EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2004-1982-AIR-E **TCEQ ID:** Air Account No. SD0037N and RN102318847 **CASE NO.:** 22342

RESPONDENT NAME: Sherwin Alumina, L.P.

ORDER TYPE:

__1660 AGREED ORDER	X FINDINGS AGREED ORDER	__AMENDED ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__SHUTDOWN ORDER	__FINDINGS DEFAULT ORDER	__EMERGENCY ORDER	

CASE TYPE:

__AGRICULTURE	X AIR	__INDUSTRIAL AND HAZARDOUS WASTE	__MUNICIPAL SOLID WASTE
__OCCUPATIONAL CERTIFICATION	__PETROLEUM STORAGE TANKS	__PUBLIC WATER SUPPLY	__RADIOACTIVE WASTE
__MULTI-MEDIA (check all that apply)	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL	__USED OIL
__USED OIL FILTER	__WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: Sherwin Alumina, 1.5 miles southeast of the intersection of State Highways 361 and 35, near Gregory, San Patricio County

TYPE OF OPERATION: Bauxite refining

SMALL BUSINESS: ___ Yes __X__ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on March 26, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, Enforcement Division, MC 219, (512) 239-1768

TCEQ Enforcement Coordinator: Ms. Audra L. Ruble, Enforcement Division, Enforcement Section IV, MC R-14, (361) 825-3126; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

TCEQ Field Investigator: Ms. Dianne McCoig, Corpus Christi Regional Office, MC R-14, (361) 825-3100

Respondent: Mr. Tom Ballou, Environmental Superintendent, Sherwin Alumina, L.P., P.O. Box 9911, Corpus Christi, Texas 78469

Mr. Frank N. Newchurch III, Vice President Engineering and Environmental, Sherwin Alumina, L.P., P.O. Box 9911, Corpus Christi, Texas 78469

Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint __ Routine __ Enforcement Follow-up _X_ Records Review **Date of Complaint Relating to this Case:** None **Dates of Investigations Relating to this Case:** October 4, 19, and 21, 2004 **Date of NOE Relating to this Case:** November 4, 2004 (NOE) **Background Facts:** These were routine record reviews. Six violations were documented. **AIR** 1) Failed to meet the minimum reporting requirements for a reportable emissions event which occurred on July 7, 2004 [30 TEX. ADMIN. CODE § 101.201(a)(2)(I) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 2) Failed to prevent unauthorized emissions from Emission Point Number ("EPN") 12 which occurred on July 7, 2004 [30 TEX. ADMIN. CODE §§ 111.111(a)(1)(B) and 116.115(c) and Permit No. 48455, Special Conditions 1 and 7, and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 3) Failed to meet the minimum reporting requirements for reportable emissions events which occurred on August 31, 2003, and May 11 and 29, 2004 [30 TEX. ADMIN. CODE § 101.201(a)(2)(H) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 4) Failed to prevent unauthorized emissions from EPN 32 which occurred on August 31, 2003 [30 TEX. ADMIN. CODE §§ 111.111(a)(1)(B) and 116.115(c) and Permit No. 48455, Special Conditions 1 and 7, and TEX. HEALTH & SAFETY CODE § 382.085(b)].	**Total Assessed:** $20,488 **Total Deferred:** $0 __Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $10,244 **Total Paid to General Revenue:** $10,244 **Site Compliance History Classification:** __High _X_Avg. __Poor **Person Compliance History Classification:** __High _X_Avg. __Poor **Major Source:** _X_ Yes ___ No **Applicable Penalty Policy:** September 2002 **Findings Order Justification:** Three repeated enforcement actions over the prior five year period for the same or similar violations.	**Ordering Provisions:** 1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
5) Failed to prevent unauthorized emissions from EPN 32 which occurred on May 11, 2004 [30 TEX. ADMIN. CODE §§ 111.111(a)(1)(B) and 116.115(c) and Permit No. 48455, Special Conditions 1 and 7, and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 6) Failed to prevent unauthorized emissions from EPN 12 which occurred on May 29, 2004 [30 TEX. ADMIN. CODE §§ 111.111(a)(1)(B) and 116.115(c) and Permit No. 48455, Special Conditions 1 and 7, and TEX. HEALTH & SAFETY CODE § 382.085(b)].		

Attachment A
Docket Number: 2004-1982-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Sherwin Alumina, L.P.**
Payable Penalty Amount:	**Twenty Thousand Four Hundred Eighty-Eight Dollars ($20,488)**
SEP Amount:	**Ten Thousand Two Hundred Forty-Four Dollars ($10,244)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**University of Texas-Corpus Christi Air Monitoring and Surveillance Camera Installation and Operation**
Location of SEP:	**Nueces County**

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent will contribute to The University of Texas' Corpus Christi Air Monitoring and Surveillance Camera Installation and Operation in Nueces County. The contribution will be used in accordance with the ***Supplemental Environmental Project Agreement between the University of Texas and the Texas Commission on Environmental Quality***. The University of Texas will install, maintain, and operate an air monitoring and surveillance camera network along the Corpus Christi ship channel to record the concentrations of specific air pollutants along the industrial area. At least seven air monitoring stations and two surveillance cameras will be installed along the ship channel. The air monitoring stations will record concentrations of hydrogen sulfide, (total reduced sulfur), sulfur dioxide and volatile organic compounds including benzene and meteorological data. Data and images obtained from the monitors will be made available to the public via the TCEQ website as soon as possible after it becomes available electronically, depending on the type on monitor.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing measurement of concentrations of certain air pollutants and an evaluation of those air pollutants being emitted. The information obtained from this network will provide the community with more knowledge of the types and quantities of pollutants emitted from the industries along the Corpus Christi ship channel.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

The University of Texas at Austin
Mr. Bobby McQuiston, Director
Office of Sponsored Projects
P.O. Box 7726, MC A9000
Austin, Texas 78712-7726

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) *PCW Revision May 17, 2004*

TCEQ

DATES

PCW	04-Mar-2005	Screening	19-Nov-2004	Priority Due	18-Jan-2005	EPA Due	01-Sep-2005

RESPONDENT/FACILITY INFORMATION

Respondent	Sherwin Alumina, L.P.		
Reg. Ent. Ref. No.	RN102318847		
Additional ID No(s).	Air Account No. SD0037N		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Major Source

CASE INFORMATION

Enf./Case ID No.	22342	No. of Violations	6
Docket No.	2004-1982-AIR-E	Order Type	Findings
Case Priority	2 (SNC/HPV)	Enf. Coordinator	Audra L. Ruble
Media Program(s)	Air Quality	EC's Team	Enforcement Team 8
Multi-Media			
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $10,400

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 97% Enhancement *Subtotals 2, 3, & 7* $10,088

Notes: The Respondent has two 1660 orders (Docket No. 2003-0008-AIR-E, effective 12/21/03 and Docket No. 2002-0115-AIR-E, effective 8/22/02), 11 previous same or similar NOVs dated 4/11/03, 6/24/03, 2/22/00, 4/28/00, 6/19/00, 10/12/00, 8/9/01, 11/20/01, 7/17/02, 2/20/04, and 3/23/04 and one previous non-similar NOV dated 6/1/01.

Culpability No 0% Enhancement *Subtotal 4* $0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction *Subtotal 5* $0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	*(mark with a small x)*

Notes: These are past events with no opportunity to comply.

Economic Benefit 0% Enhancement* *Subtotal 6* $0

**Capped at the Total EB $ Amount*

Total EB Amounts	$83
Approx. Cost of Compliance	$1,700

SUM OF SUBTOTALS 1-7 Final Subtotal $20,488

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment $0

Reduces or enhances the Final Subtotal by the indicated percentage. *(Enter number only; e.g. -30 for -30%.)*

Notes:

Final Penalty Amount $20,488

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty $20,488

DEFERRAL Reduction Adjustment $0

Reduces the Final Assessed Penalty by the indicted percentage. *(Enter number only; e.g. 20 for 20% reduction.)*

Notes: No deferral is recommended because this is a findings order.

PAYABLE PENALTY $20,488

Screening Date 19-Nov-2004 **Docket No.** 2004-1982-AIR-E **PCW**
Respondent Sherwin Alumina, L.P. *Policy Revision 2 (September 2002)*
Case ID No. 22342 *PCW Revision May 17, 2004*
Reg. Ent. Reference No. RN102318847
Additional ID No(s). Air Account No. SD0037N
Media [Statute] Air Quality
Enf. Coordinator Audra L. Ruble
Site Address 1.5 miles Southeast of intersection of State Highways 361 and 35, near Gregory, San Patricio County

Compliance History Worksheet

>> **Compliance History *Site* Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action *(number of NOVs meeting criteria)*	11	55%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability *(number of orders meeting criteria)*	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government *(number of judgements or consent decrees meeting criteria)*	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government *(number of counts)*	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which violations were disclosed)*	0	0%

		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) **97%**

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) **0%**

>> **Compliance History *Person* Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) **0%**

>> **Compliance History Summary**

Compliance History Notes

The Respondent has two 1660 orders (Docket No. 2003-0008-AIR-E, effective 12/21/03 and Docket No. 2002-0115-AIR-E, effective 8/22/02), 11 previous same or similar NOVs dated 4/11/03, 6/24/03, 2/22/00, 4/28/00, 6/19/00, 10/12/00, 8/9/01, 11/20/01, 7/17/02, 2/20/04, and 3/23/04 and one previous non-similar NOV dated 6/1/01.

Total Adjustment Percentage (Subtotals 2, 3, & 7) **97%**

Screening Date 19-Nov-2004 **Docket No.** 2004-1982-AIR-E **PCW**

Respondent Sherwin Alumina, L.P. *Policy Revision 2 (September 2002)*

Case ID No. 22342 *PCW Revision May 17, 2004*

Reg. Ent. Reference No. RN102318847

Additional ID No(s). Air Account No. SD0037N

Media [Statute] Air Quality

Enf. Coordinator Audra L. Ruble

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 101.201(a)(2)(I)

Secondary Rule Cite(s) Tex. Health & Safety Code § 382.085(b)

Violation Description Failure to meet the minimum reporting requirements for a reportable emissions event which occurred on July 7, 2004. Specifically, the Respondent failed to adequately report the cause of the emissions event for Emission Point Number ("EPN") 12.

Base Penalty $10,000

>> **Environmental, Property and Human Health Matrix**

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

OR

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes: 1 out of 10 reporting requirements was not met.

Adjustment -$9,900

Base Penalty Subtotal $100

Violation Events

Number of Violation Events 1

mark only one use a small x	
daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $100

One single event is recommended based on the July 7, 2004 notification, as documented during a record review conducted on October 4, 2004.

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $197

This violation Final Assessed Penalty (adjusted for limits) $197

Economic Benefit Worksheet

Respondent Sherwin Alumina, L.P.
Case ID No. 22342
Reg. Ent. Reference No. RN102318847
Additional ID No(s). Air Account No. SD0037N
Media [Statute] Air Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs							
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling	$100	07-Jul-2004	08-Jul-2004	0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs	Estimated cost to submit a correct notification.						

Approx. Cost of Compliance $100

TOTAL $0

Screening Date 19-Nov-2004 **Docket No.** 2004-1982-AIR-E **PCW**

Respondent Sherwin Alumina, L.P. *Policy Revision 2 (September 2002)*

Case ID No. 22342 *PCW Revision May 17, 2004*

Reg. Ent. Reference No. RN102318847

Additional ID No(s). Air Account No. SD0037N

Media [Statute] Air Quality

Enf. Coordinator Audra L. Ruble

Violation Number 2

Primary Rule Cite(s) 30 Tex. Admin. Code §§ 111.111(a)(1)(B) and 116.115(c) and Permit No. 48455, Special Conditions 1 and 7

Secondary Rule Cite(s) Tex. Health & Safety Code § 382.085(b)

Violation Description Failure to prevent unauthorized emissions from EPN 12 which occurred on July 7, 2004. Data results from the emissions event show that the Plant emitted 236 lbs of Particulate Matter ("PM") and 69% opacity during the 18 minute event. The emission limits are 9.76 lbs/hr for PM and 20% for opacity, respectively. Because the emissions were avoidable, the emissions do not meet the demonstrations in 30 Tex. Admin. Code § 101.222 and are not subject to an affirmative defense under 30 Tex. Admin. Code § 101.222(b)(1-11).

Base Penalty $10,000

>> **Environmental, Property and Human Health Matrix**

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

OR

Percent 25%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: The emissions event resulted in the release of an insignificant amount of pollutants.

Adjustment -$7,500

Base Penalty Subtotal $2,500

Violation Events

Number of Violation Events 1

mark only one use a small x	
daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $2,500

One single event is recommended based on the July 7, 2004 emissions event, as documented during the record review conducted on October 4, 2004.

Economic Benefit (EB) for this violation

Estimated EB Amount $1

Statutory Limit Test

Violation Final Penalty Total $4,925

This violation Final Assessed Penalty (adjusted for limits) $4,925

Economic Benefit Worksheet

Respondent Sherwin Alumina, L.P.
Case ID No. 22342
Reg. Ent. Reference No. RN102318847
Additional ID No(s). Air Account No. SD0037N
Media [Statute] Air Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs							
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel	$500	07-Jul-2004	08-Jul-2004	0.0	$0	$1	$1
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs	Estimated cost to have staff properly trained on the operations of the unit.						

Approx. Cost of Compliance $500

TOTAL $1

Screening Date 19-Nov-2004 **Docket No.** 2004-1982-AIR-E **PCW**

Respondent Sherwin Alumina, L.P. *Policy Revision 2 (September 2002)*

Case ID No. 22342 *PCW Revision May 17, 2004*

Reg. Ent. Reference No. RN102318847

Additional ID No(s). Air Account No. SD0037N

Media [Statute] Air Quality

Enf. Coordinator Audra L. Ruble

Violation Number 3

Primary Rule Cite(s) 30 Tex. Admin. Code § 101.201(a)(2)(H)

Secondary Rule Cite(s) Tex. Health & Safety Code § 382.085(b)

Violation Description Failure to meet the minimum reporting requirements for reportable emissions events which occurred on August 31, 2003, May 11, and May 29, 2004. Specifically, the Respondent failed to correctly report the Authorized Emissions Limit for PM for EPNs 32 and 12.

Base Penalty $10,000

>> **Environmental, Property and Human Health Matrix**

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

OR

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes: 1 out of 10 reporting requirements was not met.

Adjustment -$9,900

Base Penalty Subtotal $100

Violation Events

Number of Violation Events 3

mark only one use a small x	
daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $300

Three single events are recommended based on the September 1, 2003, and the May 12 and 29, 2004 notifications, as documented during record reviews conducted on October 19 and 21, 2004.

Economic Benefit (EB) for this violation

Estimated EB Amount $78

Statutory Limit Test

Violation Final Penalty Total $591

This violation Final Assessed Penalty (adjusted for limits) $591

Economic Benefit Worksheet

Respondent Sherwin Alumina, L.P.
Case ID No. 22342
Reg. Ent. Reference No. RN102318847
Additional ID No(s). Air Account No. SD0037N
Media [Statute] Air Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs							
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling	$100	31-Aug-2003	29-May-2004	0.7	$4	$75	$78
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs	Estimated cost to submit a correct notification.						

Approx. Cost of Compliance $100

TOTAL $78

Screening Date 19-Nov-2004 **Docket No.** 2004-1982-AIR-E **PCW**

Respondent Sherwin Alumina, L.P. *Policy Revision 2 (September 2002)*

Case ID No. 22342 *PCW Revision May 17, 2004*

Reg. Ent. Reference No. RN102318847

Additional ID No(s). Air Account No. SD0037N

Media [Statute] Air Quality

Enf. Coordinator Audra L. Ruble

Violation Number 4

Primary Rule Cite(s) 30 Tex. Admin. Code §§ 111.111(a)(1)(B) and 116.115(c) and Permit No. 48455, Special Conditions 1 and 7

Secondary Rule Cite(s) Tex. Health & Safety Code § 382.085(b)

Violation Description Failure to prevent unauthorized emissions from EPN 32 which occurred on August 31, 2003. Data results from the emissions event show that the Facility emitted 430 lbs of PM and 76% opacity during the 3 hour 46 minute event. The emission limits are 9.76 lbs/hr for PM and 20% for opacity, respectively. Because the emissions were caused by operator error, the emissions do not meet the demonstrations in 30 Tex. Admin. Code § 101.222 and are not subject to an affirmative defense under 30 Tex. Admin. Code § 101.222(b)(1-11).

Base Penalty $10,000

>> **Environmental, Property and Human Health Matrix**

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

OR

Percent 25%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: The emissions event resulted in the release of an insignificant amount of pollutants.

Adjustment -$7,500

Base Penalty Subtotal $2,500

Violation Events

Number of Violation Events 1

mark only one use a small x	
daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $2,500

One single event is recommended based on the August 31, 2003 emissions event, as documented during the record review conducted on October 19, 2004.

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $4,925

This violation Final Assessed Penalty (adjusted for limits) $4,925

Economic Benefit Worksheet

Respondent Sherwin Alumina, L.P.
Case ID No. 22342
Reg. Ent. Reference No. RN102318847
Additional ID No(s). Air Account No. SD0037N
Media [Statute] Air Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	Economic benefit addressed under violation 2.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance $0

TOTAL $0

Screening Date 19-Nov-2004 **Docket No.** 2004-1982-AIR-E **PCW**

Respondent Sherwin Alumina, L.P. *Policy Revision 2 (September 2002)*

Case ID No. 22342 *PCW Revision May 17, 2004*

Reg. Ent. Reference No. RN102318847

Additional ID No(s). Air Account No. SD0037N

Media [Statute] Air Quality

Enf. Coordinator Audra L. Ruble

Violation Number 5

Primary Rule Cite(s) 30 Tex. Admin. Code §§ 111.111(a)(1)(B) and 116.115(c) and Permit No. 48455, Special Conditions 1 and 7

Secondary Rule Cite(s) Tex. Health & Safety Code § 382.085(b)

Violation Description Failure to prevent unauthorized emissions from EPN 32 which occurred on May 11, 2004. Data results from the emissions event show that the Plant emitted 24 lbs of PM and 63% opacity during the 12 minute event. The emission limits are 5 lbs/hr for PM and 20% for opacity, respectively. Because the emissions were caused by operator error, the emissions do not meet the demonstrations in 30 Tex. Admin. Code § 101.222 and are not subject to an affirmative defense under 30 Tex. Admin. Code § 101.222(b)(1-11).

Base Penalty $10,000

>> **Environmental, Property and Human Health Matrix**

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 25%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: The emissions event resulted in the release of an insignificant amount of pollutants.

Adjustment -$7,500

Base Penalty Subtotal $2,500

Violation Events

Number of Violation Events 1

mark only one use a small x	
daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $2,500

One single event is recommended based on the May 11, 2004 emissions event, as documented during the record review conducted on October 21, 2004.

Economic Benefit (EB) for this violation

Estimated EB Amount $1

Statutory Limit Test

Violation Final Penalty Total $4,925

This violation Final Assessed Penalty (adjusted for limits) $4,925

Economic Benefit Worksheet

Respondent Sherwin Alumina, L.P.
Case ID No. 22342
Reg. Ent. Reference No. RN102318847
Additional ID No(s). Air Account No. SD0037N
Media [Statute] Air Quality
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs							
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel	$500	11-May-2004	12-May-2004	0.0	$0	$1	$1
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs	Estimated cost to have staff properly trained on the operations of the unit.						

Approx. Cost of Compliance $500

TOTAL $1

Screening Date 19-Nov-2004 **Docket No.** 2004-1982-AIR-E **PCW**

Respondent Sherwin Alumina, L.P. *Policy Revision 2 (September 2002)*

Case ID No. 22342 *PCW Revision May 17, 2004*

Reg. Ent. Reference No. RN102318847

Additional ID No(s). Air Account No. SD0037N

Media [Statute] Air Quality

Enf. Coordinator Audra L. Ruble

Violation Number 6

Primary Rule Cite(s) 30 Tex. Admin. Code §§ 111.111(a)(1)(B) and 116.115(c) and Permit No. 48455, Special Conditions 1 and 7

Secondary Rule Cite(s) Tex. Health & Safety Code § 382.085(b)

Violation Description Failure to prevent unauthorized emissions from EPN 12 which occurred on May 29, 2004. Data results from the emissions event show that 197 lbs of PM were emitted and opacity was at 85% during the 24 minute period. The emission limits are 9.76 lbs/hr and 20% for opacity, respectively. Because the emissions were avoidable and inaccurately reported, the emissions do not meet the demonstrations in 30 Tex. Admin. Code § 101.222 and are not subject to an affirmative defense under 30 Tex. Admin. Code § 101.222(b)(1-11).

Base Penalty $10,000

>> **Environmental, Property and Human Health Matrix**

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 25%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: The emissions event resulted in the release of an insignificant amount of pollutants.

Adjustment -$7,500

Base Penalty Subtotal $2,500

Violation Events

Number of Violation Events 1

mark only one, use a small x	
daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $2,500

One single event is recommended based on the May 29, 2004 emissions event, as documented during the record review conducted on October 19, 2004.

Economic Benefit (EB) for this violation

Estimated EB Amount $1

Statutory Limit Test

Violation Final Penalty Total $4,925

This violation Final Assessed Penalty (adjusted for limits) $4,925

Economic Benefit Worksheet

Respondent Sherwin Alumina, L.P.
Case ID No. 22342
Reg. Ent. Reference No. RN102318847
Additional ID No(s). Air Account No. SD0037N
Media [Statute] Air Quality
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs							
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel	$500	29-May-2004	30-May-2004	0.0	$0	$1	$1
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs	Estimated cost to have staff properly trained on the operations of the unit.						

Approx. Cost of Compliance $500

TOTAL $1

Compliance History

Customer/Respondent/Owner-Operator:	CN601573371	Sherwin Alumina, L.P.	Classification: AVERAGE	Rating: 3.450
Regulated Entity:	RN102318847	SHERWIN ALUMINA GREGORY	Classification: AVERAGE	Site Rating: 3.89

ID Number(s):

AIR OPERATING PERMITS	ACCOUNT NUMBER	SD0037N
AIR OPERATING PERMITS	PERMIT	1489
PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	2050048
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD008129983
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30097
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	SD0037N
AIR NEW SOURCE PERMITS	PERMIT	19732
AIR NEW SOURCE PERMITS	PERMIT	45841
AIR NEW SOURCE PERMITS	PERMIT	48455
AIR NEW SOURCE PERMITS	PERMIT	52442
AIR NEW SOURCE PERMITS	PERMIT	4971
AIR NEW SOURCE PERMITS	PERMIT	5705
AIR NEW SOURCE PERMITS	PERMIT	5706
AIR NEW SOURCE PERMITS	PERMIT	11189
AIR NEW SOURCE PERMITS	PERMIT	12930
AIR NEW SOURCE PERMITS	PERMIT	16394
AIR NEW SOURCE PERMITS	PERMIT	18163
AIR NEW SOURCE PERMITS	PERMIT	18164
AIR NEW SOURCE PERMITS	PERMIT	32054
AIR NEW SOURCE PERMITS	PERMIT	40357
AIR NEW SOURCE PERMITS	PERMIT	45952
AIR NEW SOURCE PERMITS	PERMIT	46868
AIR NEW SOURCE PERMITS	PERMIT	53656
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	0005
AIR NEW SOURCE PERMITS	AFS NUM	4840900005
USED OIL	REGISTRATION	COU0035
WASTEWATER	PERMIT	WQ0004646000
WASTEWATER	EPA ID	TX0125989
WASTEWATER	PERMIT	TX0125989
WATER LICENSING	LICENSE	2050048
PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	41391
WASTE WATER GENERAL PERMIT	PERMIT	2E0000056

Location: State Hwy 361 - 1.5 miles SE of intersection of SH 361 and SH 35 near the city of Gregory in San Patricio County. Rating Date: September 01 06 Repeat Violator: NO

TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: February 08, 2005

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 19, 1999 to November 19, 2004

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Audra Ruble Phone: 361-825-3126

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Sherwin Alumina, L.P.
   United States Maritime Services
   Sherwin Alumina LP DBA Sherwin Alumina Co
4. if Yes, who was/were the prior owner(s)? BPU Reynolds
5. When did the change(s) in ownership occur? 08/01/2001

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 08/22/2002 ADMINORDER 2002-0115-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.8[G]
40 CFR Part 60, Subpart LL 60.386(a)
40 CFR Part 60, Subpart LL 60.386(b)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Spec. Prov. 1 PERMIT

Description: Failure to conduct a performance test and determine compliance with the particulate matter standards on two baghouse stacks, emission point numbers (EPNs) 57 & 59.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Spec. Prov. 3 PERMIT

Description: Failure to comply with the CO emission limits for the hydrate dryer baghouse.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(4)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to construct a trench burner in undisturbed soil not previously excavated, built up, compacted, or used in any type of landfill operation.

Effective Date: 12/21/2003 ADMINORDER 2003-0008-AIR-E

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SC 1 PERMIT

Description: Failure to maintain particluate matter (PM) emissions from the number 2 Flash Calciner (EPN 80) at or below the permitted allowable emissions limit on May 15 and June 19, 2002.

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SC 1 PERMIT

Description: Failure to maintain volatile organic compound (VOC) emissions from the number 2 Flash Calciner (EPN 80) at or below the permitted allowable emissions limit on May 15, 2002.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	12/28/1999	(125593)
2	02/08/2000	(125594)
3	02/14/2000	(125595)
4	02/28/2000	(125596)
5	03/15/2000	(125599)
6	03/15/2000	(125598)
7	03/15/2000	(125597)
8	05/01/2000	(125601)
9	05/01/2000	(125600)
10	06/09/2000	(125602)
11	06/15/2000	(125603)
12	10/12/2000	(125605)
13	10/12/2000	(125604)
14	11/06/2000	(125608)
15	11/06/2000	(125607)
16	11/06/2000	(125606)
17	01/11/2001	(125609)
18	02/08/2001	(125611)
19	02/08/2001	(125610)
20	02/09/2001	(125615)
21	02/09/2001	(125614)
22	02/09/2001	(125613)
23	02/09/2001	(125612)
24	02/12/2001	(125616)
25	02/20/2001	(125617)

26 05/30/2001 (282354)
27 06/04/2001 (125619)
28 06/04/2001 (125618)
29 07/02/2001 (125620)
30 07/26/2001 (125621)
31 08/15/2001 (125622)
32 09/07/2001 (125623)
33 10/24/2001 (125625)
34 10/24/2001 (125624)
35 11/21/2001 (125627)
36 12/04/2001 (125626)
37 02/06/2002 (125628)
38 02/07/2002 (125629)
39 03/26/2002 (125630)
40 04/29/2002 (125631)
41 05/20/2002 (125632)
42 06/25/2002 (125633)
43 07/17/2002 (125634)
44 07/17/2002 (125635)
45 09/20/2002 (11581)
46 10/02/2002 (12075)
47 10/02/2002 (10854)
48 10/02/2002 (12605)
49 10/09/2002 (11365)
50 10/09/2002 (11364)
51 10/09/2002 (13474)
52 10/21/2002 (286289)
53 12/05/2002 (15969)
54 04/11/2003 (29652)
55 06/02/2003 (36300)
56 06/23/2003 (112999)
57 01/15/2004 (283363)
58 02/27/2004 (258206)
59 02/27/2004 (258573)
60 02/27/2004 (258883)
61 02/27/2004 (258570)
62 03/23/2004 (264197)
63 05/24/2004 (272692)
64 11/04/2004 (338551)
65 11/04/2004 (337825)
66 11/04/2004 (338712)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 02/22/2000 (125596)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
Rqmt Prov: OP PPSC1
Description: Failure to Comply
Date: 04/28/2000 (125601)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter A 101.6[G]
Description: MAJOR UPSETS
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.11[G]
Description: EXEMPT UNAUTH EMISSION
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
Rqmt Prov: OP PPSP4
Description: OPACITY LIMITS
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
Description: OPACITY LIMITS
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)[G]
Description: OPACITY LIMITS
Date: 06/19/2000 (125603)
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.4
Description: Failure to Comply
Date: 10/12/2000 (125604)

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)[G]
Description: NOT AUTHOR. FOR CONST.
Date: 06/01/2001 (125618)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.4
Description: NUISANCE ODOR COND.
Date: 11/20/2001 (125627)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
Rqmt Prov: OP PP4
Description: FAIL AUTHOR EMMISSIONS
Date: 07/17/2002 (125634)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
Rqmt Prov: OP PP4 &13
Description: Failure to Comply

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)[G]
Description: Failure to Comply

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.6[G]
Description: Failure to Comply

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
Rqmt Prov: OP PP5
Description: Failure to Comply
Date: 04/11/2003 (29652)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)
30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT UUU 60.730(a)
Description: Emissions event (March 13, 2003) NOV for failure to gain authorization or exemption from limitations for emissions released during an emission event on March 13, 2003.

Date: 06/24/2003 (112999)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)
30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT UUU 60.732(b)
Rqmt Prov: PA Permit 19732, GC and SC No. 4
Description: Failure to obtain regulatory authority for, or satisfy all criteria of 30 Texas Admin. Code §101.222 to exempt from compliance limitations, the emissions released during an emissions event on May 17, 2003.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
Description: Failure to submit notification of an emissions event in a timely manner.

Date: 02/20/2004 (258573)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
Description: Failure to notify the TCEQ within 24 hours after the discovery of a reportable emissions event.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 116, SubChapter B 116.115(c)
Rqmt Prov: PA 19732
Description: Failure to comply with the stated Maximum Allowable Emission Rates of Air Quality Permit No. 19732.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B)
30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT UUU 60.732(b)
Rqmt Prov: PA 19732
Description: Failure to comply with the applicable opacity limitations.

Date: 08/09/2001 (125622)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1) Rqmt Prov: OP I
Description: Failure to Comply
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c) Rqmt Prov: OP IA
Description: Failure to Comply
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)[G]
Description: Failure to Comply

Date: 03/23/2004 (264197)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
Description: Failure to provide rule required information in regards to a reportable emissions event to the Commission's regional office within 24 hours of discovery.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
Rqmt Prov: PERMIT 48455
Description: Failure to obtain regulatory authority or meet the demonstration requirements of 30 TAC 101.222 regarding emissions and opacity limitations involving the No. 8 Kiln during an emissions event which began on January 6, 2004.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(g)
Description: Failure to submit the emissions event final record electronically via Web STEERS for an emissions event involving the No. 8 Kiln which began on January 6, 2004.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	
SHERWIN ALUMINA, L.P.	§	**TEXAS COMMISSION ON**
AIR ACCOUNT NO. SD0037N	§	
RN102318847	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2004-1982-AIR-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Sherwin Alumina, L.P. ("Sherwin") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Sherwin presented this agreement to the Commission.

Sherwin understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Sherwin agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon Sherwin.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. Sherwin owns and operates a bauxite refining facility located at 1.5 miles southeast of the intersection of State Highways 361 and 35, near Gregory, San Patricio County, Texas (the "Plant").

2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).

3. During a record review conducted on October 4, 2004, TCEQ Regional Office staff documented that Sherwin failed to meet the minimum reporting requirements for a reportable emissions event which

occurred on July 7, 2004. Specifically, Sherwin failed to adequately report the cause of the emissions event for Emissions Point Number ("EPN") 12.

4. During a record review conducted on October 4, 2004, TCEQ staff documented that Sherwin failed to prevent unauthorized emissions from EPN 12 which occurred on July 7, 2004. Data results from the emissions event show that the Plant emitted 236 lbs of Particulate Matter ("PM") and 69% opacity during the 18 minute event. The emission limits are 9.76 lbs/hr for PM and 20% for opacity, respectively. Because the emissions were avoidable, the emissions do not meet the demonstrations in 30 TEX. ADMIN. CODE § 101.222 and are not subject to an affirmative defense under 30 TEX. ADMIN. CODE § 101.222(b)(1-11).

5. During record reviews conducted on October 19 and 21, 2004, TCEQ staff documented that Sherwin failed to meet the minimum reporting requirements for reportable emissions events which occurred on August 31, 2003, and May 11 and May 29, 2004. Specifically, Sherwin failed to correctly report the Authorized Emissions Limit for PM for EPN 32.

6. During a record review conducted on October 19, 2004, TCEQ staff documented that Sherwin failed to prevent unauthorized emissions from EPN 32 which occurred on August 31, 2003. Data results from the emissions event show that the Plant emitted 430 lbs of PM and 76% opacity during the 3 hour 46 minute event. The emission limits are 9.76 lbs/hr for PM and 20% for opacity, respectively. Because the emissions were caused by operator error, the emissions do not meet the demonstrations in 30 TEX. ADMIN. CODE § 101.222 and are not subject to an affirmative defense under 30 TEX. ADMIN. CODE § 101.222(b)(1-11).

7. During a record review conducted on October 21, 2004, TCEQ staff documented that Sherwin failed to prevent unauthorized emissions from EPN 32 which occurred on May 11, 2004. Data results from the emissions event show that the Plant emitted 24 lbs of PM and 63% opacity during the 12 minute event. The emission limits are 5 lbs/hr for PM and 20% for opacity, respectively. Because the emissions were caused by operator error, the emissions do not meet the demonstrations in 30 TEX. ADMIN. CODE § 101.222 and are not subject to an affirmative defense under 30 TEX. ADMIN. CODE § 101.222(b)(1-11).

8. During a record review conducted on October 19, 2004, TCEQ staff documented that Sherwin failed to prevent unauthorized emissions from EPN 12 which occurred on May 29, 2004. Data results from the emissions event show that 197 lbs of PM were emitted and opacity was at 85% during the 24 minute period. The emission limits are 9.76 lbs/hr and 20% for opacity, respectively. Because the emissions were avoidable and inaccurately reported, the emissions do not meet the demonstrations in 30 TEX. ADMIN. CODE § 101.222 and are not subject to an affirmative defense under 30 TEX. ADMIN. CODE § 101.222(b)(1-11).

9. Sherwin received notice of the violations on November 5, 2004.

II. CONCLUSIONS OF LAW

1. Sherwin is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE § 7.002, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the Commission.

2. As evidenced by Finding of Fact No. 3, Sherwin failed to meet the minimum reporting requirements for a reportable emissions event which occurred on July 7, 2004, in violation of 30 TEX. ADMIN. CODE § 101.201(a)(2)(I) and TEX. HEALTH & SAFETY CODE § 382.085(b).

3. As evidenced by Finding of Fact No. 4, Sherwin failed to prevent unauthorized emissions from EPN 12 which occurred on July 7, 2004, in violation of 30 TEX. ADMIN. CODE §§ 111.111(a)(1)(B) and 116.115(c) and Permit No. 48455, Special Conditions 1 and 7, and TEX. HEALTH & SAFETY CODE § 382.085(b).

4. As evidenced by Finding of Fact No. 5, Sherwin failed to meet the minimum reporting requirements for reportable emissions events which occurred on August 31, 2003, and May 11 and 29, 2004, in violation of 30 TEX. ADMIN. CODE § 101.201(a)(2)(H) and TEX. HEALTH & SAFETY CODE § 382.085(b).

5. As evidenced by Finding of Fact No. 6, Sherwin failed to prevent unauthorized emissions from EPN 32 which occurred on August 31, 2003, in violation of 30 TEX. ADMIN. CODE §§ 111.111(a)(1)(B) and 116.115(c) and Permit No. 48455, Special Conditions 1 and 7, and TEX. HEALTH & SAFETY CODE § 382.085(b).

6. As evidenced by Finding of Fact No. 7, Sherwin failed to prevent unauthorized emissions from EPN 32 which occurred on May 11, 2004, in violation of 30 TEX. ADMIN. CODE §§ 111.111(a)(1)(B) and 116.115(c) and Permit No. 48455, Special Conditions 1 and 7, and TEX. HEALTH & SAFETY CODE § 382.085(b).

7. As evidenced by Finding of Fact No. 8, Sherwin failed to prevent unauthorized emissions from EPN 12 which occurred on May 29, 2004, in violation of 30 TEX. ADMIN. CODE §§ 111.111(a)(1)(B) and 116.115(c) and Permit No. 48455, Special Conditions 1 and 7, and TEX. HEALTH & SAFETY CODE § 382.085(b).

8. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Sherwin for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

9. An administrative penalty in the amount of Twenty Thousand Four Hundred Eighty-Eight Dollars ($20,488) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Sherwin has paid Ten Thousand Two Hundred Forty-Four Dollars ($10,244) of the administrative penalty. Ten Thousand Two Hundred Forty-Four Dollars ($10,244) shall be conditionally offset by Sherwin's completion of a Supplemental Environmental Project.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Sherwin is assessed an administrative penalty in the amount of Twenty Thousand Four Hundred Eighty-Eight Dollars ($20,488), as set forth in Section II, Paragraph 9 above, for violations of TCEQ rules and state statutes. The imposition of this administrative penalty and Sherwin's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Sherwin Alumina, L.P., Docket No. 2004-1982-AIR-E" to:

   Financial Administration Division, Revenues Section
   Attention: Cashier's Office, MC 214
   Texas Commission on Environmental Quality
   P.O. Box 13088
   Austin, Texas 78711-3088

2. Sherwin shall implement and complete a Supplemental Environmental Project (SEP) in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 9, Ten Thousand Two Hundred Forty-Four Dollars ($10,244) of the assessed administrative penalty shall be offset with the condition that Sherwin implement the SEP defined in Attachment A, incorporated herein by reference. Sherwin's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. The provisions of this Agreed Order shall apply to and be binding upon Sherwin. Sherwin is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.

4. If Sherwin fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Sherwin's failure to comply is not a violation of this Agreed Order. Sherwin shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Sherwin shall notify the Executive Director within seven days after Sherwin becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Sherwin shall be made in writing to the Executive Director. Extensions are not effective until Sherwin receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Sherwin if the Executive Director determines that Sherwin has not complied with one or more of the terms or conditions in this Agreed Order.

7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

8. This Agreed Order, issued by the Commission, shall not be admissible against Sherwin in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

9. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

For the Executive Director

5/24/07
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Sherwin Alumina, L.P. I am authorized to agree to the attached Agreed Order on behalf of Sherwin Alumina, L.P., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Sherwin Alumina, L.P. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature

February 3, 2007
Date

FRANK N. NEWCHURCH III
Name (printed or typed)
Authorized Representative
Sherwin Alumina, L.P.

VP ENGR & ENV
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Ordering Provision 1 of this Agreed Order.

Attachment A
Docket Number: 2004-1982-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Sherwin Alumina, L.P.**
Payable Penalty Amount:	**Twenty Thousand Four Hundred Eighty-Eight Dollars ($20,488)**
SEP Amount:	**Ten Thousand Two Hundred Forty-Four Dollars ($10,244)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**University of Texas-Corpus Christi Air Monitoring and Surveillance Camera Installation and Operation**
Location of SEP:	**Nueces County**

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent will contribute to The University of Texas' Corpus Christi Air Monitoring and Surveillance Camera Installation and Operation in Nueces County. The contribution will be used in accordance with the ***Supplemental Environmental Project Agreement between the University of Texas and the Texas Commission on Environmental Quality***. The University of Texas will install, maintain, and operate an air monitoring and surveillance camera network along the Corpus Christi ship channel to record the concentrations of specific air pollutants along the industrial area. At least seven air monitoring stations and two surveillance cameras will be installed along the ship channel. The air monitoring stations will record concentrations of hydrogen sulfide, (total reduced sulfur), sulfur dioxide and volatile organic compounds including benzene and meteorological data. Data and images obtained from the monitors will be made available to the public via the TCEQ website as soon as possible after it becomes available electronically, depending on the type on monitor.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing measurement of concentrations of certain air pollutants and an evaluation of those air pollutants being emitted. The information obtained from this network will provide the community with more knowledge of the types and quantities of pollutants emitted from the industries along the Corpus Christi ship channel.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

The University of Texas at Austin
Mr. Bobby McQuiston, Director
Office of Sponsored Projects
P.O. Box 7726, MC A9000
Austin, Texas 78712-7726

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.