EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-1216-IHW-E **TCEQ ID:** RN102318847 **CASE NO.:** 39999

RESPONDENT NAME: Sherwin Alumina Company, LLC

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	X INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
__WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Sherwin Alumina Plant, 4633 Highway 361, Gregory, San Patricio County and H&H Iron and Metal (Rincon Yard), located on Rincon Road, approximately one-half mile north at Burleson Street, Corpus Christi, Nueces County

TYPE OF OPERATION: Industrial chemical manufacturing facility

SMALL BUSINESS: ___ Yes X No

OTHER SIGNIFICANT MATTERS: A complaint was received on April 23, 2010, alleging that during loading activities, metals were spilled into the channel. There is one additional pending enforcement action regarding this facility location, Docket No. 2010-1705-AIR-E.

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 December 20, 2010. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. Epifanio Villarreal, Enforcement Division, Enforcement Team 2, MC R-14, (361) 825-3425; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495

Respondent: Mr. Austin Mooney, Director of Technology, Sherwin Alumina Company, LLC, 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 _X_ Routine __ Enforcement Follow-up __ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** April 30, 2010 **Date of NOV/NOE Relating to this Case:** June 29, 2010 (NOE) **Background Facts:** This was a routine investigation. **WASTE** Failed to prevent the disposal of industrial solid waste at an unauthorized facility [30 TEX. ADMIN. CODE § 335.2(b)].	**Total Assessed:** $1,650 **Total Deferred:** $330 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $1,320 **Compliance History Classifications:** Person/CN - Average Site/RN - Average **Major Source:** __ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** The Executive Director recognizes that on May 17, 2010 the Respondent submitted compliance documentation for the cleanup of the drums and used oil leaks discovered at the Facility.

Additional ID No(s).: TXD008129983

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision October 30, 2008*

TCEQ

DATES						
Assigned	6-Jul-2010					
PCW	6-Jul-2010	**Screening**	6-Jul-2010	**EPA Due**		

RESPONDENT/FACILITY INFORMATION

Respondent	Sherwin Alumina Company, LLC		
Reg. Ent. Ref. No.	RN102318847		
Facility/Site Region	14-Corpus Christi	**Major/Minor Source**	Minor

CASE INFORMATION

Enf./Case ID No.	39999	**No. of Violations**	1
Docket No.	2010-1216-IHW-E	**Order Type**	1660
Media Program(s)	Industrial and Hazardous Waste	**Government/Non-Profit**	No
Multi-Media		**Enf. Coordinator**	Epifanio Villarreal
		EC's Team	Enforcement Team 2

Admin. Penalty $ Limit Minimum $0 Maximum $10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1*: **$1,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — **90.0%** Enhancement — *Subtotals 2, 3, & 7*: **$900**

Notes: Enhancement for one agreed final enforcement order with denial of liability, two agreed final enforcement orders without denial of liability, and ten prior dissimilar Notices of Violations.

Culpability — No — **0.0%** Enhancement — *Subtotal 4*: **$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments — *Subtotal 5*: **$250**

Economic Benefit — **0.0%** Enhancement* — *Subtotal 6*: **$0**

Total EB Amounts $31
Approx. Cost of Compliance $13,358

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal*: **$1,650**

OTHER FACTORS AS JUSTICE MAY REQUIRE — **0.0%** — *Adjustment*: **$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount: **$1,650**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty*: **$1,650**

DEFERRAL — **20.0%** Reduction — *Adjustment*: **-$330**

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: **$1,320**

Screening Date 6-Jul-2010 **Docket No.** 2010-1216-IHW-E **PCW**

Respondent Sherwin Alumina Company, LLC

Policy Revision 2 (September 2002)

Case ID No. 39999

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102318847

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Epifanio Villarreal

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*)	0	0%
	Other written NOVs	10	20%
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*	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) 90%

>> Repeat Violator (Subtotal 3)

N/A

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 for one agreed final enforcement order with denial of liability, two agreed final enforcement orders without denial of liability, and ten prior dissimilar Notices of Violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 90%

Screening Date 6-Jul-2010 **Docket No.** 2010-1216-IHW-E **PCW**

Respondent Sherwin Alumina Company, LLC *Policy Revision 2 (September 2002)*

Case ID No. 39999 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN102318847

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Epifanio Villarreal

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 335.2(b)

Violation Description Failed to prevent the disposal of industrial solid waste at an unauthorized facility. Specifically, the Respondent allowed the disposal of five drums containing industrial solid waste at an unauthorized facility (H&H Iron and Metal Rincon Yard).

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

	Release	Harm Major	Harm Moderate	Harm Minor
OR	Actual			x
	Potential			

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events: 1 — 17 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $1,000

One quarterly event is recommended from the date of the investigation, April 30, 2010, to the date of compliance, May 17, 2010.

Good Faith Efforts to Comply

25.0% Reduction — $250

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

Notes: The Respondent came into compliance on May 17, 2010.

Violation Subtotal $750

Economic Benefit (EB) for this violation

Estimated EB Amount $31

Statutory Limit Test

Violation Final Penalty Total $1,650

This violation Final Assessed Penalty (adjusted for limits) $1,650

Economic Benefit Worksheet

Respondent Sherwin Alumina Company, LLC
Case ID No. 39999
Req. Ent. Reference No. RN102318847
Media Industrial and Hazardous Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	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	$13,358	30-Apr-2010	17-May-2010	0.05	$31	n/a	$31
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs	Estimated cost to dispose of the industrial solid waste at an authorized facility. The Date Required is the investigation date and the Final Date is the date of compliance.						
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 $13,358

TOTAL $31

Compliance History Report

Customer/Respondent/Owner-Operator: CN603527359 Sherwin Alumina Company, LLC Classification: AVERAGE Rating: 4.11

Regulated Entity: RN102318847 SHERWIN ALUMINA PLANT Classification: AVERAGE Site Rating: 4.11

ID Number(s):

AIR OPERATING PERMITS	ACCOUNT NUMBER	SD0037N
AIR OPERATING PERMITS	PERMIT	1489
INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXD008129983
INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	30097
PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	2050048
AIR NEW SOURCE PERMITS	REGISTRATION	92344
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	SD0037N
AIR NEW SOURCE PERMITS	PERMIT	48455
AIR NEW SOURCE PERMITS	REGISTRATION	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	REGISTRATION	12930
AIR NEW SOURCE PERMITS	REGISTRATION	16394
AIR NEW SOURCE PERMITS	PERMIT	18163
AIR NEW SOURCE PERMITS	PERMIT	18164
AIR NEW SOURCE PERMITS	REGISTRATION	32054
AIR NEW SOURCE PERMITS	REGISTRATION	40357
AIR NEW SOURCE PERMITS	REGISTRATION	45952
AIR NEW SOURCE PERMITS	PERMIT	46868
AIR NEW SOURCE PERMITS	REGISTRATION	53656
AIR NEW SOURCE PERMITS	AFS NUM	4840900005
USED OIL	REGISTRATION	COU0035
WATER LICENSING	LICENSE	2050048
WASTEWATER	PERMIT	WQ0004646000
WASTEWATER	EPA ID	TX0125989
PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	41391
WASTE WATER GENERAL PERMIT	PERMIT	2E0000056
AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	SD0037N

Location: 4633 HWY 361 E, SAN PATRICIO COUNTY, TX

TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: July 28, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 28, 2005 to July 28, 2010

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

Name: Epi Villarreal Phone: (361) 825-3425

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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 Repeat Violator: NO

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

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.

Effective Date: 12/04/2008 ADMINORDER 2008-0766-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)
30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 116, SubChapter F 116.615
5C THSC Chapter 382 382.085(b)

Rqmt Prov: FOP Number O-01489 OP
Permit 48455 PERMIT

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% avg over a 6 min period, and the quantity of emissions released from the Kiln 8 ESP stack shall not exceed 9.76 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.

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 116, SubChapter F 116.615
5C THSC Chapter 382 382.085(b)

Rqmt Prov: FOP No. O-01489 OP
Permit 48455 PERMIT

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% avg over a 6 min 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.

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 116, SubChapter F 116.615
5C THSC Chapter 382 382.085(b)

Rqmt Prov: FOP Number O-01489 OP
TCEQ Air Permit Number 48455 PERMIT

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% avg over a 6 minute period, and the quantity of emissions released from the Kiln 8 ESP stack shall not exceed 9.76 lbs/hr. On March 6, 2008, the Kiln 8 ESP stack was documented to be operating at 44.1% opacity over a 49 minute period and released 1.3 lbs of alumina hydrate dust.

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 116, SubChapter F 116.615
5C THSC Chapter 382 382.085(b)

Rqmt Prov: FOP O-01489 OP
TCEQ Air Permit Number48455 PERMIT

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% avg over a 6 minute period, and the quantity of emissions released from the Kiln 8 ESP stack shall not exceed 9.76 lbs/hr. On March 10, 2008, the Kiln 8 ESP stack was documented to be operating at 53.7% opacity over a 6 hr and 31 min period and released 5.2 lbs of alumina dust.

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 08/29/2005 (418404)
2 08/30/2005 (393845)
3 08/30/2005 (418726)
4 08/31/2005 (418808)
5 09/08/2005 (418958)
6 09/21/2005 (431909)
7 09/21/2005 (431911)
8 09/21/2005 (431912)
9 10/14/2005 (433540)
10 10/25/2005 (435186)
11 11/16/2005 (437119)

12	11/17/2005	(437423)
13	11/18/2005	(436142)
14	11/18/2005	(436145)
15	11/18/2005	(436146)
16	12/13/2005	(439050)
17	01/11/2006	(450916)
18	01/20/2006	(451414)
19	01/23/2006	(451406)
20	01/28/2006	(451637)
21	02/21/2006	(454794)
22	03/27/2006	(459324)
23	03/27/2006	(459328)
24	03/27/2006	(459667)
25	04/10/2006	(461108)
26	04/13/2006	(462107)
27	04/13/2006	(462275)
28	04/13/2006	(462432)
29	04/17/2006	(459671)
30	04/25/2006	(463268)
31	05/30/2006	(464157)
32	07/19/2006	(485037)
33	08/02/2006	(489274)
34	08/16/2006	(489842)
35	08/16/2006	(497283)
36	08/21/2006	(487355)
37	08/30/2006	(484932)
38	09/13/2006	(511332)
39	09/25/2006	(512762)
40	10/02/2006	(451377)
41	10/02/2006	(514458)
42	10/16/2006	(515071)
43	10/18/2006	(515536)
44	10/31/2006	(510822)
45	11/01/2006	(512149)
46	11/17/2006	(517561)
47	12/14/2006	(532523)
48	12/22/2006	(531445)
49	12/28/2006	(533390)
50	01/05/2007	(515537)
51	01/17/2007	(534670)
52	01/23/2007	(515557)
53	01/26/2007	(537694)
54	01/31/2007	(531088)
55	01/31/2007	(538636)
56	02/01/2007	(538814)
57	02/02/2007	(517325)
58	02/12/2007	(539906)
59	02/15/2007	(539897)
60	02/16/2007	(539975)
61	02/16/2007	(539992)
62	02/16/2007	(540031)
63	03/01/2007	(539015)
64	04/04/2007	(555860)
65	04/13/2007	(556787)
66	04/26/2007	(540910)
67	06/01/2007	(561111)
68	06/22/2007	(554888)
69	06/29/2007	(563312)
70	07/11/2007	(567049)

71	07/27/2007	(568148)
72	08/13/2007	(571884)
73	08/21/2007	(563391)
74	08/24/2007	(573508)
75	08/31/2007	(539079)
76	09/14/2007	(567817)
77	10/19/2007	(595884)
78	10/30/2007	(599353)
79	10/31/2007	(599010)
80	11/01/2007	(598255)
81	11/05/2007	(598256)
82	11/30/2007	(610272)
83	12/03/2007	(610656)
84	12/11/2007	(594178)
85	01/07/2008	(613525)
86	02/15/2008	(614995)
87	02/19/2008	(618703)
88	02/20/2008	(619028)
89	02/22/2008	(618980)
90	02/29/2008	(618982)
91	03/13/2008	(638149)
92	03/28/2008	(638211)
93	03/31/2008	(640299)
94	04/23/2008	(640562)
95	05/07/2008	(636742)
96	05/17/2008	(657009)
97	05/29/2008	(670898)
98	06/05/2008	(646678)
99	06/20/2008	(683880)
100	06/27/2008	(684209)
101	07/10/2008	(685248)
102	07/24/2008	(686823)
103	07/30/2008	(686527)
104	08/12/2008	(684611)
105	09/15/2008	(700583)
106	10/02/2008	(682878)
107	10/07/2008	(704669)
108	10/29/2008	(704868)
109	10/30/2008	(705480)
110	11/19/2008	(707195)
111	11/20/2008	(685863)
112	12/02/2008	(704011)
113	12/05/2008	(707307)
114	12/10/2008	(669975)
115	01/02/2009	(721876)
116	01/15/2009	(723366)
117	01/16/2009	(723563)
118	02/16/2009	(725844)
119	02/18/2009	(735594)
120	02/27/2009	(706041)
121	03/27/2009	(739950)
122	03/27/2009	(740264)
123	04/07/2009	(741146)
124	04/29/2009	(741722)
125	04/29/2009	(742245)
126	04/30/2009	(742250)
127	06/11/2009	(742964)
128	07/27/2009	(762028)
129	08/24/2009	(765493)

130 08/31/2009 (764519)
131 09/01/2009 (767390)
132 12/04/2009 (784119)
133 12/23/2009 (786453)
134 01/22/2010 (788697)
135 02/25/2010 (790637)
136 02/25/2010 (793554)
137 03/26/2010 (789782)
138 03/30/2010 (793669)
139 03/30/2010 (793842)
140 04/13/2010 (798062)
141 05/03/2010 (800514)
142 05/28/2010 (801853)
143 06/21/2010 (826171)
144 06/22/2010 (824694)
145 06/22/2010 (825494)
146 07/14/2010 (829945)

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

Date: 12/21/2006 (531445) CN603527359
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) CN603527359
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
Special Condition 3 PERMIT
Special Condition 7 PERMIT
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)
TCEQ Air Permit Number 48455 PERMIT
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.

Date: 05/30/2008 (670898)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115
Description: SC 24(E) states in part two copies of the final sampling report shall be forwarded to the TCEQ within 45 days after sampling is completed. The sampling was performed on September 19, 2007 but the report was received by the TCEQ Corpus Christi Regional Office on February 19, 2008. The final report due date based on the above information should have been November 3, 2007. Therefore, the report was submitted 153 days after the completion of testing which is a violation of Permit No. 48455, SC 24E.

Date: 06/05/2008 (646678) CN603527359
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(b)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Terms and Conditons No. 2 OP

Description: Failure to adhere to permit limitations for opacity. Specifically, Sherwin Alumina's Gregory Plant failed to prevent visible emission from exceeding 30 and 20 percent opacity averaged over a six-minute period. Sherwin Alumina's Gregory Plant failed to meet the affirmative defense by failure to satisfy the demonstration criteria of 30 TAC §101.222(b)(2), (b)(3), (b)(4), and (b)(9) for Incident Nos. 104141, 105885, 105681, 106263, 106612, and 106638.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
TCEQ Air Permit No. 48455, SC 1 and GC 8 PERMIT

Description: Failure to gain regulatory authority for contaminants released from the #8 Kiln ESP on February 24, 2008 and April 4th, 5th, 12th, 20th, and 21st, 2008, as reported in Incident Nos. 104141, 105681, 105885, 106263, 106612, and 106638. The demonstration criteria in 30 TAC §101.222(b), specifically (2), (3), (4), and (9), were not met, therefore the total estimated 11.5 pounds of alumina hydrate dust emitted during the six events was unauthorized.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
TCEQ Air Permit No. 48455, SC 17 & 18 PERMIT

Description: Failure to maintain the #8 Kiln ESP's (FIN: 50-k-8) outer housing free of holes, cracks, and other conditions that would reduce the collection efficiency of the emission capture system. Additionally, Sherwin Alumina's Gregory Plant failed to perform cleaning and maintenance of the #8 Kiln ESP, as necessary, to ensure that the equipment efficiency can be adequately maintained.

Date: 12/02/2008 (704011) CN603527359

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Special Condition No. 13 PA

Description: Failure to notify the TCEQ Region 14 Office of a reportable emissions event within 24 hours after the discovery.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
General Condition No. 8 PA
Special Condition No. 1 PA

Description: Failure to prevent unauthorized emissions during an emissions event at the No. 2 GSC that occurred on June 10, 2008. Specifically, Sherwin Alumina released 4.30 pounds of alumina dust during the event at an average opacity of 36.40 %.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Special Condition No. 4 PA

Description: Failure to maintain an opacity not to exceed 7 percent (%) over a six-minute period at the No. 2 GSC, as required by SC 4 of the affected air permit. Furthermore, the average opacity of 36.40% from the calciner's electrostatic precipitator (ESP) stack (Emission Point Number 80) exceeded the 20 % allowed by state rule.

Date: 05/28/2010 (801853) CN603527359

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(3)(A)

Description: Failure by a purchased water system serving no more than 250 connections to employ an operator who holds a Class "D" or higher license.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(i)
Description: Failure to verify the accuracy of manual disinfectant residual analyzers at least once every 30 days using chlorine solutions of known concentrations.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)
Description: Failure to use accurate testing equipment or some other means of monitoring the effectiveness of any chemical treatment or pathogen inactivation process.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)
Description: Failure to inspect each of the system's ground, elevated, and pressure tanks by water system personnel or a contracted inspection service.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.44(a)(4)
Description: Failure to locate the top of the waterline no less than 24 inches below ground surface.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure by a public water system to use maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)
Description: Failure to ensure overflows are designed in strict accordance with current American Water Works Association (AWWA) standards and terminate with a gravity-hinged and weighted cover.

Date: 06/22/2010 (825494) CN603527359
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
General Condition (GC) 8 PA
Special Condition (SC) No. 1 PA
Description: Failure to prevent unauthorized emissions during an incident at the No. 1 GSC that occurred on February 23, 2010.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
SC No. 4 PA
Description: Failure to maintain an opacity not to exceed 7 % averaged over a six-minute period at the No. 1 GSC, as required by SC 4 of the affected air permit. Furthermore, the average opacity of 27.60% from the calciner's electrostatic precipitator (ESP) stack (Emission Point Number 70) exceeded the 20 % allowed by state rule.

Date. 06/22/2010 (824694) CN603527359
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
NSR Permit 19732, SC #1 PERMIT
Description: Failure to prevent unauthorized emissions to the atmosphere during an emissions event that occurred on May 8, 2010, TCEQ Incident No. 139469. Specifically, Sherwin Alumina, LP released 7.5 pounds of alumina hydrate dust from the No. 1 Gas Suspension Calciner (EPN: 70).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Special Condition No. 5 PERMIT
Description: Failure to prevent emissions of opacity greater than 7 percent averaged and greater than 20 percent, averaged over a six-minute period, during an emissions event that occurred on May 8, 2010, TCEQ Incident No. 139469. Specifically, Sherwin Alumina, LP released alumina hydrate dust emissions with a highest six-minute average opacity of 52 percent.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(c)
5C THSC Chapter 382 382.085(b)

Description: Failure to submit the final report within two weeks for an emissions event that occurred on May 8, 2010 (TCEQ Incident No. 139469). Specifically, the incident ended at 4:18 p.m. on May 8, 2010. Sherwin Alumina, LP submitted the final report on May 25, 2010 at 8:58 a.m.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Special Condition No. 1 & MAERT PERMIT

Description: Failure to prevent unauthorized emissions to the atmosphere during an emissions event that occurred on May 8, 2010, TCEQ Incident No. 139471. Specifically, Sherwin Alumina, LP released 9.2 pounds of alumina hydrate dust from the No. 2 GSC (EPN: 80).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Special Condition No. 5 PERMIT

Description: Failure to prevent emissions of opacity greater than 7 percent and greater than 20 percent, averaged over a six-minute period, over a six-minute period during an emissions event that occurred on May 8, 2010, TCEQ Incident No. 139471. Specifically, Sherwin Alumina, LP released alumina hydrate dust emissions with a highest six-minute average opacity of 55.8 percent.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(c)
5C THSC Chapter 382 382.085(b)

Description: Failure to submit the final report within two weeks for an emissions event that occurred on May 8, 2010, TCEQ Incident No. 139471. Specifically, the incident ended at 4:30 p.m. on May 8, 2010. Sherwin Alumina, LP submitted the final report on May 25, 2010 at 9:03 a.m.

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 COMPANY, LLC RN102318847	**§ § § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2010-1216-IHW-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 Company, LLC ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 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 chemical manufacturing facility at 4633 Highway 361 in Gregory, San Patricio County, Texas (the "Plant"). The Respondent allowed the disposal of industrial solid waste at H&H Iron and Metal (Rincon Yard) on Rincon Road, approximately one-half mile north at Burleson Street in Corpus Christi, Nueces County, Texas (the "Facility").

2. The Respondent involves or involved the management of industrial solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.

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 July 4, 2010.

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 One Thousand Six Hundred Fifty Dollars ($1,650) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Three Hundred Twenty Dollars ($1,320) of the administrative penalty and Three Hundred Thirty Dollars ($330) 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.

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 recognizes that on May 17, 2010 the Respondent submitted compliance documentation for the cleanup of the drums and used oil leaks discovered at the Facility.

10. 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.

11. 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.

12. 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 failed to prevent the disposal of industrial solid waste at an unauthorized facility, in violation of 30 TEX. ADMIN. CODE § 335.2(b), as documented during an investigation conducted on April 30, 2010.

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 resolves 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 Company, LLC, Docket No. 2010-1216-IHW-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 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.

3. 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.

4. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

5. 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 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 Date

_____ _____
Name (Printed or typed) Title
Authorized Representative of
Sherwin Alumina Company, LLC

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.