

**RAILROAD COMMISSION OF TEXAS  
HEARINGS DIVISION**

**OIL AND GAS DOCKET NO. 7C-0295987**

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**ENFORCEMENT ACTION AGAINST MARTIN BUSTOS, SOLE PROPRIETOR OF BUSTOS, MARTIN OIL (OPERATOR NO. 112687) FOR VIOLATIONS OF STATEWIDE RULES ON THE STATE OF TEXAS (05608) LEASE, WELL NOS. 1, 2, AND 6, C-M-R (GRAYBURG) FIELD, UPTON COUNTY, TEXAS**

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**FINAL ORDER**

The Railroad Commission of Texas (“Commission”) finds that after statutory notice the captioned enforcement proceeding was heard by a Commission Administrative Law Judge on November 5, 2015 and that the respondent, Martin Bustos, failed to appear or respond to the Notice of Opportunity for Hearing. Pursuant to § 1.49 of the Commission's General Rules of Practice and Procedure, 16 TEX. ADMIN. CODE § 1.49, and after being duly submitted to the Commission at a conference held in its offices in Austin, Texas, the Commission makes the following findings of fact and conclusions of law.

**FINDINGS OF FACT**

1. Martin Bustos, sole proprietor of Bustos, Martin Oil (Operator No. 112687), (“Respondent”), was sent the Original Complaint and Notice of Opportunity for Hearing by certified and first class mail, addressed to the most recent Commission Form P-5 (Organization Report) address.
2. The certified mail containing the Original Complaint and the Notice of Opportunity for Hearing was received on September 14, 2015. The first class mail was not returned. Record of the delivery of certified mail has been on record with the Commission for more than 15 days, exclusive of the day of receipt and day of issuance. Respondent was given more than 30 days’ notice of the Original Complaint and Notice of Opportunity for Hearing. Respondent has not entered into an agreed settlement order, filed an answer, or requested a hearing.
3. On January 30, 2014, Respondent, a sole proprietor, filed a Form P-5 (Organization Report) with the Commission reporting that its officers consisted of the following individual: Martin Bustos, Sole Proprietor.
4. Martin Bustos was in a position of ownership or control of Respondent, as defined in section 91.114 of the Texas Natural Resources Code, during the time period of the violations of Commission rules committed by Respondent.

5. Respondent's P-5 (Organization Report) is currently delinquent. Respondent had a \$50,000 cash deposit as its financial assurance at the time of its last P-5 annual renewal submittal.
6. The violations of Commission rules committed by Respondent are related to safety and the control of pollution.
7. Respondent designated itself as the operator of the State of Texas (05608) Lease, Well Nos. 1, 2, and 6, C-M-R (Grayburg) Field, Upton County, Texas, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective January 1, 2014, approved January 30, 2014.
8. Commission inspection reports made on May 27, 2014, October 9, 2014, January 13, 2014, and February 24, 2015, and either reports filed by Respondent with the Commission reflecting zero production, or the absence of production reports filed by Respondent with the Commission since May 2009, show that the State of Texas (05608) Lease, Well Nos. 1, 2, and 6 have been inactive for a period greater than one year. Production from the subject wells ceased on or before May 2009.
9. No work-overs, re-entries, or subsequent operations have taken place on any of the subject wells within the last twelve months; none of the subject wells have been properly plugged in accordance with Statewide Rule 14, 16 TEX. ADMIN. CODE § 3.14; and no plugging extensions are in effect for any of the subject wells as allowed by Statewide Rule 14. The subject wells are not otherwise in compliance with Statewide Rule 14.
10. Usable quality groundwater in the area may become contaminated by migrations or discharges of saltwater and other oil and gas wastes from the subject wells. Unplugged wellbores, in violation of Statewide Rule 14(b)(2), constitute a cognizable threat to the public health and safety because of the potential of pollution.
11. The total estimated cost to the State for plugging the State of Texas (05608) Lease, Well Nos. 1, 2, and 6 is \$28,259.00.
12. Commission inspection reports made on May 27, 2014, October 9, 2014, January 13, 2014, and February 24, 2015 for the State of Texas (05608) Lease show that Respondent has failed to close and compact a workover pit at Well No. 1.
13. The continued maintenance of pits required to be emptied and backfilled pursuant to Statewide Rule 8(d)(4)(H)(i)(III) may result in unpermitted discharges that may contaminate surface or subsurface waters, causing pollution.
14. Commission inspection reports made on May 27, 2014, October 9, 2014, January 13, 2014, and February 24, 2015 for the State of Texas (05608) Lease show that Well No. 6

has casing open to the atmosphere.

15. Wells left uncontrolled or open to the atmosphere, in violation of Statewide Rule 13(a)(6)(A), may discharge oil and gas waste onto the land surface and affect the health of humans and animals; these discharges may eventually make their way to surface or subsurface waters, causing pollution.
16. Commission District inspection reports made on May 27, 2014, October 9, 2014, January 13, 2014, and February 24, 2015 for the State of Texas (05608) Lease show that Well No. 1 does not have a bradenhead and that the bradenheads on Well Nos. 2 and 6 are not equipped with operable valves.
17. Wells that have pressure on the bradenhead, in violation of Statewide Rule 17(a), may result in a discharge of oil and gas waste into ground water and contamination of surface or subsurface waters, thereby resulting in pollution.
18. The hydrogen sulfide concentration of the State of Texas (05608) Lease is in excess of 500 ppm and the lease is subject to the warning requirement of Statewide Rule 36(c)(5)(B). Commission inspection reports made on May 27, 2014, October 9, 2014, January 13, 2014, and February 24, 2015 for the State of Texas (05608) Lease show that the sign required to be posted is illegible.
19. Unmarked or illegibly marked sites, in violation of Statewide Rule 36(c)(5)(B), that have a high concentration of sour gas may result in failing to provide warning and marker provisions to alert the general public of the potential danger, resulting in possible injury or death to the exposed public.
20. Respondent has no prior history of violations of Commission rules.

### **CONCLUSIONS OF LAW**

1. Proper notice was issued by the Commission to Respondent and all other appropriate persons legally entitled to notice.
2. All things necessary to the Commission attaining jurisdiction over the subject matter and the parties have been performed or have occurred.
3. Respondent is responsible for maintaining the subject lease in compliance with all applicable Commission rules and chapters 89 and 91 of the Texas Natural Resources Code.
4. Respondent is in violation of Statewide Rules 14(b)(2), 8(d)(4)(H)(i)(III), 13(a)(6)(A), 17(a) and 36(c)(5)(B). 16 TEX. ADMIN. CODE §§ 3.14(b)(2), 3.8(d)(4)(H)(i)(III),

- 3.13(a)(6)(A), 3.17(a) and 3.36(c)(5)(B).
5. The documented violations committed by Respondent constitute acts deemed serious, and a hazard to the public health, and demonstrate a lack of good faith pursuant to TEX. NAT. RES. CODE § 81.0531(c).
  6. Respondent is responsible for maintaining the subject leases in compliance with Statewide Rule 14(b)(2), which requires that plugging operations on each dry or inactive well shall be commenced within a period of one year after drilling or operations cease and shall proceed with due diligence until completed.
  7. Respondent is responsible for maintaining the subject wells in compliance with Statewide Rule 8(d)(4)(H)(i)(III), which requires a person who maintains or uses a completion or workover pit in conjunction with completing or working over a well to dewater the pit within 30 days and backfill and compact the pit within 120 days of completion of the well.
  8. Respondent is responsible for maintaining the subject wells in compliance with Statewide 13(a)(6)(A), which requires that surface control of all wells be maintained with wellhead assemblies.
  9. Respondent is responsible for maintaining the subject wells in compliance with Statewide 17(a), which provides that all wells shall be equipped with a bradenhead.
  10. Respondent is responsible for maintaining the subject wells in compliance with Statewide Rule 36(c)(5)(B), which requires that storage tanks, which are utilized as a part of a production operation, and which are operated at or near atmospheric pressure, and where the vapor accumulation has a hydrogen sulfide concentration in excess of 500 ppm, shall have a legible warning sign posted on or within 50 feet of the facility to alert the general public of the potential danger.
  11. Pursuant to TEX. NAT. RES. CODE § 81.0531, the Commission may assess administrative penalties against Respondent for the subject violations of up to \$10,000 per day for each violation, with each day such violations continued constituting a separate violation.
  12. An assessed administrative penalty in the amount of TWENTY-TWO THOUSAND, FIVE HUNDRED SEVENTY-TWO DOLLARS (\$22,572.00) is justified considering the facts and violations at issue.
  13. As a person in a position of ownership or control of Bustos, Martin Oil (Operator No. 112687) at the time Bustos, Martin Oil (Operator No. 112687) violated Commission rules related to safety and the control of pollution, Martin Bustos, and any other organization in which he may hold a position of ownership or control, is subject to the restriction of

section 91.114(a)(2) of the Texas Natural Resources Code.

**IT IS ORDERED THAT** within 30 days from the day immediately following the date this order becomes final:

1. Martin Bustos, sole proprietor of Bustos, Martin Oil (Operator No. 112687), shall place the State of Texas (05608) Lease, Well Nos. 1, 2, and 6, C-M-R (Grayburg) Field, Upton County, Texas, in compliance with Statewide Rules 14(b)(2), 8(d)(4)(H)(i)(III), 13(a)(6)(A), 17(a), and 36(c)(5)(B), and any other applicable Commission rules and statutes.
2. Martin Bustos, sole proprietor of Bustos, Martin Oil (Operator No. 112687), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **TWENTY-TWO THOUSAND, FIVE HUNDRED SEVENTY-TWO DOLLARS (\$22,572.00)**.

It is further **ORDERED** that as a person in a position of ownership or control of Bustos, Martin Oil (Operator No. 112687) at the time Bustos, Martin Oil (Operator No. 112687) violated Commission rules related to safety and the control of pollution, Martin Bustos and any other organization in which he may hold a position of ownership or control, shall be subject to the restriction of section 91.114(a)(2) of the Texas Natural Resources Code for a period of no more than seven years from the date the order entered in this matter becomes final, or until the conditions that constituted the violations herein are corrected or are being corrected in accordance with a schedule to which the Commission and the organization have agreed, and all administrative, civil, and criminal penalties and all cleanup and plugging costs incurred by the State relating to those conditions are paid or are being paid in accordance with a schedule to which the Commission and the organization have agreed.

It is further **ORDERED** by the Commission that this order shall not be final and effective until 25 days after a party is notified of the Commission's order. A party is presumed to have been notified of the Commission's order three days after the date the notice is actually mailed. If a timely motion for rehearing is filed by any party at interest, this order shall not become final and effective until such motion is overruled, or if such motion is granted, this order shall be subject to further action by the Commission. Pursuant to TEX. GOV'T CODE § 2001.146(e), the time allotted for Commission action on a motion for rehearing in this case prior to its being overruled by operation of law is hereby extended until 90 days from the date the parties are notified of this order in accordance with TEX. GOV'T CODE § 2001.144.

All requested findings of fact and conclusions of law which are not expressly adopted herein are denied. All pending motions and requests for relief not previously granted or granted herein are denied.

Noncompliance with the provisions of this order is subject to enforcement by the Attorney General and subject to civil penalties of up to \$10,000.00 per day per violation.

Done this 21<sup>st</sup> day of June, 2016.

**RAILROAD COMMISSION OF TEXAS**

(Signatures affixed by Default Master Order  
dated June 21, 2016)

JNC / rnf