STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-AE-14-0003**
K/D/S PROMIX, L.L.C.	*	
	*	**Enforcement Tracking No.**
AI # 42929	*	**AE-PP-12-00256**
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between K/D/S Promix, L.L.C. ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

I

Respondent is a Limited Liability Company that owns and/or operates a liquefied petroleum gas fractionation facility located in Assumption Parish, Louisiana ("the Facility").

II

On March 26, 2013, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. **AE-PP-12-00256**, which was based upon the following findings of fact:

On or about February 15, 2012, an inspection of the Promix Fractionation Facility (the facility), owned and/or operated by K/D/S Promix, L.L.C. (RESPONDENT), was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. The facility is a liquefied petroleum gas fractionation plant. Additionally, the Department conducted a file review for the facility on or about June 6, 2012. The facility is located at 6225 Louisiana Highway 996 in Belle Rose, Assumption Parish, Louisiana. The Respondent was issued Title V Air Permit No. 0200-00003-V2 to operate the facility on December 20, 2006. The facility currently operates under Title V Air Permit No. 0200-00003-V3 issued on June 30, 2011.

While the investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violations were noted during the course of the inspection and file review:

A. According to an incident report submitted to the Department on or about May 31, 2007, the Respondent failed to operate Plant Flare FS-1 (EQT003) with no visible emissions, except for periods not to exceed a total of five (5) minutes during any two (2) hour period. Specifically, the plant flare smoked from 6:55pm to 7:20pm on May 30, 2007, due to a flare valve being left open while connected to a butane truck and the truck material being sent to the flare. This is a violation of Title V Air Permit No. 0200-00003-V2 Specific Requirement 32, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(2).

B. On or about March 27, 2009, the Respondent submitted the facility's 2008 Annual Compliance Certification to the Department. The certification indicated that the Respondent failed to follow the procedures under 40 CFR 60.13 for installation, evaluation and operation of the nitrogen oxides (NOx) and opacity CEMS (continuous monitoring systems). Specifically, the Respondent failed to calibrate the oxygen (02) analyzer daily for the South Heater (H-1251) (EQT002) according to 40 CFR 60.13(d)(l) from January l, 2008, through January 4,2008. The Department originally received notification of the violation on or about July 11, 2008, in which the Respondent indicated a failure to re-order calibration gases due to the holidays. This is a violation of Title V Air Permit No. 0200-00003-V2 Specific Requirement 12, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(2).

C. In the facility's 2010 Annual Compliance Certification for Title V Air Permit No. 0200-00003-V2 submitted to the Department on or about March 22, 2011, the Respondent reported a release. Specifically, on or about August 8, 2010, from 3:55am to 4:08am a release above the Louisiana State Police reportable quantity of 100 pounds for flammable vapors occurred at the facility due to gasket failures. The release consisted of rawmake vapors with an estimated composition of 1% methane, 1% carbon dioxide, 42% ethane, 33% propane, 7% iso-butane, 9% butane, 3% pentane and 4% hexane. This is a violation of LAC 33:III.905 which states, "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." This is also a violation of Title V Air Permit No. 0200-00003-V2 Louisiana General Condition I, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

D. In the facility's 2010 Annual Compliance Certification for Title V Air Permit No. 0200-00003-V2 submitted to the Department on or about March 22, 2011, the Respondent reported a butane release. Specifically, on or about September 2, 2010, from 8:14pm to 8:17pm a release above the Louisiana State Police reportable quantity of 100 pounds for flammable vapors occurred at the facility due to a failed tank/truck loading hose connection at the loading rack. This is a violation of LAC 33:III.905 which states, "When

facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." This is also a violation of Title V Air Permit No. 0200-00003-V2 Louisiana General Condition I, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(l) and 30:2057(A)(2).

E. In the facility's 2010 Annual Compliance Certification for Title V Air Permit No. 0200-00003-V2 submitted to the Department on or about March 22, 2011, the Respondent reported a release. Specifically, on or about November 26, 2010, from 4:38pm to 4:41pm a release above the Louisiana State Police reportable quantity of 100 pounds for flammable vapors occurred at the facility due to increased pressure activating a pressure safety valve. The release consisted of 50% butane, 45% isobutene and 5% propane. This is a violation of LAC 33:III.905 which states, "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." This is also a violation of Title V Air Permit No. 0200-00003-V2 Louisiana General Condition I, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(l) and 30:2057(A)(2).

III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of THREE THOUSAND AND NO/100 DOLLARS ($3,000.00) of which Four Hundred Forty-Seven and 86/100 Dollars ($447.86) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

V

Respondent further agrees that the Department may consider the inspection report(s), the Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VI

This agreement shall be considered a final order of the Secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in La. R. S. 30:2025(E) of the Act.

VIII

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Assumption Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted an

original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

IX

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

X

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XI

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

K/D/S PROMIX, L.L.C.

BY: _____
(Signature)

_____
(Printed)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20 _____, at _____.

_____
NOTARY PUBLIC (ID #_____)

_____
(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Hatch, Secretary

BY: _____
Cheryl Sonnier Nolan, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20_____, at Baton Rouge, Louisiana.

_____
NOTARY PUBLIC (ID # _____)

_____
(stamped or printed)

Approved: _____
Cheryl Sonnier Nolan, Assistant Secretary