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

NOV 30 2018

VIA ELECTRONIC MAIL

Mr. Bill Guerry
Big Ox Energy—Siouxland, LLC
Kelley Drye & Warren LLP
Washington Harbour
3050 K Street NW, Suite 400
Washington, DC 20007

Re: **NOTICE OF NONCOMPLIANCE**
Big Ox Energy – Siouxland, LLC (Dakota City, Nebraska)
Administrative Order for Compliance on Consent CAA-07-2018-0292

Dear Mr. Guerry:

On September 19, 2018, the U.S. Environmental Protection Agency ("EPA") and Big Ox Energy—Siouxland, LLC ("Big Ox") entered into an Administrative Order for Compliance on Consent ("Order or "AOC") pursuant to Clean Air Act Section 113(a)(3)(B), 42 U.S.C. § 7413(a)(3)(B). The Order required Big Ox to conduct activities to comply with the requirements of Sections 110 and 112(r)(1) of the CAA, 42 U.S.C. §§ 7410 and 7415(r)(1). The purpose of this letter is to notify Big Ox of noncompliance with the above-referenced Administrative Order on Consent for failure to timely submit the following documents and complete the following required actions:

Required Action	Due Date	AOC Citation
Repair Plan for Hazardous Substances	10/10/18	Paragraph 65(a)(i)
Repair Plan Utilizing a Professional Engineer	11/18/2018	Paragraph 65(a)(iii)
Repair PRVs	11/3/2018	Paragraph 65(a)(iv)
Revised and updated release report with schedule and plan	10/19/18	Paragraph 65(a)(vii)
Mixer Repair Report with bi-weekly progress reports detailing plan	11/3/18	Paragraph 65(a)(viii)(2)
Response Plan	11/18/18	Paragraph 65(b)(iii)
Install H_2S CEMS	11/3/18	Paragraph 67
Conduct an Engineering Analysis for Flare	11/3/18	Paragraph 68
Develop SOP for Dry Products Outdoors	10/19/18	Paragraph 69

The Order states that Big Ox is "Ordered and Agrees" to take the actions set forth in the AOC. *See* Para. 64. The actions and deadlines agreed to by the parties are detailed in the AOC, Paragraphs 65-70.

Please be advised that Big Ox's failure to submit the information and conduct the activities listed above, constitutes multiple violations of the Administrative Order on Consent, and that stipulated penalties began accruing on the day after complete performance was due. *See* Para. 75. As of November 19, 2018, penalties of $195,000 have accrued. Consistent with the provisions of the Administrative Order on Consent, stipulated penalties of $1000 per day for the first 30 days beyond the due date, and penalties of $2500 per day for each day beyond the first 30 days, will continue to accrue until the date that the EPA receives the documents required by the Order.

If you have questions, please contact Sara Hertz Wu in the Office of Regional Counsel at 913-551-7316 or *hertzwu.sara@epa.gov*, or Erin Weekley in the Office of Regional Counsel at 913-551-7095 or *weekley.erin@epa.gov*.

Sincerely,

Mark A. Smith
Acting Division Director
Air and Waste Management Division

cc: Annette Kovar, NDEQ (via email)
Susan Ugai, NDEQ (via email)
Joanna Day, U.S. Department of Justice (via email)