33 U.S.C. § 1318 and 18 U.S.C. § 1905, as further described in the enclosed instructions. The EPA will consider and process such a request pursuant to said statutes and the EPA regulations at 40 C.F.R. Part 2, Subpart B.

In addition, if any of the information contains personally identifiable information or PII, it requires special handling. PII is defined by the EPA as any information about an individual that can be used to

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distinguish, trace or identify an individual's identity, including personal information which is linked or linkable to an individual (e.g., name, date of birth, address). To the extent possible, please exclude or redact the names of any residents from sampling or other data submitted in your response. Please label as PII any submittal that you believe may include PII. The EPA will manage and handle any PII in a manner consistent with the agency's PII policy and applicable federal laws, including 40 C.F.R. Part 2, Subpart A.

Please be advised that submission of false information may subject you to civil or criminal penalties under Section 309 of the CWA, 33 U.S.C. § 1319, and/or 18 U.S.C. § 1001. Further note that the EPA reserves its right to pursue appropriate enforcement actions under Section 309 of the CWA, 33 U.S.C. § 1319, including penalties, for violations of the CWA.

Your response to this information request is due by January 6, 2017. If you believe you will need additional time to respond to any portion of this request or have any questions relating to this information request, please contact Patricia Miller, the attorney assigned to this matter at (913) 551-7283. Thank you for your cooperation.

Sincerely,

Karen A. Flournoy

Karen A. Flournoy
Director
Water, Wetlands and Pesticides Division

Enclosures

cc via email:

Jonathan Cooperman, Kelley Drye & Warren LLP
jcooperman@kelleydrye.com
Steve Goans, NDEQ
steve.goans@nebraska.gov

ENCLOSURE 1

INFORMATION REQUEST

Re: Big Ox Energy, LLC, South Sioux City, Nebraska

This information is requested by the U.S. Environmental Protection Agency pursuant to Section 308 of the Clean Water Act (CWA or Act), 33 U.S.C. § 1318.

I. Instructions

1. Please provide a separate response to each and every request set forth below. Please label each response in a manner that identifies the number of the question or document request.

2. If any answer or document cannot be provided in full, provide the answer or document(s) to the extent possible along with an explanation of why the question cannot be answered or document cannot be provided in its entirety.

3. Certification: The Statement of Certification found in Enclosure 2 must be submitted along with your responses every time a submission is made pursuant to this information request. This statement must be a person authorized to sign reports pursuant to 40 C.F.R. § 122.22(b). For your convenience the text of 40 C.F.R. § 122.22(b) is included on Enclosure 2.

4. Confidential Business Information: If you believe any of the requested information is confidential, you may assert a business confidentiality claim pursuant to the regulations set forth in 40 C.F.R. Part 2, Subpart B. Information requested by this letter, however, must be submitted to the EPA regardless of such a claim of confidentiality. If the EPA determines the information you have designated meets the criteria in 40 C.F.R. § 2.208, the information will be disclosed only to the extent and by means of the procedures specified in Subpart B. Unless a confidentiality claim is asserted at the time the requested information is submitted, the EPA may make the information available to the public without further notice to you.

5. Personally Identifiable Information: If you believe any of the requested information is personally identifiable information, PII, please redact that information or provide a clear statement with your submittal indicating that PII may be present. Information determined to be PII will be withheld and protected in accordance with 40 C.F.R. Part 2, Subpart A, and applicable EPA Privacy Act policies.

II. Definitions

Unless otherwise indicated, all terms used in this request have the meaning and definition as stated in Section 502 of the C.W.A., 33 U.S.C. § 1362, and regulations promulgated thereunder, including 40 C.F.R. §§ 122.2 and 403.3.

III. Submission of Information

Your response due by no later than January 6, 2017. To request additional time to respond to any portion of this information request, please identify the specific question for which you are requesting additional time and contact Patricia Miller in the EPA Region 7, Office of Regional Counsel, at 913-551-7283.

Note that except for a cover letter or memorandum and the Statement of Certification, 1) only copies, and not original documents, should be submitted pursuant to this request, and 2) documents and data submitted in electronic form should be in a widely available electronic format such as PDF, Word or Excel.

To the extent practicable, the information requested herein may be sent via email to the EPA via the following email address:

Seth Draper: draper.seth@epa.gov

Any documents that are not available in electronic format must be submitted to the EPA by mail or express service in a manner that allows you to track delivery and shall be addressed as follows:

Seth Draper
Environmental Scientist (WWPD/WENF)
U.S. Environmental Protection Agency Region 7
11201 Renner Blvd.
Lenexa, Kansas 66219

IV. Requested Information

1. Identify the person to contact regarding your response, including title, address, email address and phone number.

2. Your responses to the questions are to be provided by a qualified professional. Provide the name and credentials of the person(s) providing information in response to this Information Request.

3. Provide a timeline of activities and events related to the Big Ox facility in South Sioux City, Nebraska, including but not limited to, initiation of construction of the facility, test phase and startup, dates of any significant changes in operation, shut downs, periods of standby, beginning and ending dates of discharges to sewer line(s), periods of hauling wastewater, and any significant events, such as releases to air or employee injuries.

4. Provide a report of the current operating status of the facility, the planned date for recommencing discharge of wastewater to the sewer system, and what conditions will allow the facility to begin full operation and discharge to the sewer system. In addition, submit notice by email to Seth Draper, draper.seth@epa.gov, within 24 hours before the facility's discharge to the sewer system recommences.

5. Provide an as-built production process flow diagram or pipe and component diagram and describe the production process.

6. Provide an as-built wastewater treatment system flow diagram and describe the wastewater treatment process. Does the facility use any H_2S removal equipment? If so, provide a description

of the equipment used, the process flow diagram, the wastestream generated, and the discharge pathway for the wastestream generated.

7. Provide a list and cause of any process upsets that have occurred since the operation of the facility.

8. Provide a copy of any contracts with any entity providing incoming materials, receiving purchasing or using finished products produced by the Big Ox facility, or receiving waste.

9. Provide information regarding all incoming materials to the facility since August 1, 2016, including but not limited to, the following information about each source: source of incoming material, conveyance method (e.g., trucked or piped); quantity (as changed over time); analysis method (grab or composite sample); analysis frequency (daily, weekly, etc.); and characteristics (BOD, sulfides, nitrate, pH and any other pollutants).

10. Provide information regarding the facility's wastewater generated since August 1, 2016, including but not limited to: quantity (as changed over time); and disposal via sewer, hauling, or land application. If the wastewater is metered, provide a daily tabulation of wastewater discharged to the sewer, trucked or hauled to a treatment facility, or that is land applied.

11. Provide all monitoring and sampling results of wastewater from August 1, 2016, to present. Indicate if the sample was of wastewater that was discharged to the sewer, trucked or hauled to a treatment facility, or land applied (volume, BOD, sulfides, nitrates, ammonia, pH, and any other pollutants).

12. Describe the contractual, permitted, billing and/or other relationship between Big Ox and the City of South Sioux City, Nebraska, and provide documentation for each.

13. Describe the contractual, permitted, billing and/or other relationship between Big Ox and the City of Sioux City, Iowa, and provide documentation for each.

14. Provide, in tabular form, if available, billing records for any charges for water usage and charges for wastewater discharges, including any surcharges for high strength effluent discharges.

15. Describe any measure Big Ox has taken since August 1, 2016, to address removal, abatement, or remediation of H_2S in waste products, generated wastewaters prior to discharge, sewers, homes, etc.

16. Provide copies of correspondence, including emails, related to H_2S between the Big Ox and any of its sources or other industrial users, and between big Ox and the South Sioux City, Nebraska, and/or Sioux City, Iowa.

17. Provide a copy of all engineering studies performed by or for Big Ox that address the generation and treatment of wastewater, including any studies that address any H_2S sewer or wastewater related issues. If a study is currently in-progress but a report has not yet been prepared, please so state, provide a summary of the current status, the known causes for H_2S generation, and the known outcomes or planned solutions.

18. Provide any feasibility studies, or engineering studies, performed prior to plant construction that discuss the quantity, quality, and volume of flows intended or anticipated to be treated by the Big Ox South Sioux City facility.

ENCLOSURE 2

STATEMENT OF CERTIFICATION
(To be submitted with every response to the Information Request)

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations.

_____ _____
Signature Date

_____
Printed Name

_____
Title

40 C.F.R. § 122.22(a). Signatories to permit applications and reports.

(1) **For a corporation**. By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

Note: EPA does not require specific assignments or delegations of authority to responsible corporate officer identified in Sec. 122.22(a)(1)(i). The Agency will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Director to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under Sec. 122.22(a)(1)(ii) rather than to specific individuals.

(2) **For a partnership or sole proprietorship**. By a general partner or the proprietor, respectively; or

(3) **For a municipality, State, Federal, or other public agency**. By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes: (i) The chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).