

Executive Summary – Enforcement Matter – Case No. 48639
Sherwin Alumina Company, LLC
RN104914312
Docket No. 2014-0639-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Sherwin Alumina 204 Sludge Application Site, approximately eight miles north of the Sherwin Alumina Plant near Gregory, San Patricio County and Aransas County

Type of Operation:

Red mud waste disposal site

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainants have expressed an interest in this matter but do not wish to speak at Agenda.

Texas Register Publication Date: January 2, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$73,125

Amount Deferred for Expedited Settlement: \$14,625

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$29,250

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$14,625

Name of SEP: Texas A&M University-Kingsville (Third-Party Pre-Approved)

SEP Conditional Offset: \$14,625

Name of SEP: Texas Association of Resource Conservation and Development Areas, Inc. (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - High

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

**Executive Summary – Enforcement Matter – Case No. 48639
Sherwin Alumina Company, LLC
RN104914312
Docket No. 2014-0639-AIR-E**

Investigation Information

Complaint Date(s): January 24 and 31, 2014, February 5 and 29, 2014, March 4 and 27, 2014, and April 7 through 10, 2014

Complaint Information: Alleged that dust from industrial activities was blowing across area roadways and/or onto properties.

Date(s) of Investigation: December 19, 2013 through April 9, 2014 and April 7, 2014 through April 30, 2014

Date(s) of NOE(s): April 25, 2014

Violation Information

Failed to prevent nuisance dust emissions from impacting off property receptors. Specifically, lab analysis of tape lift samples collected on January 30 and 31, February 5 and 19, March 3, and April 7 and 10, 2014 from affected adjacent properties and citizen collected evidence for incidents that occurred on January 8, 21, 23, and 24 and April 5, 7, and 8, 2014 documented that dust from the Site caused nuisance dust conditions at off-site property receptors [30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By May 8, 2014, the Respondent implemented a Dust Control Strategy that includes applying an asphalt sealer and aggregate, installing a leachate collection system, applying top soil, applying vegetation, installing an irrigation system, applying dust suppressant chemicals, managing mud deposition, applying hay, and reducing mud deposition footprint at Bed 1; maintaining Bed 2 flooded; applying dust suppressants and flooding of Bed 3; and maintaining water and installing gravity feed to Bed 4.

Technical Requirements:

1. The Order will require the Respondent to implement and complete two Supplemental Environmental Projects ("SEP"). (See SEP Attachments A and B)
2. The Order will also require the Respondent to:
 - a. Within 180 days, complete the Dust Control Strategy and/or other measures that prevent dust emissions from leaving the Site; and
 - b. Within 225 days, submit written certification to demonstrate compliance with Ordering Provision a.

Executive Summary – Enforcement Matter – Case No. 48639
Sherwin Alumina Company, LLC
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Docket No. 2014-0639-AIR-E

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Amancio R. Gutierrez, Enforcement Division, Enforcement Team 5, MC 149, (512) 239-3921; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456
TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565
Respondent: Steven Hoey, Director-Environmental Safety and Health, Sherwin Alumina Company, LLC, P.O. Box 9911, Corpus Christi, Texas 78469
Respondent's Attorney: N/A

Attachment A
Docket Number: 2014-0639-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Sherwin Alumina Company, LLC
Penalty Amount:	Fifty-Eight Thousand Five Hundred Dollars (\$58,500)
SEP Offset Amount:	Fourteen Thousand Six Hundred Twenty-Five Dollars (\$14,625)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas A&M University-Kingsville
Project Name:	<i>Corpus Christi Airshed Monitoring Project</i>
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 Offset 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 the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas A&M University-Kingsville** for the *Corpus Christi Airshed Monitoring Project*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to upgrade monitoring equipment at six air monitoring sites within the Corpus Christi airshed with new, more efficient sensors. Ozone analyzers and meteorological sensors will be replaced with new, high-sensitivity and robust sensors for better assessment of ozone concentrations, simultaneous weather parameters, and other parameters.

The Third-Party Administrator shall also use the SEP Offset Amount to continue monitoring activity at the monitoring sites, including monthly operational expenses at the monitoring sites, necessary repairs, supplies, and a portion of travel and personnel salaries associated with implementing this Project. Continuous measurement of ozone and meteorological parameters including wind speed, wind direction, relative humidity, and outdoor temperature will be conducted at each site. Additional monitoring parameters may be added or removed from these sites as approved by TCEQ. The Third-Party Administrator must generate and maintain a Quality Assurance Project Plan

Sherwin Alumina Company, LLC
Agreed Order - Attachment A

adhering to the principles of *EPA Requirements for Quality Assurance Project Plans*, EPA QA/R-5.

The Third-Party Administrator shall provide data obtained from the monitors directly to the TCEQ Leading Environmental Analysis and Display System ("LEADS") using wireless modems. The Third-Party Administrator shall make the data available to the public via the TCEQ website as soon as possible upon availability. The data displayed on the TCEQ website will be subject to change pending final validation by the Third-Party Administrator. The Third-Party Administrator shall provide to the TCEQ contact information for a person able to answer questions (during normal business hours) regarding data quality from the measurements obtained from the Third-Party Administrator's air quality monitoring sites. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

Health impacts from emissions in and around the highly industrialized area of Corpus Christi are of potential concern. This Project will provide air quality data that may be used to investigate and remediate this air quality concern. This Project will continue generating air quality data, which will be made available to the public through the TCEQ LEADS system. Data from this monitoring network may be used to evaluate the effectiveness of current emission control strategies, track ambient concentration trends for key pollutants of interest, evaluate episodic emission events, conduct source attribution studies, and assess potential community exposure to air contaminants.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator 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 Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texas A&M University-Kingsville SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas A&M University-Kingsville
Attention: Rebecca Davis, PhD
Office of Research and Sponsored Programs
700 University Boulevard, MSC 201
Kingsville, Texas 78363

3. Records and Reporting

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

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

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Sherwin Alumina Company, LLC
Agreed Order - Attachment A

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, 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 Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

Attachment B
Docket Number: 2014-0639-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Sherwin Alumina Company, LLC
Penalty Amount:	Fifty-Eight Thousand Five Hundred Dollars (\$58,500)
SEP Offset Amount:	Fourteen Thousand Six Hundred Twenty-Five Dollars (\$14,625)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas Association of Resource Conservation and Development Areas, Inc.
Project Name:	<i>Clean Buses Project</i>
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 Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment B.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Association of Resource Conservation and Development Areas, Inc. (“RC&D”)** for the *Clean Buses Project*. The contribution will be used in accordance with the SEP Project Agreement between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to retrofit older diesel buses with lower emissions or clean fuel technology in order to reduce nitrogen oxides air emissions and replace model year 2006 or older buses with lower-emission buses that are model year 2010 or newer for public school districts or public charter schools (the “Project”). RC&D shall ensure that each replacement bus purchased has an engine that meets 2010 EPA standards and that the older bus is taken out of service. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not able to be spent on the specifically identified SEP may, at the discretion of the Executive Director (“ED”), be applied to another pre-approved SEP.

Sherwin Alumina Company, LLC
Agreed Order - Attachment B

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions that contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator 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 Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texas Association of RC&D SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Association of RC&D Areas, Inc.
Attn.: Jerry Pearce, Executive Director
P.O. Box 2533
Victoria, Texas 77902

3. Records and Reporting

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

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

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment B, including full expenditure of the SEP Offset Amount, as described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the Project, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality;" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, 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 Offset Amount identified in this Attachment B and in the attached Agreed Order has not been, and shall not be, included as a 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)

TCEQ

DATES	Assigned	28-Apr-2014	Screening	30-Apr-2014	EPA Due	
	PCW	5-Jun-2014				

RESPONDENT/FACILITY INFORMATION			
Respondent	Sherwin Alumina Company, LLC		
Reg. Ent. Ref. No.	RN104914312		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	48639	No. of Violations	1
Docket No.	2014-0639-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Amancio R. Gutierrez
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$48,750
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment for compliance history.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	50.0% Enhancement*	Subtotal 6	\$24,375
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Total EB Amounts	\$389,764
Approx. Cost of Compliance	\$3,070,001

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$73,125
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$73,125
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$73,125
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DEFERRAL	20.0% Reduction	Adjustment	-\$14,625
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$58,500
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Screening Date 30-Apr-2014

Docket No. 2014-0639-AIR-E

PCW

Respondent Sherwin Alumina Company, LLC

Policy Revision 4 (April 2014)

Case ID No. 48639

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN104914312

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

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 (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	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 (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	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 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
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) 0%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 0%

Screening Date 30-Apr-2014

Docket No. 2014-0639-AIR-E

PCW

Respondent Sherwin Alumina Company, LLC

Policy Revision 4 (April 2014)

Case ID No. 48639

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN104914312

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 101.4 and Tex. Health & Safety Code § 382.085(a) and (b)

Violation Description Failed to prevent nuisance dust emissions from impacting off property receptors. Specifically, lab analysis of tape lift samples collected on January 30 and 31, February 5 and 19, March 3, and April 7 and 10, 2014 from affected adjacent properties and citizen collected evidence for incidents that occurred on January 8, 21, 23, and 24 and April 5, 7, and 8, 2014 documented that dust from the Site caused nuisance dust conditions at off-site property receptors.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes Human health or the environment has been exposed to significant amounts of pollutants.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 13 Number of violation days 13

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
single event	X	

Violation Base Penalty \$48,750

Thirteen single events are recommended for each day a nuisance condition was documented.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$48,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$389,764

Violation Final Penalty Total \$73,125

This violation Final Assessed Penalty (adjusted for limits) \$73,125

Economic Benefit Worksheet

Respondent Sherwin Alumina Company, LLC
Case ID No. 48639
Reg. Ent. Reference No. RN104914312
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$800,000	8-Jan-2014	1-Nov-2015	1.81	\$4,837	\$96,731	\$101,567
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$902,900	8-Jan-2014	1-Nov-2015	1.81	\$5,459	\$109,173	\$114,631
Engineering/Construction	\$1,367,101	8-Jan-2014	1-Nov-2015	1.81	\$8,265	\$165,301	\$173,566
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Actual and estimated costs to implement a Dust Control Strategy and/or other measures that prevent dust emissions from leaving the Site. The Date Required is the first date of non-compliance and the Final Date is the estimated 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

\$3,070,001

TOTAL

\$389,764



Compliance History Report

PENDING Compliance History Report for CN603527359, RN104914312, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator:	CN603527359, Sherwin Alumina Company, LLC	Classification: SATISFACTORY	Rating: 1.62
Regulated Entity:	RN104914312, SHERWIN ALUMINA 204 SLUDGE APPLICATION SITE	Classification: HIGH	Rating: 0.00
Complexity Points:	1	Repeat Violator: NO	
CH Group:	08 - Sewage Treatment Facilities		
Location:	EIGHT MILES NORTH OF THE SHERWIN ALUMINA PLANT NEAR GREGORY IN SAN PATRICIO COUNTY AND ARANSAS COUNTY, TEXAS		
TCEQ Region:	REGION 14 - CORPUS CHRISTI		

ID Number(s):	SLUDGE PERMIT WQ0004788000	SLUDGE EPA ID TXL005014	
Compliance History Period:	September 01, 2009 to August 31, 2014	Rating Year: 2014	Rating Date: 09/01/2014
Date Compliance History Report Prepared:	October 02, 2014		
Agency Decision Requiring Compliance History:	Enforcement		
Component Period Selected:	October 02, 2009 to October 02, 2014		
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.			
Name:	Amancio R. Gutierrez	Phone:	(512) 239-3921

Site and Owner/Operator History:

- | | |
|--|-----|
| 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 for #2, who is the current owner/operator? | N/A |
| 4) If YES for #2, who was/were the prior owner(s)/operator(s)? | N/A |
| 5) If YES , when did the change(s) in owner or operator occur? | N/A |

Components (Multimedia) for the Site Are Listed in Sections A - J

- A. Final Orders, court judgments, and consent decrees:**
N/A
- B. Criminal convictions:**
N/A
- C. Chronic excessive emissions events:**
N/A
- D. The approval dates of investigations (CCEDS Inv. Track. No.):**

Item 1	January 13, 2011	(877028)
Item 2	May 22, 2012	(1002996)
Item 3	August 26, 2014	(1178401)
- E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

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
RN104914312**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2014-0639-AIR-E**

I. JURISDICTION AND STIPULATIONS

On _____, 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 ("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 together stipulate that:

1. The Respondent owns and operates a red mud waste disposal site approximately eight miles north of the Sherwin Alumina Plant near Gregory in San Patricio County and Aransas County, Texas (the "Site").
2. The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director 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 notices of the violations alleged in Section II ("Allegations") on or about April 30 and May 10, 2014.
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 Seventy-Three Thousand One Hundred Twenty-Five Dollars (\$73,125) is assessed by the Commission in settlement of the

violations alleged in Section II ("Allegations"). The Respondent has paid Twenty-Nine Thousand Two Hundred Fifty Dollars (\$29,250) of the administrative penalty and Fourteen Thousand Six Hundred Twenty-Five Dollars (\$14,625) 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. Twenty-Nine Thousand Two Hundred Fifty Dollars (\$29,250) shall be conditionally offset by the Respondent's completion of two Supplemental Environmental Projects ("SEPs").

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 and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that by May 8, 2014, the Respondent implemented a Dust Control Strategy that includes applying an asphalt sealer and aggregate, installing a leachate collection system, applying top soil, applying vegetation, installing an irrigation system, applying dust suppressant chemicals, managing mud deposition, applying hay, and reducing mud deposition footprint at Bed 1; maintaining Bed 2 flooded; applying dust suppressants and flooding of Bed 3; and maintaining water and installing gravity feed to Bed 4.
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 Site, the Respondent is alleged to have failed to prevent nuisance dust emissions from impacting off property receptors, in violation of 30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b), as documented during investigations conducted December 19, 2013 through April 9, 2014 and April 7 through 30, 2014. Specifically, lab analysis of tape lift samples collected on January 30 and 31, February 5 and 19, March 3, and April 7 and 10, 2014 from affected adjacent properties and citizen collected evidence for incidents that occurred on January 8, 21, 23, and 24 and April 5, 7, and 8, 2014 documented that dust from the Site caused nuisance dust conditions at off-site property receptors.

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. 2014-0639-AIR-E" to:

Financial Administration Division, Revenue Operations 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 the SEPs in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Twenty-Nine Thousand Two Hundred Fifty Dollars (\$29,250) of the assessed administrative penalty shall be offset with the condition that the SEPs defined in Attachment A and Attachment B, incorporated herein by reference, are implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the assessed administrative penalty shall be discharged upon final completion of all provisions of the SEP agreements.
3. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 180 days after the effective date of this Agreed Order, complete the Dust Control Strategy and/or other measures that prevent dust emissions from leaving the Site; and
 - b. Within 225 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and

complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

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

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This 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.

9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

3/9/15
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

12/1/2014
Date

Steve Hoey
Name (Printed or typed)
Authorized Representative of
Sherwin Alumina Company, LLC

Director ESH
Title

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

Attachment A
Docket Number: 2014-0639-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Sherwin Alumina Company, LLC
Penalty Amount:	Fifty-Eight Thousand Five Hundred Dollars (\$58,500)
SEP Offset Amount:	Fourteen Thousand Six Hundred Twenty-Five Dollars (\$14,625)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas A&M University-Kingsville
Project Name:	<i>Corpus Christi Airshed Monitoring Project</i>
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 Offset 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 the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas A&M University-Kingsville** for the *Corpus Christi Airshed Monitoring Project*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to upgrade monitoring equipment at six air monitoring sites within the Corpus Christi airshed with new, more efficient sensors. Ozone analyzers and meteorological sensors will be replaced with new, high-sensitivity and robust sensors for better assessment of ozone concentrations, simultaneous weather parameters, and other parameters.

The Third-Party Administrator shall also use the SEP Offset Amount to continue monitoring activity at the monitoring sites, including monthly operational expenses at the monitoring sites, necessary repairs, supplies, and a portion of travel and personnel salaries associated with implementing this Project. Continuous measurement of ozone and meteorological parameters including wind speed, wind direction, relative humidity, and outdoor temperature will be conducted at each site. Additional monitoring parameters may be added or removed from these sites as approved by TCEQ. The Third-Party Administrator must generate and maintain a Quality Assurance Project Plan

Sherwin Alumina Company, LLC
Agreed Order - Attachment A

adhering to the principles of *EPA Requirements for Quality Assurance Project Plans*, EPA QA/R-5.

The Third-Party Administrator shall provide data obtained from the monitors directly to the TCEQ Leading Environmental Analysis and Display System ("LEADS") using wireless modems. The Third-Party Administrator shall make the data available to the public via the TCEQ website as soon as possible upon availability. The data displayed on the TCEQ website will be subject to change pending final validation by the Third-Party Administrator. The Third-Party Administrator shall provide to the TCEQ contact information for a person able to answer questions (during normal business hours) regarding data quality from the measurements obtained from the Third-Party Administrator's air quality monitoring sites. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

Health impacts from emissions in and around the highly industrialized area of Corpus Christi are of potential concern. This Project will provide air quality data that may be used to investigate and remediate this air quality concern. This Project will continue generating air quality data, which will be made available to the public through the TCEQ LEADS system. Data from this monitoring network may be used to evaluate the effectiveness of current emission control strategies, track ambient concentration trends for key pollutants of interest, evaluate episodic emission events, conduct source attribution studies, and assess potential community exposure to air contaminants.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator 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 Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texas A&M University-Kingsville SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas A&M University-Kingsville
Attention: Rebecca Davis, PhD
Office of Research and Sponsored Programs
700 University Boulevard, MSC 201
Kingsville, Texas 78363

3. Records and Reporting

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

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

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Sherwin Alumina Company, LLC
Agreed Order - Attachment A

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, 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 Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

Attachment B
Docket Number: 2014-0639-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Sherwin Alumina Company, LLC
Penalty Amount:	Fifty-Eight Thousand Five Hundred Dollars (\$58,500)
SEP Offset Amount:	Fourteen Thousand Six Hundred Twenty-Five Dollars (\$14,625)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas Association of Resource Conservation and Development Areas, Inc.
Project Name:	<i>Clean Buses Project</i>
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 Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment B.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Association of Resource Conservation and Development Areas, Inc. (“RC&D”)** for the *Clean Buses Project*. The contribution will be used in accordance with the SEP Project Agreement between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to retrofit older diesel buses with lower emissions or clean fuel technology in order to reduce nitrogen oxides air emissions and replace model year 2006 or older buses with lower-emission buses that are model year 2010 or newer for public school districts or public charter schools (the “Project”). RC&D shall ensure that each replacement bus purchased has an engine that meets 2010 EPA standards and that the older bus is taken out of service. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not able to be spent on the specifically identified SEP may, at the discretion of the Executive Director (“ED”), be applied to another pre-approved SEP.

Sherwin Alumina Company, LLC
Agreed Order - Attachment B

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions that contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator 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 Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texas Association of RC&D SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Association of RC&D Areas, Inc.
Attn.: Jerry Pearce, Executive Director
P.O. Box 2533
Victoria, Texas 77902

3. Records and Reporting

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

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

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment B, including full expenditure of the SEP Offset Amount, as described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the Project, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality;" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, 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 Offset Amount identified in this Attachment B and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.