EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-1705-AIR-E **TCEQ ID:** RN102318847 **CASE NO.:** 40562

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:		
X AIR	__MULTI-MEDIA (check all that apply)	__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 East, Gregory, San Patricio County

TYPE OF OPERATION: Alumina refining plant

SMALL BUSINESS: ___ **Yes** X **No**

OTHER SIGNIFICANT MATTERS: There are no complaints. There is one record of an additional pending enforcement action regarding this facility location: Docket No. 2010-1216-IHW-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 March 21, 2011. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732

TCEQ Enforcement Coordinator: Mr. Raymond Marlow, P.G., Enforcement Division, Enforcement Team 5, MC R-10, (409) 899-8785; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495

Respondent: Mr. Austin Mooney, Director of Technology, Sherwin Alumina Company, LLC, 4633 Highway 361 East, Gregory, Texas 78359

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:** July 29, 2010 **Date of NOV/NOE Relating to this Case:** September 17, 2010 (NOE) **Background Facts:** This was a routine investigation. **AIR** Failed to prevent unauthorized emissions. Specifically, 7.2 pounds of alumina hydrate dust were released from the No. 1 Gas Suspension Calciner, Emission Point Number 70, on May 11, 2010 for one hour and two minutes causing an opacity of 42.1%, which exceeded the 7% limit. The emissions event (Incident No. 142881) was caused when an operator added feed too quickly, causing the inlet temperature to increase and the interlock to trip the unit. Since the emissions event was not beyond the control of the Respondent and could have been prevented with proper maintenance and/or operational practices, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met [30 TEX. ADMIN. CODE § 116.115(b) and (c), New Source Review Permit No. 19732, Special Conditions Nos. 1 and 5, and TEX. HEALTH & SAFETY CODE § 382.085(b)].	**Total Assessed:** $4,550 **Total Deferred:** $910 X Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $1,820 **Total Paid to General Revenue:** $1,820 **Compliance History Classifications:** Person/CN - Average Site/RN - Average **Major Source:** X **Yes** __ **No** **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** The Executive Director recognizes that by August 19, 2010, the Respondent completed the training of the operator that caused the emissions event (Incident No. 142881), in order to prevent a recurrence of emissions events due to the same cause. **Ordering Provisions:** The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)

Additional ID No(s).: Air Account SD0037N

Attachment A
Docket Number: 2010-1705-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Sherwin Alumina Company, LLC**
Payable Penalty Amount:	**Three Thousand Six Hundred Forty Dollars ($3,640)**
SEP Amount:	**One Thousand Eight Hundred Twenty Dollars ($1,820)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Clean School Buses**
Location of SEP:	**Texas Air Quality Control Region 214 – Corpus Christi-Victoria**

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 shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to aid local school districts, area transit agencies, and local governments in need of funding assistance to pay for the cost of the following activities to reduce emissions: 1) replacing older diesel buses with alternative fuelled or clean diesel buses; or 2) retrofitting older diesel buses with new, cleaner technology. The funds will be disbursed on a needs-rated basis, using non-attainment area status, condition of buses, and economic status of the recipient as possible rating factors if competition for the funds exists. To maximize funds, retrofitting will take priority over replacement of buses. Older buses deemed not suitable for retrofitting will be permanently retired and sold only for scrap.

Acceptable retrofit technologies include particulate matter traps, diesel particulate matter filters, nitrogen oxides (NO_x) reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by the United States Environmental Protection Agency ("EPA") or the California Air Resources Board.

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 reducing particulate matter and hydrocarbon emissions from buses, to meet the new, more stringent emissions standards introduced by the EPA which will be phased in between 2007 and 2010.

C. Minimum Expenditure

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

2. Performance Schedule

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

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 507
Bryan, Texas 77802-2700

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

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

The Respondent shall also mail a copy of the check to the Enforcement Division 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 October 30, 2008*

TCEQ

DATES						
Assigned	17-Sep-2010					
PCW	16-Dec-2010	**Screening**	18-Oct-2010	**EPA Due**	14-Jun-2011	

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

CASE INFORMATION			
Enf./Case ID No.	40562	**No. of Violations**	1
Docket No.	2010-1705-AIR-E	**Order Type**	1660
Media Program(s)	Air	**Government/Non-Profit**	No
Multi-Media		**Enf. Coordinator**	Raymond Marlow, P.G.
		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*: $2,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 107.0% Enhancement — *Subtotals 2, 3, & 7*: $2,675

Notes: Enhancement for five same/similar NOVs, six dissimilar NOVs, one agreed order with a denial of liability, and two agreed orders without a denial of liability.

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*: $625

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

Total EB Amounts $14
Approx. Cost of Compliance $1,000

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal*: $4,550

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount: $4,550

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty*: $4,550

DEFERRAL 20.0% Reduction — *Adjustment*: -$910

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: $3,640

Screening Date 18-Oct-2010 **Docket No.** 2010-1705-AIR-E **PCW**

Respondent Sherwin Alumina Company, LLC

Policy Revision 2 (September 2002)

Case ID No. 40562

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102318847

Media [Statute] Air

Enf. Coordinator Raymond Marlow, P.G.

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	5	25%
	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) 107%

>> 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 for five same/similar NOVs, six dissimilar NOVs, one agreed order with a denial of liability, and two agreed orders without a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 107%

Screening Date 18-Oct-2010 **Docket No.** 2010-1705-AIR-E **PCW**

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

Case ID No. 40562 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN102318847

Media [Statute] Air

Enf. Coordinator Raymond Marlow, P.G.

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.115(b) and (c), New Source Review Permit No. 19732, Special Conditions Nos. 1 and 5, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to prevent unauthorized emissions. Specifically, 7.2 pounds of alumina hydrate dust were released from the No. 1 Gas Suspension Calciner, Emission Point Number 70, on May 11, 2010 for one hour and two minutes causing an opacity of 42.1%, which exceeded the 7% limit. The emissions event (Incident No. 142881) was caused when an operator added feed too quickly, causing the inlet temperature to increase and the interlock to trip the unit. Since the emissions event was not beyond the control of the Respondent and could have been prevented with proper maintenance and/or operational practices, 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

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 25%

>>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 that are protective of human health or environmental receptors as a result of the violation.

Adjustment $7,500

$2,500

Violation Events

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

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $2,500

One quarterly event is recommended.

Good Faith Efforts to Comply

25.0% Reduction — $625

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

Notes: The Respondent achieved compliance on August 19, 2010, prior to the September 17, 2010 NOE.

Violation Subtotal $1,875

Economic Benefit (EB) for this violation

Estimated EB Amount $14

Statutory Limit Test

Violation Final Penalty Total $4,550

This violation Final Assessed Penalty (adjusted for limits) $4,550

Economic Benefit Worksheet

Respondent Sherwin Alumina Company, LLC
Case ID No. 40562
Reg. Ent. Reference No. RN102318847
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	$1,000	11-May-2010	19-Aug-2010	0.27	$14	n/a	$14
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs	Estimated cost to train the operator to prevent a recurrence of emissions events due to the same cause as Incident No. 142881. The date required is the date of noncompliance. The final date is the date that corrective actions were 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 $1,000

TOTAL $14

Compliance History

Customer/Respondent/Owner-Operator:	CN603527359	Sherwin Alumina Company, LLC	Classification: AVERAGE	Rating: 4.49
Regulated Entity:	RN102318847	SHERWIN ALUMINA PLANT	Classification: AVERAGE	Site Rating: 4.49

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
POLLUTION PREVENTION PLANNING	ID NUMBER	P03482
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 WQ0004646000	PERMIT	
WASTEWATER	EPA ID	TX0125989
PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	41391
WASTE WATER GENERAL PERMIT	PERMIT	2E0000056
AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	SD0037N

Location: 4633 HIGHWAY 361, GREGORY, TX, 78359

TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: October 18, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 17, 2005 to September 17, 2010

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

Name: Raymond Marlow, P.G. Phone: (409) 899-8785

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: 9/1/2010 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.

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	09/21/2005	(431909)
2	09/21/2005	(431911)
3	09/21/2005	(431912)
4	10/14/2005	(433540)
5	10/25/2005	(435186)
6	11/18/2005	(436142)
7	11/18/2005	(436145)
8	11/18/2005	(436146)
9	11/16/2005	(437119)
10	11/17/2005	(437423)

11	12/13/2005	(439050)
12	01/11/2006	(450916)
13	10/02/2006	(451377)
14	01/23/2006	(451406)
15	01/20/2006	(451414)
16	01/28/2006	(451637)
17	02/21/2006	(454794)
18	03/27/2006	(459324)
19	03/27/2006	(459328)
20	03/27/2006	(459667)
21	04/17/2006	(459671)
22	04/10/2006	(461108)
23	04/13/2006	(462107)
24	04/13/2006	(462275)
25	04/13/2006	(462432)
26	04/25/2006	(463268)
27	05/30/2006	(464157)
28	08/30/2006	(484932)
29	07/19/2006	(485037)
30	08/21/2006	(487355)
31	08/02/2006	(489274)
32	08/16/2006	(489842)
33	08/16/2006	(497283)
34	10/31/2006	(510822)
35	09/13/2006	(511332)
36	11/01/2006	(512149)
37	09/25/2006	(512762)
38	10/02/2006	(514458)
39	10/16/2006	(515071)
40	10/18/2006	(515536)
41	01/05/2007	(515537)
42	01/23/2007	(515557)
43	02/02/2007	(517325)
44	11/17/2006	(517561)
45	01/31/2007	(531088)
46	12/22/2006	(531445)
47	12/14/2006	(532523)
48	12/28/2006	(533390)
49	01/17/2007	(534670)
50	01/26/2007	(537694)
51	01/31/2007	(538636)
52	02/01/2007	(538814)
53	03/01/2007	(539015)
54	08/31/2007	(539079)
55	02/15/2007	(539897)
56	02/12/2007	(539906)
57	02/16/2007	(539975)
58	02/16/2007	(539992)
59	02/16/2007	(540031)
60	04/26/2007	(540910)
61	06/22/2007	(554888)
62	04/04/2007	(555860)
63	04/13/2007	(556787)
64	06/01/2007	(561111)
65	06/29/2007	(563312)
66	08/21/2007	(563391)
67	07/11/2007	(567049)
68	09/14/2007	(567817)
69	07/27/2007	(568148)
70	08/13/2007	(571884)
71	08/24/2007	(573508)
72	12/11/2007	(594178)
73	10/19/2007	(595884)
74	11/01/2007	(598255)
75	11/05/2007	(598256)
76	10/31/2007	(599010)
77	10/30/2007	(599353)
78	11/30/2007	(610272)
79	12/03/2007	(610656)
80	01/07/2008	(613525)
81	02/15/2008	(614995)
82	02/19/2008	(618703)
83	02/22/2008	(618980)
84	02/29/2008	(618982)
85	02/20/2008	(619028)
86	05/07/2008	(636742)
87	03/13/2008	(638149)

88	03/28/2008	(638211)
89	03/31/2008	(640299)
90	04/23/2008	(640562)
91	06/05/2008	(646678)
92	05/17/2008	(657009)
93	12/10/2008	(669975)
94	05/29/2008	(670898)
95	10/02/2008	(682878)
96	06/20/2008	(683880)
97	06/27/2008	(684209)
98	08/12/2008	(684611)
99	07/10/2008	(685248)
100	11/20/2008	(685863)
101	07/30/2008	(686527)
102	07/24/2008	(686823)
103	09/15/2008	(700583)
104	12/02/2008	(704011)
105	10/07/2008	(704669)
106	10/29/2008	(704868)
107	10/30/2008	(705480)
108	02/27/2009	(706041)
109	11/19/2008	(707195)
110	12/05/2008	(707307)
111	01/02/2009	(721876)
112	01/15/2009	(723366)
113	01/16/2009	(723563)
114	02/16/2009	(725844)
115	02/18/2009	(735594)
116	03/27/2009	(739950)
117	03/27/2009	(740264)
118	04/07/2009	(741146)
119	04/29/2009	(741722)
120	04/29/2009	(742245)
121	04/30/2009	(742250)
122	06/11/2009	(742964)
123	07/27/2009	(762028)
124	08/31/2009	(764519)
125	08/24/2009	(765493)
126	09/01/2009	(767390)
127	12/04/2009	(784119)
128	12/23/2009	(786453)
129	01/22/2010	(788697)
130	03/26/2010	(789782)
131	02/25/2010	(790637)
132	02/25/2010	(793554)
133	03/30/2010	(793669)
134	03/30/2010	(793842)
135	04/13/2010	(798062)
136	05/03/2010	(800514)
137	05/28/2010	(801853)
138	06/22/2010	(824694)
139	06/22/2010	(825494)
140	06/21/2010	(826171)
141	07/14/2010	(829945)
142	07/30/2010	(830180)
143	09/07/2010	(844388)
144	08/09/2010	(844829)

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) CN603527359

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) CN603527359

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) CN603527359

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.

Date: 09/08/2010 (844388) CN603527359
Self Report? NO Classification: Moderate
Citation: 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 Condition No. 21 PERMIT
Special Terms and Conditions No. 9 OP

Description: Failure to comply with the 2,000 tons per hour (tph) bauxite handling limit at the Marine Terminal (EPN: 5F) and dock conveyor, as specified in New Source Review Permit Number 48455, Special Condition Number 21. Specifically, on February 4, 2009, Sherwin Alumina LP's bauxite unloading rate averaged 2,271 tph for one hour and on May 31, 2009, the bauxite unloading rate averaged 2,061 tph for one hour.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
30 TAC Chapter 122, SubChapter B 122.146(5)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP

Description: Failure to include all instances of deviations, the probable cause of the deviations, and any corrective actions or preventative measures taken for each emission unit addressed in the permit. Specifically, deviations occurred on February 4, 2009 and May 31, 2009 (concerning bauxite handling limits) which were not included in the first semiannual deviation report due July 30, 2009. Additionally, the PCC failed to include or reference these deviations yielding an incomplete report.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.146(5)(D)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP

Description: Failure to certify all terms and conditions for which compliance was not achieved. Specifically, Sherwin Alumina, L.P. failed to appropriately certify (no evidence of Form OP-CRO1, Certification by Responsible Official) the first semiannual deviation reporting period of January 1, 2009 through June 30, 2009. Additionally, failure to certify the semiannual deviation report results in an incomplete and incorrectly certified PCC.

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. 2010-1705-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 Company, LLC ("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 alumina refining plant at 4633 Highway 361 East 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 September 20, 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 Four Thousand Five Hundred Fifty Dollars ($4,550) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Eight Hundred Twenty Dollars ($1,820) of the administrative penalty and Nine Hundred Ten Dollars ($910) 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. One Thousand Eight Hundred Twenty Dollars ($1,820) 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 recognizes that by August 19, 2010, the Respondent completed the training of the operator that caused the emissions event (Incident No. 142881), in order to prevent a recurrence of emissions events due to the same cause.

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 unauthorized emissions, in violation of 30 TEX. ADMIN. CODE § 116.115(b) and (c), New Source Review Permit No. 19732, Special Conditions Nos. 1 and 5, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 29, 2010. Specifically, 7.2 pounds of alumina hydrate dust were released from the No. 1 Gas Suspension Calciner, Emission Point Number 70, on May 11, 2010 for one hour and two minutes causing an opacity of 42.1%, which exceeded the 7% limit. The emissions event (Incident No. 142881) was caused when an operator added feed too quickly, causing the inlet temperature to increase and the interlock to trip the unit. Since the emissions event was not beyond the control of the Respondent and could have been prevented with proper maintenance and/or operational practices, 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 Company, LLC, Docket No. 2010-1705-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 I, Paragraph 6 above, One Thousand Eight Hundred Twenty Dollars ($1,820) 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 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.

4. 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.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by 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.

6. 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.

7. 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.

8. 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

3/4/2011
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

2/24/2011
Date

Austin Money
Name (Printed or typed)
Authorized Representative of
Sherwin Alumina Company, LLC

Dir of Technology
Title

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.

Attachment A
Docket Number: 2010-1705-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Sherwin Alumina Company, LLC**
Payable Penalty Amount:	**Three Thousand Six Hundred Forty Dollars ($3,640)**
SEP Amount:	**One Thousand Eight Hundred Twenty Dollars ($1,820)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Clean School Buses**
Location of SEP:	**Texas Air Quality Control Region 214 – Corpus Christi-Victoria**

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 shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to aid local school districts, area transit agencies, and local governments in need of funding assistance to pay for the cost of the following activities to reduce emissions: 1) replacing older diesel buses with alternative fuelled or clean diesel buses; or 2) retrofitting older diesel buses with new, cleaner technology. The funds will be disbursed on a needs-rated basis, using non-attainment area status, condition of buses, and economic status of the recipient as possible rating factors if competition for the funds exists. To maximize funds, retrofitting will take priority over replacement of buses. Older buses deemed not suitable for retrofitting will be permanently retired and sold only for scrap.

Acceptable retrofit technologies include particulate matter traps, diesel particulate matter filters, nitrogen oxides (NO_x) reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by the United States Environmental Protection Agency ("EPA") or the California Air Resources Board.

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 reducing particulate matter and hydrocarbon emissions from buses, to meet the new, more stringent emissions standards introduced by the EPA which will be phased in between 2007 and 2010.

C. Minimum Expenditure

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

2. Performance Schedule

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

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 507
Bryan, Texas 77802-2700

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

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

The Respondent shall also mail a copy of the check to the Enforcement Division 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.