

**Executive Summary – Enforcement Matter – Case No. 41408**  
**Martin Operating Partnership L.P.**  
**RN102548864**  
**Docket No. 2011-0503-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Martin Plainview Fertilizer Plant, 1920 State Highway 194, Plainview, Hale County

**Type of Operation:**

Sulfuric acid production plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** June 10, 2011

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$2,320

**Amount Deferred for Expedited Settlement:** \$464

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$1,856

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Average

Site/RN - Average

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 41408  
Martin Operating Partnership L.P.  
RN102548864  
Docket No. 2011-0503-AIR-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** January 25, 2011

**Date(s) of NOE(s):** March 22, 2011

***Violation Information***

1. Failed to limit visible emissions from the Scrubber Stack (Emission Point Number 1) to less than 10% opacity averaged over a six-minute period. Specifically, on January 25, 2011, the opacity reached 30.4% averaged over a six-minute period [30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b) and New Source Review ("NSR") Permit No. 76571 Special Conditions ("SC") 4].

2. Failed to maintain all continuous emission monitoring system ("CEMS") monitoring data and quality-assurance data. Specifically, documentation of daily zero and span checks were not maintained [30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY Code § 382.085(b) and NSR Permit No. 76571 SC 8D].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:

a. On February 15, 2011, began keeping logs of all CEMS quality assurance data, including daily zero and span checks; and

b. On March 7, 2011, hired a Senior Environmental Specialist that is stationed at the Plant to conduct stack observations, conduct multiple facility walkthroughs, and verify that the CEMS daily zero and span checks are being maintained.

**Technical Requirements:**

N/A

***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

**Executive Summary – Enforcement Matter – Case No. 41408  
Martin Operating Partnership L.P.  
RN102548864  
Docket No. 2011-0503-AIR-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Allison Fischer, Enforcement Division,  
Enforcement Team 4, MC 149, (512) 239-2574; Laurie Eaves, Enforcement Division,  
MC 219, (512) 239-4495

**TCEQ SEP Coordinator:** N/A

**Respondent:** Robert D. Bondurant, Executive Vice President, Martin Operating  
Partnership L.P., P.O. Box 6567, Beaumont, Texas 77725`  
Tiffani Estrello, Director Corporate Environmental, Martin Operating Partnership L.P.,  
P.O. Box 6567, Beaumont, Texas 77725

**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	28-Mar-2011	<b>Screening</b>	31-Mar-2011	<b>EPA Due</b>	
	<b>PCW</b>	1-Apr-2011				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Martin Operating Partnership L.P.
<b>Reg. Ent. Ref. No.</b>	RN102548864
<b>Facility/Site Region</b>	2-Lubbock
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>		<b>No. of Violations</b>	2
<b>Enf./Case ID No.</b>	41408	<b>Order Type</b>	1660
<b>Docket No.</b>	2011-0503-AIR-E	<b>Government/Non-Profit</b>	No
<b>Media Program(s)</b>	Air	<b>Enf. Coordinator</b>	Allison Fischer
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 4
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$2,000**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** **41.0%** Enhancement **Subtotals 2, 3, & 7** **\$820**

Notes: Enhancement for eight NOVs with same/similar violations, and two NOVs with dissimilar violations. Reduction for one Notice of Intended Audit and one Disclosure of Violations.

**Culpability** **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$500**

**Economic Benefit** **0.0%** Enhancement\* **Subtotal 6** **\$0**

Total EB Amounts \$226  
Approx. Cost of Compliance \$40,500  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$2,320**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$2,320**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$2,320**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$464**

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** **\$1,856**

Screening Date 31-Mar-2011

Docket No. 2011-0503-AIR-E

PCW

Respondent Martin Operating Partnership L.P.

Policy Revision 2 (September 2002)

Case ID No. 41408

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102548864

Media [Statute] Air

Enf. Coordinator Allison Fischer

### 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> )	8	40%
	Other written NOVs	2	4%
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 judgements 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> )	1	-1%
	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> )	1	-2%
<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)** 41%

>> 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 eight NOVs with same/similar violations, and two NOVs with dissimilar violations. Reduction for one Notice of Intended Audit and one Disclosure of Violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 41%

Screening Date 31-Mar-2011

Docket No. 2011-0503-AIR-E

PCW

Respondent Martin Operating Partnership L.P.

Policy Revision 2 (September 2002)

Case ID No. 41408

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102548864

Media [Statute] Air

Enf. Coordinator Allison Fischer

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), Tex. Health & Safety Code § 382.085(b) and New Source Review ("NSR") Permit No. 76571 Special Conditions ("SC") 4

Violation Description Failed to limit visible emissions from the Scrubber Stack (Emission Point Number 1) to less than 10% opacity averaged over a six-minute period. Specifically, on January 25, 2011, the opacity reached 30.4% averaged over a six-minute period.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

41 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended based on the visible emissions documented on January 25, 2011.

Good Faith Efforts to Comply

25.0% Reduction

\$250

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

Notes

The Respondent returned to compliance on March 7, 2011 and the NOE is dated March 22, 2011.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$225

Violation Final Penalty Total \$1,160

This violation Final Assessed Penalty (adjusted for limits) \$1,160

## Economic Benefit Worksheet

**Respondent** Martin Operating Partnership L.P.  
**Case ID No.** 41408  
**Req. Ent. Reference No.** RN102548864  
**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				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	\$40,000	25-Jan-2011	7-Mar-2011	0.11	\$225	n/a	\$225
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 costs to employ an individual tasked with improving oversight and/or procedures designed to prevent a reoccurrence of visible emissions. The Date Required is the date of the visible emissions event, and the Final Date is the date 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

\$40,000

**TOTAL**

\$225

Screening Date 31-Mar-2011

Docket No. 2011-0503-AIR-E

PCW

Respondent Martin Operating Partnership L.P.

Policy Revision 2 (September 2002)

Case ID No. 41408

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102548864

Media [Statute] Air

Enf. Coordinator Allison Fischer

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), Tex. Health & Safety Code § 382.085(b) and NSR Permit No. 76571 SC 8D

Violation Description

Failed to maintain all continuous emission monitoring system monitoring data and quality-assurance data. Specifically, documentation of daily zero and span checks were not maintained.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

21 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$250

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent returned to compliance on February 15, 2011 and the NOE is dated March 22, 2011.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$1,160

This violation Final Assessed Penalty (adjusted for limits) \$1,160

## Economic Benefit Worksheet

**Respondent** Martin Operating Partnership L.P.  
**Case ID No.** 41408  
**Req. Ent. Reference No.** RN102548864  
**Media** Air  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	25-Jan-2011	15-Feb-2011	0.06	\$1	n/a	\$1
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

Estimated cost to develop and implement a record keeping system to maintain daily zero and span data. The Date Required is the investigation date and the Final Date is the date of compliance.

**Avoided Costs**

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

**TOTAL**

\$1

# Compliance History

Customer/Respondent/Owner-Operator: CN601535925 Martin Operating Partnership L. P. Classification: AVERAGE Rating: 1.83  
 Regulated Entity: RN102548864 MARTIN PLAINVIEW FERTILIZER PLANT Classification: AVERAGE Site Rating: 1.82

ID Number(s): POLLUTION PREVENTION PLANNING ID NUMBER P06961  
 VOLUNTARY CLEANUP PROGRAM ID NUMBER 1240  
 AIR NEW SOURCE PERMITS PERMIT 437C  
 AIR NEW SOURCE PERMITS ACCOUNT NUMBER HA0051T  
 AIR NEW SOURCE PERMITS AFS NUM 4818900001  
 AIR NEW SOURCE PERMITS PERMIT 76571  
 WASTEWATER PERMIT WQ0001757000  
 AIR EMISSIONS INVENTORY ACCOUNT NUMBER HA0051T

Location: 1920 STATE HIGHWAY 194, PLAINVIEW, TX, 79072

TCEQ Region: REGION 02 - LUBBOCK

Date Compliance History Prepared: March 30, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: March 30, 2006 to March 30, 2011

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

Name: Allison Fischer Phone: (512) 239 - 2574

## 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? Yes
3. If Yes, who is the current owner/operator?
 

OWN	Neches Industrial Park, Inc.
OWNOPR	Martin Operating Partnership L. P.
OWNOPR	Martin Resources, Inc.
4. If Yes, who was/were the prior owner(s)/operator(s)?
 

OWN	Zipp Industries, Inc.
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5. When did the change(s) in owner or operator occur?
 

03/16/2009	OWN	Zipp Industries, Inc.
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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.  
N/A
- 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	11/30/2006	(532235)
2	01/12/2007	(535519)
3	01/12/2007	(535544)
4	07/18/2007	(568041)
5	10/05/2007	(596606)
6	04/14/2008	(640659)
7	06/27/2008	(683787)
8	06/27/2008	(683790)
9	12/22/2008	(709672)
10	02/06/2009	(726280)
11	05/21/2009	(744468)
12	06/23/2009	(759712)
13	07/07/2009	(761215)
14	07/23/2009	(761327)
15	11/30/2009	(782764)
16	12/17/2009	(785555)
17	03/21/2011	(899072)

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

Date: 01/12/2007 (535544) CN601535925  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
Special Condition 1 PERMIT  
Description: Martin Operating Chemical Fertilizer Plant, Scrubber Stack 2 (EPN 10) is in violation of 30 TAC 116.115(c). Specifically, the unit is in violation of Permit No. 437C, Special Condition 1 relating to the Maximum Allowable Emissions Rate Table (MAERT)

Date: 01/12/2007 (535519) CN601535925  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
Special Condition 1 PERMIT  
Description: Martin Operating Chemical Fertilizer Plant, Scrubber Stack 1 (EPN 4) is in violation of 30 TAC 116.115(c). Specifically, the unit is in violation of Permit No. 437C, Special Condition 1 relating to the MAERT.

Date: 02/13/2007 (540154) CN601535925  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
Special Condition 1 PERMIT  
Description: Martin Operating Chemical Fertilizer Plant, Scrubber Stack 1 (EPN 4) is in violation of 30 TAC 116.115(c). Specifically, the unit is in violation of Permit No. 437C, Special Condition 1 relating to the MAERT.

Date: 02/13/2007 (540192) CN601535925  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
Special Condition 1 PERMIT  
Description: Martin Operating Chemical Fertilizer Plant, Scrubber Stack 2 (EPN 10) is in violation of 30 TAC 116.115(c). Specifically, the unit is in violation of Permit No. 437C, Special Condition 1 relating to the Maximum Allowable Emissions Rate Table (MAERT)

Date: 06/29/2007 (564496) CN601535925  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
Special Condition 1 PERMIT  
Description: Martin Operating Chemical Fertilizer Plant, Scrubber Stack 2 (EPN 10) is in violation of 30 TAC 116.115(c). Specifically, the unit is in violation of Permit No. 437C, Special Condition 1 relating to the Maximum Allowable Emissions Rate Table (MAERT)

Date: 07/13/2007 (567377) CN601535925  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
Special Condition 1 PERMIT  
Description: Martin Operating Chemical Fertilizer Plant, Scrubber Stack 1 (EPN 4) is in violation of 30 TAC 116.115(c). Specifically, the unit is in violation of Permit No. 437C, Special Condition 1 relating to the MAERT.

Date: 06/27/2008 (683790) CN601535925  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.13(c)(2)  
Description: Failure to submit the SO2 CEMS Relative Accuracy Test Audit (RATA) report within 60 days of performing the RATA.

Date: 12/18/2008 (709672)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 335, SubChapter A 335.9(a)(1)  
Description: Failure to maintain records of waste determinations for the following routinely generated waste streams: cooling tower blowdown water; boiler blowdown water; off-specification product/sweepings; wastewater from sulfuric acid plant; used oil; used oil filters; parts washer solvent sludge; spent antifreeze; spent batteries; spent laboratory waste; and general plant trash.

Date: 05/21/2009 (744468) CN601535925  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 437C, SC No. 1 PERMIT  
 5C THSC Chapter 382 382.085(b)  
 Description: Failure to meet the emission rate limits set by the MAERT for EPNs 6 and 10, an alleged violation of Permit No. 437C SC No. 1, 30 TAC §116.115(c), and 5C THSC §382.085(b). The limit of 0.56 lb/hr for scrubber stack 2 (EPN No. 10) was exceeded or nine separate occasions from January 2007 through April 21, 2009, and the limit of 0.28 lb/hr for product loading (EPN No. 6) was exceeded on six separate occasions for the same time period listed above.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 5C THSC Chapter 382 382.085(b)  
 76571, SC No. 8 PERMIT  
 Description: Failure to conduct a quarterly CGA, an alleged violation of Permit No. 76571 SC No. 8, 30 TAC §116.115(c), and 5C THSC §382.085(b).  
 Self Report? NO Classification: Moderate  
 Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.7(c)  
 Description: Failure to submit the semi-annual CEMS downtime/excess emission report required by 40 CFR §60.7(c), an alleged violation of 40 CFR §60.7(c).

Date: 11/30/2009 (782764) CN601535925  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT H 60.83(a)(2)  
 5C THSC Chapter 382 382.085(b)  
 76571 PERMIT  
 Description: Failure to limit visible emissions from Scrubber Stack Emission Point No. (EPN: 1) to 10 percent opacity.

F. Environmental audits.

Notice of Intent Date: 06/30/2006 (489858)  
 Disclosure Date: 03/19/2007  
 Viol. Classification: Minor  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(E)(i)  
 Description: Failure to maintain records for production and operating hours for a period of two years.  
 Viol. Classification: Minor  
 Citation: 30 TAC Chapter 101, SubChapter A 101.24  
 Description: Failure to comply with inspection fees for each fiscal year. Specifically, the facility has a capacity of 1,000,000 lbs/yr.  
 Disclosure Date: 10/30/2007  
 Viol. Classification: Minor  
 Citation: 30 TAC Chapter 101, SubChapter A 101.24  
 Description: Failure to comply with inspection fees for each fiscal year. Specifically, the facility has a capacity of 1,000,000 lbs/yr.

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  
MARTIN OPERATING  
PARTNERSHIP L.P.  
RN102548864**

**§           BEFORE THE  
§  
§           TEXAS COMMISSION ON  
§  
§           ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2011-0503-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 Martin Operating Partnership L.P. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a sulfuric acid production plant at 1920 State Highway 194 in Plainview, Hale 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 March 27, 2011.
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 Two Thousand Three Hundred Twenty Dollars (\$2,320) is assessed by the Commission in settlement of the violations alleged in

Section II ("Allegations"). The Respondent has paid One Thousand Eight Hundred Fifty-Six Dollars (\$1,856) of the administrative penalty and Four Hundred Sixty-Four Dollars (\$464) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
  - a. On February 15, 2011, began keeping logs of all continuous emission monitoring system ("CEMS") quality assurance data, including daily zero and span checks; and
  - b. On March 7, 2011, hired a Senior Environmental Specialist that is stationed at the Plant to conduct stack observations, conduct multiple facility walkthroughs, and verify that the CEMS daily zero and span checks are being maintained.
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:

1. Failed to limit visible emissions from the Scrubber Stack (Emission Point Number 1) to less than 10% opacity averaged over a six-minute period, in violation of 30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b) and New Source Review ("NSR") Permit No. 76571 Special Conditions ("SC") 4, as documented during an investigation conducted on January 25, 2011. Specifically, on January 25, 2011, the opacity reached 30.4% averaged over a six-minute period.

2. Failed to maintain all CEMS monitoring data and quality-assurance data, in violation of 30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY Code § 382.085(b) and NSR Permit No. 76571 SC 8D, as documented during an investigation conducted on January 25, 2011. Specifically, documentation of daily zero and span checks were not maintained.

### 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: Martin Operating Partnership L.P., Docket No. 2011-0503-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 provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other

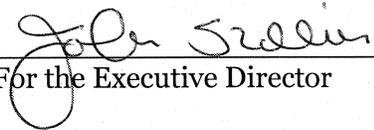
means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

\_\_\_\_\_  
Date 6/17/2011

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

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

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date May 6, 2011

Robert D. Bondurant  
Name (Printed or typed)  
Authorized Representative of  
Martin Operating Partnership L.P.

Executive Vice President  
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.