

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2008-0766-AIR-E **TCEQ ID:** RN102318847 **CASE NO.:** 35848
RESPONDENT NAME: Sherwin Alumina, L.P.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Sherwin Alumina Gregory, 4633 Highway 361, Corpus Christi, San Patricio County</p> <p>TYPE OF OPERATION: Industrial inorganic chemical manufacturing facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on November 10, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768 TCEQ Enforcement Coordinator: Mr. John Muennink, Enforcement Division, Enforcement Team 5, MC R-14, (361) 825-3423; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Tom Russell, Plant Manager, Sherwin Alumina, L.P., P.O. Box 9911, Corpus Christi, Texas 78469 Mr. Jerry L. Hooper, Jr., Director, Services, Sherwin Alumina, L.P., P.O. Box 9911, Corpus Christi, Texas 78469 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: March 27 through April 15, 2008</p> <p>Date of NOV/NOE Relating to this Case: April 23, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>1) Failure to adhere to permit limitations for opacity emissions and permitted limits for particulate matter. Specifically, TCEQ Air Permit 48455 states that opacity emissions from the Kiln 8 electrostatic precipitator ("ESP") stack shall not exceed 20% averaged over a six-minute period, and the quantity of emissions released from the Kiln 8 ESP stack shall not exceed 9.76 pounds per hour ("lbs/hr"). On January 15, 2008, the Kiln 8 ESP stack was documented to be operating at 99.1% opacity over a 20 minute period and released 55 lbs of alumina hydrate dust (Incident No. 102506). Since this emissions event was avoidable, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met [30 TEX. ADMIN. CODE §§ 116.115(c), 111.111(a)(4), and 116.615, TEX. HEALTH & SAFETY CODE § 382.085(b), TCEQ Air Permit No. 48455, Special Condition Nos. 1 and 7, and Federal Operating Permit O-01489, Special Terms and Conditions No. 14].</p> <p>2) Failure to adhere to permit limitations for opacity emissions and permitted limits for particulate matter. Specifically, TCEQ Air Permit 48455 states that opacity emissions from the Kiln 8 ESP stack shall not exceed 20% averaged over a six-minute period, and the quantity of emissions released from the Kiln 8 ESP stack shall not exceed 9.76 lbs/hr. On January 22, 2008, the Kiln 8 ESP stack was documented to be operating at 44.9%</p>	<p>Total Assessed: \$23,200</p> <p>Total Deferred: \$4,640 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$9,280</p> <p>Total Paid to General Revenue: \$9,280</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Within 90 days after the effective date of this Agreed Order, implement measures designed to prevent the reoccurrence of emissions due to the same causes as that of the January 15 and 22, 2008 and March 6 and 10, 2008 emissions events (Incident Nos. 102506, 102781, 104674 and 104803); and</p> <p>b. Within 105 days after the effective date of this Agreed Order, submit written certification to demonstrate compliance with Ordering Provision No. 2.a.</p>

opacity over a 13 minute period and released 16.9 lbs of alumina hydrate dust (Incident No. 102781). Since this emissions event was avoidable, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met [30 TEX. ADMIN. CODE §§ 116.115(c), 111.111(a)(4), and 116.615, TEX. HEALTH & SAFETY CODE § 382.085(b), TCEQ Air Permit No. 48455, Special Condition Nos. 1 and 7, and Federal Operating Permit O-01489, Special Terms and Conditions No. 14].

3) Failure to adhere to permit limitations for opacity emissions. Specifically, TCEQ Air Permit 48455 states that opacity emissions from the Kiln 8 ESP stack shall not exceed 20% averaged over a six-minute period. On March 6, 2008, the Kiln 8 ESP stack was documented to be operating at 44.1% opacity over a 49 minute period (Incident No. 104674). Since this emissions event was avoidable, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met [30 TEX. ADMIN. CODE §§ 116.115(c), 111.111(a)(4), and 116.615, TEX. HEALTH & SAFETY CODE § 382.085(b), TCEQ Air Permit No. 48455, Special Condition No. 7, and Federal Operating Permit O-01489, Special Terms and Conditions No. 14].

4) Failure to adhere to permit limitations for opacity emissions. Specifically, TCEQ Air Permit 48455 states that opacity emissions from the Kiln 8 ESP stack shall not exceed 20% averaged over a six-minute period. On March 10, 2008, the Kiln 8 ESP stack was documented to be operating at 53.7% opacity over a six hour and 31 minute period (Incident No. 104803). Since this emissions event was avoidable, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met [30 TEX. ADMIN. CODE §§ 116.115(c), 111.111(a)(4), and 116.615, TEX. HEALTH & SAFETY CODE § 382.085(b), TCEQ Air Permit No. 48455, Special Condition No. 7, and Federal Operating Permit O-01489, Special Terms and Conditions No. 14].

Additional ID No(s): SD0037N

Attachment A
Docket Number: 2008-0766-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Sherwin Alumina, L.P.
Payable Penalty Amount:	Eighteen Thousand Five Hundred Sixty Dollars (\$18,560)
SEP Amount:	Nine Thousand Two Hundred Eighty Dollars (\$9,280)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas A&M University-Kingsville-Air Quality Monitoring
Location of SEP:	San Patricio 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 Texas A&M University-Kingsville, Air Quality Monitoring in San Patricio County. The contribution will be used in accordance with the *Supplemental Environmental Project Agreement between Texas A&M University-Kingsville and the Texas Commission on Environmental Quality*. The 3rd party will establish three air quality monitoring stations in the San Patricio Water District. The stations will consist of ambient air monitoring instruments, meteorological instruments, and ancillary equipment. The primary objective of these new monitoring stations is to provide continuous non-regulatory information on air quality. The stations will also generate data on background concentrations, pollutant transports from outside the air shed, and from the industrial district during the periods of predominant southeast to northwest wind patterns. The monitoring sites will be located at the Odem Raw Water Stations, Taft Texana Blending Station, and the San Patricio Country Municipal Water District Main Office, and the existing site at the Aransas Pass Treatment Plant.

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. This data can be used by the TCEQ, EPA, city officials, and other parties interested in the air quality of the Corpus Christi area.

C. Minimum Expenditure

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:

Texas A&M University-Kingsville
San Patricio Air Monitoring
Attn: Alvaro Martinez
700 University Boulevard, MSC 201
Kingsville, Texas 78363

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:

Sherwin Alumina, L.P.
Agreed Order – Attachment A

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 April 29, 2008

DATES	Assigned	28-Apr-2008			
	PCW	20-May-2008	Screening	6-May-2008	EPA Due 18-Jan-2009

RESPONDENT/FACILITY INFORMATION	
Respondent	Sherwin Alumina, L.P.
Reg. Ent. Ref. No.	RN102318847
Facility/Site Region	14-Corpus Christi
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	35848	No. of Violations	4
Docket No.	2008-0766-AIR-E	Order Type	1660
Media Program(s)	Air	Enf. Coordinator	John Muennink
Multi-Media		EC's Team	Enforcement Team 5
Admin. Penalty \$	Limit Minimum \$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$10,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
Compliance History	132.0% Enhancement	Subtotals 2, 3, & 7 \$13,200

Notes: Enhancement due to ten NOV's with same or similar violations, six NOV's with unrelated violations (including two monthly self-reported effluent violations), one 1660 Agreed Order and two Findings Orders.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0.0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts	\$795	0.0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$20,000	*Capped at the Total EB \$ Amount		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$23,200
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$23,200

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$23,200
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DEFERRAL	20.0%	Reduction	Adjustment	-\$4,640
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY		\$18,560
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Screening Date 6-May-2008

Docket No. 2008-0766-AIR-E

PCW

Respondent Sherwin Alumina, L.P.

Policy Revision 2 (September 2002)

Case ID No. 35848

PCW Revision April 29, 2008

Reg. Ent. Reference No. RN102318847

Media [Statute] Air

Enf. Coordinator John Muennink

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)	10	50%
	Other written NOVs	6	12%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	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	2	50%
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 submitted)	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) 132%

>> 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

Enhancement due to ten NOVs with same or similar violations, six NOVs with unrelated violations (including two monthly self-reported effluent violations), one 1660 Agreed Order and two Findings Orders.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 132%

Screening Date	6-May-2008	Docket No.	2008-0766-AIR-E	PCW
Respondent	Sherwin Alumina, L.P.			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	35848			<i>PCW Revision April 29, 2008</i>
Reg. Ent. Reference No.	RN102318847			
Media [Statute]	Air			
Enf. Coordinator	John Muennink			

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c), 111.111(a)(4) and 116.615, Tex. Health & Safety Code § 382.085(b), TCEQ Air Permit No. 48455, Special Condition Nos. 1 and 7 and Federal Operating Permit O-01489, Special Terms and Conditions No. 14

Violation Description
 Failed to adhere to permit limitations for opacity emissions and permitted limits for particulate matter. Specifically, TCEQ Air Permit 48455 states that opacity emissions from the Kiln 8 electrostatic precipitator ("ESP") stack shall not exceed 20% averaged over a six-minute period, and the quantity of emissions released from the Kiln 8 ESP stack shall not exceed 9.76 pounds per hour ("lbs/hr"). On January 15, 2008, the Kiln 8 ESP stack was documented to be operating at 99.1% opacity over a 20 minute period and released 55 lbs of alumina hydrate dust (Incident No. 102506). Since this emissions event was avoidable, the demonstrations in 30 Tex. Admin. Code § 101.222 necessary to present an affirmative defense were not met.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Major	Moderate	Minor	
	Actual <input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	Percent <input type="text" value="25%"/>
Potential <input type="text"/>	<input type="text"/>	<input type="text"/>		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>

Matrix Notes Human health or the environment has been exposed to an insignificant amount of pollutants that do not exceed levels protective of human health or environmental receptors.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
single event	<input type="text"/>	

Violation Base Penalty

One quarterly event is recommended.

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: Sherwin Alumina, L.P.
Case ID No.: 35848
Reg. Ent. Reference No.: RN102318847
Media: Air
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$20,000	15-Jan-2008	31-Oct-2008	0.79	\$795	n/a	\$795

Notes for DELAYED costs

Estimated expense to properly maintain Kln 8 ESP. Date Required is the date of the emissions event. Final Date is the estimated date that corrective actions will be completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$20,000

TOTAL

\$795

Screening Date 6-May-2008	Docket No. 2008-0766-AIR-E	PCW
Respondent Sherwin Alumina, L.P.	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 35848	<i>PCW Revision April 29, 2008</i>	
Reg. Ent. Reference No. RN102318847		
Media [Statute] Air		
Enf. Coordinator John Muennink		

Violation Number	2
Rule Cite(s)	30 Tex. Admin. Code §§ 116.115(c), 111.111(a)(4) and 116.615, Tex. Health & Safety Code § 382.085(b), TCEQ Air Permit No. 48455, Special Condition Nos. 1 and 7 and Federal Operating Permit O-01489, Special Terms and Conditions No. 14
Violation Description	Failed to adhere to permit limitations for opacity emissions and permitted limits for particulate matter. Specifically, TCEQ Air Permit 48455 states that opacity emissions from the Kiln 8 ESP stack shall not exceed 20% averaged over a six-minute period, and the quantity of emissions released from the Kiln 8 ESP stack shall not exceed 9.76 lbs/hr. On January 22, 2008, the Kiln 8 ESP stack was documented to be operating at 44.9% opacity over a 13 minute period and released 16.9 lbs of alumina hydrate dust (Incident No. 102781). Since this emissions event was avoidable, the demonstrations in 30 Tex. Admin. Code § 101.222 necessary to present an affirmative defense were not met.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="X"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input style="width: 50px;" type="text" value="25%"/>

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input style="width: 50px;" type="text" value="0%"/>

Matrix Notes Human health or the environment has been exposed to an insignificant amount of pollutants that do not exceed levels protective of human health or environmental receptors.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="text" value="X"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

One quarterly event is recommended.

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Sherwin Alumina, L.P.
Case ID No. 35848
Reg. Ent. Reference No. RN102318847
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)		22-Jan-2008	31-Oct-2008	0.78	\$0	n/a	\$0

Notes for DELAYED costs

This violation is included in the calculation for the Estimated Economic Benefit for Violation No. 1. Date Required is the date of the emissions event. Final Date is the estimated date that corrective actions will be completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

TOTAL \$0

Screening Date 6-May-2008	Docket No. 2008-0766-AIR-E	PCW
Respondent Sherwin Alumina, L.P.		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 35848		<i>PCW Revision April 29, 2008</i>
Reg. Ent. Reference No. RN102318847		
Media [Statute] Air		
Enf. Coordinator John Muennink		

Violation Number	3
Rule Cite(s)	30 Tex. Admin. Code §§ 116.115(c), 111.111(a)(4) and 116.615, Tex. Health & Safety Code § 382.085(b), TCEQ Air Permit No. 48455, Special Condition No. 7 and Federal Operating Permit O-01489, Special Terms and Conditions No. 14
Violation Description	Failed to adhere to permit limitations for opacity emissions. Specifically, TCEQ Air Permit 48455 states that opacity emissions from the Kiln 8 ESP stack shall not exceed 20% averaged over a six-minute period. On March 6, 2008, the Kiln 8 ESP stack was documented to be operating at 44.1% opacity over a 49 minute period (Incident No. 104674). Since this emissions event was avoidable, the demonstrations in 30 Tex. Admin. Code § 101.222 necessary to present an affirmative defense were not met.
Base Penalty	\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual			X	25%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes

Human health or the environment has been exposed to an insignificant amount of pollutants that do not exceed levels protective of human health or environmental receptors.

Adjustment \$7,500

Adjustment \$7,500

Penalty \$2,500

Violation Events

Number of Violation Events Number of violation days

mark only one with an x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	X
	semiannual	<input type="text"/>
	annual	<input type="text"/>

single event

Violation Base Penalty \$2,500

One quarterly event is recommended.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$0"/>	Violation Final Penalty Total <input type="text" value="\$5,800"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$5,800"/>	

Economic Benefit Worksheet

Respondent: Sherwin Alumina, L.P.
Case ID No.: 35848
Reg. Ent. Reference No.: RN102318847
Media: Air
Violation No.: 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)		6-Mar-2008	31-Oct-2008	0.65	\$0	n/a	\$0

Notes for DELAYED costs

This violation is included in the calculation for the Estimated Economic Benefit for Violation No. 1. Date Required is the date of the emissions event. Final Date is the estimated date that corrective actions will be completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 6-May-2008	Docket No. 2008-0766-AIR-E	PCW
Respondent Sherwin Alumina, L.P.	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 35848	<i>PCW Revision April 29, 2008</i>	
Reg. Ent. Reference No. RN102318847		
Media [Statute] Air		
Enf. Coordinator John Muennink		

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c), 111.111(a)(4) and 116.615, Tex. Health & Safety Code § 382.085(b), TCEQ Air Permit No. 48455, Special Condition No. 7 and Federal Operating Permit O-01489, Special Terms and Conditions No. 14

Violation Description

Failed to adhere to permit limitations for opacity emissions. Specifically, TCEQ Air Permit 48455 states that opacity emissions from the Kiln 8 ESP stack shall not exceed 20% averaged over a six-minute period. On March 10, 2008, the Kiln 8 ESP stack was documented to be operating at 53.7% opacity over a six hour and 31 minute period (Incident No. 104803). Since this emissions event was avoidable, the demonstrations in 30 Tex. Admin. Code § 101.222 necessary to present an affirmative defense were not met.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm				
		Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input checked="" type="checkbox"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				Percent <input type="text" value="25%"/>	

>> Programmatic Matrix

	Major	Moderate	Minor	
Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				Percent <input type="text" value="0%"/>

Matrix Notes

Human health or the environment has been exposed to an insignificant amount of pollutants that do not exceed levels protective of human health or environmental receptors.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
single event	<input type="text"/>	

Violation Base Penalty

One quarterly event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: Sherwin Alumina, L.P.
Case ID No.: 35848
Reg. Ent. Reference No.: RN102318847
Media: Air
Violation No.: 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)		10-Mar-2008	31-Oct-2008	0.64	\$0	n/a	\$0

Notes for DELAYED costs

This violation is included in the calculation for the Estimated Economic Benefit for Violation No. 1. Date Required is the date of the emissions event. Final Date is the estimated date that corrective actions will be completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Compliance History

Customer/Respondent/Owner-Operator:	CN601573371 Sherwin Alumina, L.P.	Classification: AVERAGE	Rating: 3.21
Regulated Entity:	RN102318847 SHERWIN ALUMINA GREGORY	Classification: AVERAGE	Site Rating: 3.32

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	48455
	AIR NEW SOURCE PERMITS	PERMIT	52442
	AIR NEW SOURCE PERMITS	PERMIT	19732
	AIR NEW SOURCE PERMITS	PERMIT	45841
	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	AFS NUM	4840900005
	USED OIL	REGISTRATION	COU0035
	WATER LICENSING	LICENSE	2050048
	WASTEWATER	PERMIT	WQ0004646000
	WASTEWATER	EPA ID	TX0125989
	WASTEWATER	PERMIT	TX0125989
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	41391
	WASTE WATER GENERAL PERMIT	PERMIT	2E0000056

Location: 4633 HWY 361 Rating Date: September 01 07 Repeat Violator: NO

TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: May 02, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 02, 2003 to May 02, 2008

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

Name: John Muennink Phone: (361) 825-3423

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? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

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: 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 particulate 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.

Effective Date: 04/29/2006

ADMINORDER 2005-1446-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(C)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition No. 1 PERMIT
Special Condition No. 4 PERMIT

Description: Failed to prevent an avoidable emissions event that occurred on April 2, 2005.

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 60.11(d)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition No. 2 PERMIT

Description: Failed to maintain and operate an affected facility, including associated air pollution control equipment, in a manner consistent with good air pollution control practice for minimizing emissions. Specifically, the emission event that occurred on April 2, 2005 was due to an inadequate alarm system.

Effective Date: 08/10/2007

ADMINORDER 2004-1982-AIR-E

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(2)(I)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failure to meet the minimum reporting requirements for a reportable emissions event.

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: Special Condition No. 1 PERMIT
Special Condition No. 7 PERMIT

Description: Failure to comply with the Maximum Allowable Emission Rates Table. Specifically, Sherwin Alumina exceeded the Particulate Matter limit from Emission Point No. 12, Source Name Kiln 8 Stack - ESP by greater than 15 percent.

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: Special Condition No. 1 PERMIT
Special Condition No. 7 PERMIT

Description: Failure to satisfy all demonstrations criteria as listed under 30 TAC 101.222 and gain regulatory authority for the emissions released from an emissions event, Incident No. 26867, that occurred on August 31, 2003.

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: Special Conditions 1 and 7 PERMIT

Description: Failure to prevent an unauthorized emissions event which occurred on May 29, 2004 from EPN 12.

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: Special Condition No. 1 PERMIT
Special Condition No. 7 PERMIT

Description: Failure to comply with the Maximum Allowable Emission Rates Table attached to the permit. Specifically, Sherwin Alumina exceeded the Particulate Matter limit from Emission Point No. 32, Kiln 1 Hydrate Dryer- ESP by greater than 15 percent.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(2)(H)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failure to meet the minimum reporting requirements for reportable emissions events on August 31, 2003, May 11 and 29, 2004.

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	06/02/2003	(36300)
2	06/23/2003	(112999)
3	01/15/2004	(283363)
4	02/27/2004	(258206)

5	02/27/2004	(258573)
6	02/27/2004	(258883)
7	02/27/2004	(258570)
8	03/23/2004	(264197)
9	05/24/2004	(272692)
10	11/04/2004	(338551)
11	11/04/2004	(337825)
12	11/04/2004	(338712)
13	12/21/2004	(343721)
14	03/11/2005	(372021)
15	03/17/2005	(390857)
16	03/21/2005	(374134)
17	03/21/2005	(373704)
18	03/21/2005	(350996)
19	03/29/2005	(373395)
20	04/01/2005	(375960)
21	04/12/2005	(376006)
22	04/18/2005	(377917)
23	04/20/2005	(428286)
24	05/04/2005	(378602)
25	05/19/2005	(380345)
26	05/20/2005	(428287)
27	06/13/2005	(395298)
28	06/21/2005	(393695)
29	06/22/2005	(428288)
30	06/22/2005	(379295)
31	06/30/2005	(397605)
32	07/08/2005	(398996)
33	07/08/2005	(398917)
34	07/15/2005	(398874)
35	07/15/2005	(399504)
36	07/18/2005	(398584)
37	07/19/2005	(399503)
38	07/22/2005	(448229)
39	07/27/2005	(401060)
40	08/19/2005	(448230)
41	08/29/2005	(418404)
42	08/30/2005	(393845)
43	08/30/2005	(418726)
44	08/31/2005	(418808)
45	09/08/2005	(418958)
46	09/21/2005	(431909)
47	09/21/2005	(431911)
48	09/21/2005	(431912)
49	09/26/2005	(448231)
50	09/26/2005	(448232)
51	10/14/2005	(433540)
52	10/24/2005	(493892)
53	10/25/2005	(435186)
54	11/16/2005	(437119)
55	11/17/2005	(437423)
56	11/18/2005	(436146)
57	11/18/2005	(436142)
58	11/18/2005	(436145)
59	11/21/2005	(493893)
60	12/13/2005	(439050)
61	01/11/2006	(450916)
62	01/20/2006	(451414)
63	01/23/2006	(451406)
64	01/23/2006	(493894)
65	01/28/2006	(451637)
66	02/21/2006	(454794)
67	02/23/2006	(456465)
68	02/27/2006	(493890)
69	03/22/2006	(493891)
70	03/27/2006	(459324)
71	03/27/2006	(459328)
72	03/27/2006	(459667)
73	04/10/2006	(461108)
74	04/13/2006	(462432)
75	04/13/2006	(462107)
76	04/13/2006	(462275)
77	04/17/2006	(459671)
78	04/20/2006	(507035)
79	04/25/2006	(463268)
80	05/30/2006	(464157)
81	06/01/2006	(507036)
82	06/16/2006	(465700)
83	06/22/2006	(507037)

84 07/19/2006 (485037)
85 08/01/2006 (529193)
86 08/02/2006 (489274)
87 08/16/2006 (497283)
88 08/16/2006 (489842)
89 08/21/2006 (487355)
90 08/24/2006 (509258)
91 08/24/2006 (529192)
92 08/30/2006 (484932)
93 09/13/2006 (511332)
94 09/15/2006 (509135)
95 09/25/2006 (512762)
96 10/02/2006 (451377)
97 10/02/2006 (514458)
98 10/16/2006 (515071)
99 10/18/2006 (515536)
100 10/24/2006 (552199)
101 10/24/2006 (552200)
102 10/24/2006 (552201)
103 10/31/2006 (510822)
104 11/01/2006 (512149)
105 11/17/2006 (517561)
106 12/14/2006 (532523)
107 12/22/2006 (531445)
108 12/28/2006 (533390)
109 01/05/2007 (515537)
110 01/17/2007 (534670)
111 01/23/2007 (589776)
112 01/23/2007 (589777)
113 01/23/2007 (589778)
114 01/23/2007 (515557)
115 01/26/2007 (537694)
116 01/31/2007 (531088)
117 01/31/2007 (538636)
118 02/01/2007 (538814)
119 02/02/2007 (517325)
120 02/12/2007 (539906)
121 02/15/2007 (539897)
122 02/16/2007 (539992)
123 02/16/2007 (539975)
124 02/16/2007 (540031)
125 03/01/2007 (539015)
126 03/22/2007 (589772)
127 04/04/2007 (555860)
128 04/13/2007 (556787)
129 04/26/2007 (540910)
130 06/01/2007 (561111)
131 06/22/2007 (589773)
132 06/22/2007 (589774)
133 06/22/2007 (589775)
134 06/22/2007 (548888)
135 06/29/2007 (563312)
136 07/11/2007 (567049)
137 07/27/2007 (568148)
138 08/02/2007 (606013)
139 08/13/2007 (571884)
140 08/21/2007 (563391)
141 08/23/2007 (573168)
142 08/24/2007 (573508)
143 08/31/2007 (539079)
144 09/14/2007 (567817)
145 10/19/2007 (595884)
146 10/30/2007 (599353)
147 10/31/2007 (599010)
148 11/01/2007 (598255)
149 11/05/2007 (633659)
150 11/05/2007 (633660)
151 11/05/2007 (633661)
152 11/05/2007 (598256)
153 11/30/2007 (610272)
154 12/03/2007 (610656)
155 12/11/2007 (594178)
156 01/07/2008 (613525)
157 01/22/2008 (633662)
158 01/22/2008 (633663)
159 01/22/2008 (633664)
160 02/15/2008 (614995)
161 02/15/2008 (614091)
162 02/19/2008 (618703)

163 02/20/2008 (619028)
 164 02/22/2008 (618980)
 165 02/29/2008 (618982)
 166 03/13/2008 (638149)
 167 03/28/2008 (638211)
 168 03/31/2008 (640299)
 169 04/23/2008 (640562)

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

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 (258570)

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(e)
 Description: Failure to notify the TCEQ within 24 hours of discovery of an excess opacity event.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(A)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 Rqmt Prov: PA 48455
 Description: Failure to comply with the applicable opacity limitations.
 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: 02/20/2004 (258883)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(A)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 Rqmt Prov: PA 48455
 Description: Failure to comply with the applicable opacity limitations.
 Date: 02/20/2004 (258206)

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(e)
 Description: Failure to notify the TCEQ within 24 hours after the discovery of an excess opacity event.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(A)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 Rqmt Prov: PA 48455
 Description: Failure to comply with the applicable opacity limitations.
 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.		
Date:	03/29/2005 (373395)		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)(3)(D)(ii) 30 TAC Chapter 290, SubChapter D 290.46(m)(1)		
Description:	Failure to inspect the ground storage tank annually by water system personnel or a contracted inspection service.		
Date:	05/04/2005 (378602)		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c)		
Rqmt Prov:	PERMIT Special Condition No. 1		
Description:	Failure to gain authority for unauthorized emissions.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 111, SubChapter A 111.111(a)(1)(C) 30 TAC Chapter 116, SubChapter B 116.115(c)		
Description:	Failure to gain authority for visible/opacity emissions resulting from emissions event due to an operator error.		
Date:	06/21/2005 (393695)		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 101, SubChapter F 101.211(a)		
Description:	Failure to meet the reporting requirements for the initial report for Incident No. 57178, which occurred on December 20, 2004 at 5:03 p.m.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B)		
Rqmt Prov:	PERMIT 48455		
Description:	Failure to prevent the occurrence of visible emissions with an opacity of greater than 20% averaged over a six-minute period.		
Date:	07/31/2005 (448230)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	06/30/2006 (529193)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	08/24/2006 (509258)		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Rqmt Prov:	PERMIT TPDES Permit No. WQ00004646-000		
Description:	Failure to meet self-monitored effluent limitations for pH maximum and Fecal Coliform daily maximum for the months of June and July 2006.		
Date:	12/21/2006 (531445)		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c)		
Description:	Failure to test Kiln 8 (EPN12) per EPA reference Method 25A outlined in 40 CFR Part 60. The submitted report shows that the sample was analyzed for VOCs on a dry basis when the method requires a wet basis.		
Date:	02/08/2007 (539906)		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)		
Description:	Failure to submit an initial notification for a reportable emissions event within 24 hours after the discovery. Specifically, the initial notification was made 18 hours and 25 minutes after the 24 hours.		
Date:	06/25/2007 (554888)		
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		
Rqmt Prov:	PERMIT Special Condition 3 PERMIT Special Condition 7		
Description:	Failure to prevent the occurrence of visible emissions released with an opacity of greater than 20 percent averaged over a six-minute period and greater than 10 percent.		
Date:	12/11/2007 (594178)		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c)		
Rqmt Prov:	PERMIT TCEQ Air Permit Number 48455		
Description:	Failure to gain an affirmative defense for alumina hydrate dust released and opacity exceedances at the Calcination		

Process Unit Kiln Number 8 (50-k-8)

during emissions events (Incident Numbers 93496 and 97506) which were discovered on July 2, and September 14, 2007, at 1637 hours and 1551 hours, respectively.

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
ENFORCEMENT ACTION
CONCERNING
SHERWIN ALUMINA, L.P.
RN102318847

§
§
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§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2008-0766-AIR-E

I. JURISDICTION AND STIPULATIONS

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. ("the Respondent") 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 the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates an industrial inorganic chemical manufacturing facility at 4633 Highway 361 in 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. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 28, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twenty-Three Thousand Two Hundred Dollars (\$23,200) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Nine Thousand Two Hundred Eighty Dollars (\$9,280) of the administrative penalty and Four Thousand Six Hundred Forty Dollars (\$4,640) is deferred

contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Nine Thousand Two Hundred Eighty Dollars (\$9,280) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. 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.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to adhere to permit limitations for opacity emissions and permitted limits for particulate matter, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c), 111.111(a)(4) and 116.615, TEX. HEALTH & SAFETY CODE § 382.085(b), TCEQ Air Permit No. 48455, Special Condition Nos. 1 and 7 and Federal Operating Permit O-01489, Special Terms and Conditions No. 14, as documented during an investigation conducted on March 27 through April 15, 2008. Specifically, TCEQ Air Permit 48455 states that opacity emissions from the Kiln 8 electrostatic precipitator ("ESP") stack shall not exceed 20% averaged over a six-minute period, and the quantity of emissions released from the Kiln 8 ESP stack shall not exceed 9.76 pounds per hour ("lbs/hr"). On January 15, 2008, the Kiln 8 ESP stack was documented to be operating at 99.1% opacity over a 20 minute period and released 55 lbs of alumina hydrate dust (Incident No. 102506). Since this emissions event was avoidable, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met.
2. Failed to adhere to permit limitations for opacity emissions and permitted limits for particulate matter, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c), 111.111(a)(4) and 116.615, TEX. HEALTH & SAFETY CODE § 382.085(b), TCEQ Air Permit No. 48455, Special Condition Nos. 1 and 7 and Federal Operating Permit O-01489, Special Terms and Conditions No. 14, as documented during an investigation conducted on March 27 through April 15, 2008. Specifically, TCEQ Air Permit 48455 states that opacity emissions from the Kiln 8 ESP stack shall not exceed

20% averaged over a six-minute period, and the quantity of emissions released from the Kiln 8 ESP stack shall not exceed 9.76 lbs/hr. On January 22, 2008, the Kiln 8 ESP stack was documented to be operating at 44.9% opacity over a 13 minute period and released 16.9 lbs of alumina hydrate dust (Incident No. 102781). Since this emissions event was avoidable, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met.

3. Failed to adhere to permit limitations for opacity emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c), 111.111(a)(4) and 116.615, TEX. HEALTH & SAFETY CODE § 382.085(b), TCEQ Air Permit No. 48455, Special Condition No. 7 and Federal Operating Permit O-01489, Special Terms and Conditions No. 14, as documented during an investigation conducted on March 27 through April 15, 2008. Specifically, TCEQ Air Permit 48455 states that opacity emissions from the Kiln 8 ESP stack shall not exceed 20% averaged over a six-minute period. On March 6, 2008, the Kiln 8 ESP stack was documented to be operating at 44.1% opacity over a 49 minute period (Incident No. 104674). Since this emissions event was avoidable, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met.
4. Failed to adhere to permit limitations for opacity emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c), 111.111(a)(4) and 116.615, TEX. HEALTH & SAFETY CODE § 382.085(b), TCEQ Air Permit No. 48455, Special Condition No. 7 and Federal Operating Permit O-01489, Special Terms and Conditions No. 14, as documented during an investigation conducted on March 27 through April 15, 2008. Specifically, TCEQ Air Permit 48455 states that opacity emissions from the Kiln 8 ESP stack shall not exceed 20% averaged over a six-minute period. On March 10, 2008, the Kiln 8 ESP stack was documented to be operating at 53.7% opacity over a six hour and 31 minute period (Incident No. 104803). Since this emissions event was avoidable, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which 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. 2008-0766-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. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 6 above, Nine Thousand Two Hundred Eighty Dollars (\$9,280) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent'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 Respondent shall undertake the following technical requirements:
 - a. Within 90 days after the effective date of this Agreed Order, implement measures designed to prevent the reoccurrence of emissions due to the same causes as that of the January 15 and 22, 2008 and March 6 and 10, 2008 emissions events (Incident Nos. 102506, 102781, 104674 and 104803); and
 - b. Within 105 days after the effective date of this Agreed Order, submit written certification to demonstrate compliance with Ordering Provision No. 3.a.

The certification shall be notarized by a State of Texas Notary Public and contain the following language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section, Manager
Corpus Christi Regional Office
Texas Commission on Environmental Quality
6300 Ocean Drive, Suite 1200
Corpus Christi, Texas 78412-5503

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

5. If the Respondent 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, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent 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.
8. 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.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

10/16/2008
Date

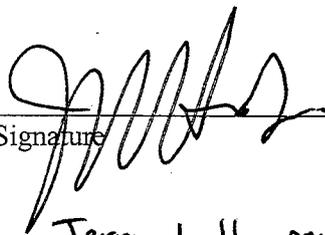
I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- 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;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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

Signature



Jerry L. Hooper, Jr.
Name (Printed or typed)
Authorized Representative of
Sherwin Alumina, L.P.

Date

8/6/2008

Title

Director, Services

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

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Attachment A
Docket Number: 2008-0766-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Sherwin Alumina, L.P.
Payable Penalty Amount:	Eighteen Thousand Five Hundred Sixty Dollars (\$18,560)
SEP Amount:	Nine Thousand Two Hundred Eighty Dollars (\$9,280)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas A&M University-Kingsville-Air Quality Monitoring
Location of SEP:	San Patricio 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 Texas A&M University-Kingsville, Air Quality Monitoring in San Patricio County. The contribution will be used in accordance with the *Supplemental Environmental Project Agreement between Texas A&M University-Kingsville and the Texas Commission on Environmental Quality*. The 3rd party will establish three air quality monitoring stations in the San Patricio Water District. The stations will consist of ambient air monitoring instruments, meteorological instruments, and ancillary equipment. The primary objective of these new monitoring stations is to provide continuous non-regulatory information on air quality. The stations will also generate data on background concentrations, pollutant transports from outside the air shed, and from the industrial district during the periods of predominant southeast to northwest wind patterns. The monitoring sites will be located at the Odem Raw Water Stations, Taft Texana Blending Station, and the San Patricio Country Municipal Water District Main Office, and the existing site at the Aransas Pass Treatment Plant.

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. This data can be used by the TCEQ, EPA, city officials, and other parties interested in the air quality of the Corpus Christi area.

C. Minimum Expenditure

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:

Texas A&M University-Kingsville
San Patricio Air Monitoring
Attn: Alvaro Martinez
700 University Boulevard, MSC 201
Kingsville, Texas 78363

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:

Sherwin Alumina, L.P.
Agreed Order – Attachment A

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.

