STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-AE-13-0046**
KINDER MORGAN SEVEN OAKS LLC	*	
	*	**Enforcement Tracking No.**
AI # 3236	*	**AE-PP-12-00138**
	*	**AE-PP-12-00138A**
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between Kinder Morgan Seven Oaks LLC ("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 bulk liquids storage facility located in Jefferson Parish, Louisiana ("the Facility").

II

On November 13, 2012, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. **AE-PP-12-00138** which was based upon the following findings of fact:

On or about October 10, 2011, a file review of SEVEN OAKS TERMINAL (facility), a bulk liquids storage terminal owned and/or operated by Kinder Morgan Seven Oaks, LLC (Respondent), was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. Subsequent file reviews were performed on or about March 5, 2012, June 20, 2012, and October 19, 2012. The facility is located at 106 Bridge City Avenue in Westwego, Jefferson Parish, Louisiana. The Respondent currently operates the facility under Air Permit No. 1340-00069-05 issued on July 20, 2009.

While the investigation is not yet complete, the following violations were noted during the course of the file reviews:

A. According to the Written Notification of an Unauthorized Discharge dated October 17, 2011, the Respondent reported that on August 30, 2011, the internal roof on Internal Floating Roof Storage Tank 820-1 was not properly refloated due to the tank being insufficiently filled that was caused by the use of an incorrect tank calibration chart. The inadequate fill level of the tank was discovered on October 10, 2011. The Respondent reported that 607 pounds of ethanol were released into the atmosphere while the internal roof was not floated from August 30, 2011, to October 10, 2011. The unauthorized release of ethanol is a violation of Specific Requirement 42 of Air Permit No. 1340-00069-05, LAC 33:III.905.A, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

B. The aforementioned Written Notification of an Unauthorized Discharge dated October 17, 2011, was postmarked October 25, 2011. The failure to submit the written notification within seven (7) days after October 10, 2011, is a violation of LAC 33:I.3925.A, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

C. The Respondent failed to meet the following reporting requirements:

REPORT	PERMIT NUMBER	DUE DATE	SUBMITTAL DATE	REGULATORY or PERMIT REQUIREMENT
2007 VOC Emission Report	1340-00069-04	February 15, 2008	June 18, 2012	Specific Requirements 1,2, and 8
2008 VOC Emission Report	1340-00069-04	February 15, 2009	June 18, 2012	Specific Requirements 1,2, and 8
2009 VOC Emission Report	1340-00069-05	March 31, 2010	June 18, 2012	Specific Requirement 17
2009 Toxic Air Pollutant Report	1340-00069-05	March 31, 2010	June 18, 2012	Specific Requirement 236 LAC 33:III.5107.A
2010 VOC Emission Report	1340-00069-05	March 31, 2011	June 18, 2012	Specific Requirement 17
2010 Toxic Air Pollutant Report	1340-00069-05	March 31, 2011	April 12, 2012	Specific Requirement 236 LAC 33:III.5107.A
2011 VOC Emission Report	1340-00069-05	March 31, 2012	June 18, 2012	Specific Requirement 17
2011 Toxic Air Pollutant Report	1340-00069-05	March 31, 2012	April 12, 2012	Specific Requirement 236 LAC 33:III.5107.A
2009 First, Second, Third, and Fourth Quarterly 40 CFR 61 Subpart BB Report: Benzene Transfer Operations Report	1340-00069-05	Quarterly	June 18, 2012	Specific Requirement 89 40 CFR 61.305(f)
2010 First, Second, Third, and Fourth Quarterly 40 CFR 61 Subpart BB Report: Benzene Transfer Operations Report	1340-00069-05	Quarterly	June 18, 2012	Specific Requirement 89 40 CFR 61.305(f)
2011 First, Second, Third, and Fourth Quarterly 40 CFR 61 Subpart BB Report: Benzene Transfer Operations Report	1340-00069-05	Quarterly	June 18, 2012	Specific Requirement 89 40 CFR 61.305(f)

Each deviation from reporting requirements is a violation of the applicable permit and associated requirements listed above, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and 30:2057(A)(2).

On May 28, 2013, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. **AE-PP-12-00138A** which was based upon the following findings of fact:

The Department hereby removes, in its entirety, Paragraph B of the aforementioned NOTICE OF POTENTIAL PENALTY.

The Department incorporates all of the remainder of the original Notice Of Potential Penalty, Enforcement Tracking No. AE-PP-12-00138 and Agency Interest No. 3236 as if reiterated herein.

III

Respondent denies it committed any violations or that it is liable for 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 EIGHT THOUSAND THREE HUNDRED AND NO/100 DOLLARS ($8,300.00) of which Three Hundred Eighty-Five and 34/100 Dollars ($385.34) 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 permit record, the Notice of Potential Penalty and the Amended 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 Jefferson 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).

XII

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

XIII

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.

KINDER MORGAN SEVEN OAKS LLC

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