

**RECEIVED**  
**By OSHA at 2:20 pm, Aug 09, 2022**

**STATE OF NEW MEXICO  
BEFORE THE  
OCCUPATIONAL HEALTH AND SAFETY REVIEW COMMISSION**

**NEW MEXICO ENVIRONMENT  
DEPARTMENT, OCCUPATIONAL  
HEALTH AND SAFETY BUREAU,**

**Complainant,**

v.

**Case No. OSHA 22-11**

**RUST MOVIE PRODUCTIONS, LLC,**

**Respondent.**

**ADMINISTRATIVE COMPLAINT**

The New Mexico Environment Department Occupational Health and Safety Bureau brings this Administrative Complaint against Rust Movie Productions, LLC in order to enforce state law, hold Rust Movie Productions, LLC accountable for a workplace fatality and serious injury in the workplace, and promote compliance and safe working conditions on movie sets throughout New Mexico.

1. The Complainant, the New Mexico Environment Department (“Department”), is an executive level agency, established by the Department of Environment Act, NMSA 1978, Sections 9-7A-1 to -12 (1991, as amended through 2005). The Department, on behalf of the Occupational Health and Safety Bureau (“Bureau”), an organizational unit of the Department, and pursuant to NMSA 1978, Sections 50-9-8(D) (1993) and 50-9-17(D) (1999) of the New Mexico Occupational Health and Safety Act (“Act”) and the New Mexico Occupational Health and Safety Regulations, 11.5.5 NMAC (“Regulations”), brings this Administrative Complaint against Rust Movie Productions, LLC (“Employer”) to enforce the Act and the Regulations and assess civil penalties.

## **JURISDICTION**

2. The purpose of the Act is to assure every employee safe and healthful working conditions through effective enforcement of health and safety regulations. NMSA 1978, § 50-9-2 (1993).

3. The Act establishes the Occupational Health and Safety Review Commission (“Commission”) to carry out certain functions under the Act, including holding hearings. NMSA 1978, § 50-9-9 (1975) and 11.5.5.700 NMAC.

4. The Act authorizes the Department to issue citations for violations of the Act and the Regulations. NMSA 1978, § 50-9-17 (1999) and 11.5.5.306 NMAC.

5. The Department is an agency of the executive branch of the State of New Mexico created pursuant to NMSA 1978, Section 9-7A-4 (2005).

6. The Bureau is an organizational unit of the Department. Pursuant to the Delegation Order dated May 24, 2021, the Secretary of the Department has delegated to the Bureau Chief the authority to issue citations for violations of the Act and the Regulations. An employer to whom a citation is issued may contest that citation. If an employer contests a citation, the Bureau shall provide prompt opportunity for informal administrative review. NMSA 1978, § 50-9-17 (1999) and 11.5.5.306 NMAC.

7. In the event the parties are unable to resolve the contested issues through the informal administrative review process, the Department shall file an Administrative Complaint with the Commission within ninety (90) days after the docketing of the case. NMSA 1978, §§ 50-9-8(D) and 50-9-17(D) and 11.5.5.306.D(1)(a) NMAC. Informal administrative review is deemed concluded upon the earlier of the Respondent’s receipt of the Department’s Administrative

Complaint or three (3) days after expiration of the 90-day period following docketing of the case.

11.5.5.306.D(2)(a) NMAC.

8. The procedural regulations for filing an Administrative Complaint and the timeframe for settlement or filing an answer before the Commission are contained in the Regulations.

9. Employer is a domestic limited liability company, incorporated in New Mexico and conducting business in the State of New Mexico with a principal place of business at 502 S. Broad Street, Thomasville, Georgia 31792.

10. Employer is a production company formed for the purpose of filming a movie titled *Rust*.

11. On April 19, 2022, the Bureau issued a Citation and Notification of Penalty to Employer for violations of the Act and Regulations that occurred at Bonanza Creek Ranch, Bonanza Creek Lane, Santa Fe, New Mexico, 87508 (“Site”).

12. Employer filed a Notice of Contest, which was received and docketed by the Commission on May 10, 2022.

13. On August 3, 2022, the Department filed an Unopposed Motion for Extension of Time where the Department requested to extend the deadline in which the Department is to file its Administrative Complaint.

14. On August 4, 2022, the Commission granted the Department’s Unopposed Motion for Extension of Time and extended the deadline for the Department to file its Administrative Complaint from August 8, 2022 to August 18, 2022.

15. The informal administrative review process concluded without resolution.

## STATEMENT OF CLAIM

16. On Thursday, October 21, 2021, the Santa Fe County Sheriff's Office issued a news release in response to a workplace fatality and injury that occurred at approximately 1:47 p.m. at the Site in Santa Fe County. According to the news release, two individuals were shot with a firearm while filming on a movie set. The decedent was the cinematographer for the film, Halyna Hutchins, and the injured employee was the director for the film, Joel Souza.

17. Later that evening, the New Mexico Film Office, which is part of the Economic Development Department, informed the Department of the workplace fatality and injury that occurred at the Site. The Bureau assigned Compliance Officer ("CO") Lorenzo Montoya to investigate the fatality and workplace safety practices.

18. On October 22, 2021, the Bureau initiated its fatality investigation at the Site. When CO Montoya arrived at the Site, Kathryn "Row" Walters, the Unit Production Manager for *Rust*, informed Mr. Montoya that he would not be allowed to take pictures or conduct interviews until he acquired a warrant. At the time, the Sheriff's Office was actively investigating the Site. After being denied the ability to inspect the Site by the Employer, Mr. Montoya left the premises.

19. On October 24, 2021, following the Sheriff's Office release of the Site, Employer granted the Department access to inspect the Site without a warrant.

20. On October 25, 2021, CO Montoya conducted an opening conference and walkaround of the Site with Gabrielle Pickle, the Line Producer for *Rust*, Denise Stevens, Employer's counsel, and Jessica Hoffman, a representative for the International Alliance of Theatrical Stage Employees ("IATSE") union.

21. During the walkaround, CO Montoya discovered a fire extinguisher on the special effects cart with a State Marshall tag indicating that this fire extinguisher had not been inspected

since 2017. The fire extinguisher did not have any labels or markings to indicate that it was being used as a prop for the film; it maintained the appearance of a functioning fire extinguisher.

22. Following the walkaround, Mr. Montoya held the Bureau's first closing conference with Ms. Pickle and Ms. Stevens and informed them that the Bureau would follow up to schedule employee interviews.

23. From October 26, 2021 through early April 2022, the Bureau continued its fatality investigation by conducting 14 employee interviews, requesting information and documentation from the Employer, and communicating with Employer via email to address the work-related fatality and injury.

24. On March 18, 2022, the Bureau conducted a second closing conference with Ryan Smith, Producer and Employer Representative, and Employer's legal counsel, Derek Mayor, Tom Van Wyngarden, and Aaron Dyer.

25. During the investigation, the Bureau learned that Gabrielle Pickle, as Line Producer, directly hired individuals and crews, approved hours worked, and had authority to counsel or discipline employees in any department. As a management representative for *Rust*, Ms. Pickle's immediate subordinate was Katherine "Row" Walters, Unit Production Manager, who shared similar authority. Also, on the management team was Dave Halls, First Assistant Director and Safety Coordinator for *Rust*; as a set manager he was responsible for general workplace safety and was peer in authority to Ms. Pickle and Ms. Walters.

26. Employer ordered ammunition, with the intent to receive blank and dummy rounds, from PDQ Arm & Props, located in Albuquerque, New Mexico, and possibly other third-party vendors. Dummy rounds may be distinguishable from live rounds by either a small hole in the brass cartridge (indicating that there is no powder), by a missing or dimpled primer at the bottom

of the cartridge, or by shaking the round and hearing the distinct clatter of a BB within (“rattle tested”). Unless a round is removed from a storage box or firearm and inspected, it cannot be verified as a dummy round. According to Sarah Zachary, Property Master for *Rust*, the dummy rounds must be rattle tested to distinguish them from live rounds because they resemble live rounds.

27. The Bureau’s investigation also concluded that Employer used safety procedures taken from film industry “safety bulletins” issued by the Industry Wide Labor-Management Safety Committee at the worksite. Notably, the Employer used Safety Bulletin #1 “Recommendations for Safety with Firearms and Use of ‘Blank Ammunition’” (“Bulletin #1”) as the safety protocols for firearm safety on set. Bulletin #1 specifically states, “BLANKS CAN KILL. TREAT ALL FIREARMS AS THOUGH THEY ARE LOADED.” (emphasis in original).

28. According to Bulletin #1, the Property Master, or in their absence, a weapons handler, is required to be present whenever firearms are being handled and shall have the authority to determine whether an individual requires additional safety training. On the *Rust* set, Hannah Gutierrez-Reed was the weapons handler and held the title of “Armorer.” As the Armorer on set, she was responsible for storage, maintenance, and handling of firearms and ammunition, training members of the cast who would be handling firearms, and loading the firearms with dummies and blanks. In addition to these duties, the Employer also required Ms. Gutierrez-Reed to take on the role of Props Assistant to Ms. Zachary when firearms were not in active use.

29. On October 9, 2021, Ms. Gutierrez-Reed texted Ms. Pickle about the amount of Armorer days the Employer was willing to pay her for since she had already completed three Armorer days at the Armorer rate. Ms. Gutierrez-Reed informed Ms. Pickle that she still had to train some actors, including actor/producer Alec Baldwin, and spend time maintaining the guns to

ensure they work for future scenes. She also told Ms. Pickle, “It’s just a very gun heavy script and we have to make sure people are trained and guns are ready...”. Ms. Pickle responded the same day and said, “Let me talk to Row.”

30. Later that day, on October 9, 2021, Ms. Gutierrez-Reed texted Ms. Pickle, “Any news? I at least have to clean them and train the kid tomorrow because it’s our last day and we have a big fight scene Wednesday right.” Ms. Pickle responded on the same day and asked, “How many Armor (sic) days are you requesting?” Ms. Gutierrez-Reed responded with, “At least a cleaning day after the big battles...We already had guns jamming yesterday...I just feel like it’ll end up being 10 Armorer days by the end of it...Any day I’m shooting, training or having to clean for the next battle should be an Armorer day.”

31. On October 10, 2021, Ms. Pickle informed Ms. Gutierrez-Reed that she was allowed eight paid days at the Armorer’s rate in her contract to perform Armorer tasks; the rest of her time was to be spent as the Props Assistant, despite Ms. Gutierrez-Reed informing Ms. Pickle that she would likely need 10 Armorer days in order to ensure all firearms on set are safely operated and maintained, and the actors have completed all necessary firearm trainings.

32. On October 14, 2021, Ms. Pickle emailed Ms. Gutierrez-Reed and informed her that she was focusing far more on her Armorer duties and not enough on her duties as Props Assistant. In the same email, Ms. Pickle also informed Ms. Gutierrez-Reed that firearms were left unattended and a check in/out system must be put in place immediately. Ms. Gutierrez-Reed responded by informing Ms. Pickle that, since firearms are used on set every day, those have to be her priority because when they are not, “dangerous mistakes can happen.”

33. On October 15, 2021, Ms. Gutierrez-Reed texted Ms. Pickle to express her concern that Mr. Baldwin “never tried shooting with the holster” and wanted to ensure Mr. Baldwin was

ready for a scene the following day. Ms. Pickle informed her that “if there was more to be done, he’d let you know.”

34. On October 16, 2021, two days after the October 14, 2021 email exchange between Ms. Pickle and Ms. Gutierrez-Reed, two misfires occurred. In the first instance, Ms. Zachary inadvertently fired a blank round as she finished loading a .45 caliber revolver. The second misfire involved Blake Teixeira, a stunt double for Mr. Baldwin, and a lever action rifle of unknown make and model. During Ms. Gutierrez-Reed’s interview, she informed CO Montoya that she was not able to train Mr. Teixeira because Mr. Teixeira was trained by the Stunt Coordinator since stuntmen technically fall under the authority of the Stunt Coordinator.

35. After the misfires occurred on October 16, 2021, Lane Luper, First Assistant Camera Operator for *Rust*, texted Ms. Walters informing her that, “We’ve now had 3 accidental discharges. This is super unsafe.” The third accidental discharge involved a special-effects “popper,” which is a small explosive that simulates a bullet impact on a surface. Ms. Walters responded, “Accidental discharge on the firearms?” Lane Luper responded, “Yeah 2 discharges today and 1 on week 1.” Ms. Walters did not ask any additional questions.

36. According to employee interviews, Ms. Pickle, Ms. Walters, and Mr. Halls did not investigate these incidents or try to understand how these misfires occurred, despite being aware of these discharges.

37. On October 17, 2021, one day after the two separate misfires involving firearms, Ms. Gutierrez-Reed informed Ms. Pickle that she was running out of paid days at the Armorer’s rate and if gunfire will continue on set, Ms. Pickle will have to speak with the producers. Ms. Pickle replied to Ms. Gutierrez-Reed by informing her that there would be “No more trading (sic)

days” for the actors on set. Ms. Gutierrez-Reed then asked to clarify, “Training days?” Ms. Pickle responded, “Like training Alec and such.”

38. Three days later, on October 20, 2021, Mr. Luper resigned from *Rust*, due in part to safety concerns stemming from the accidental misfires. In Mr. Luper’s resignation email, Mr. Luper stated that safety meetings were not held the day that the misfires occurred.

39. On October 21, 2021, Ms. Gutierrez-Reed loaded a .45 caliber Colt revolver for Mr. Baldwin with what she believed were dummy rounds, walked into the church, and handed the revolver to Mr. Halls. Ms. Gutierrez-Reed was under the impression that Mr. Halls would only be sitting in with the gun until Mr. Baldwin arrived inside the church. According to Ms. Gutierrez-Reed’s interview, she told Mr. Halls, “...just let me know when Alec gets here. And then that way I’ll go ahead and check it for him, and we can start the scene and everything.” Ms. Gutierrez-Reed left the church expecting Mr. Halls to notify her when Mr. Baldwin arrived so she could conduct a firearm safety check for Mr. Baldwin’s firearm. Shortly after Ms. Gutierrez-Reed left the church, Mr. Halls proceeded to hand the revolver to Alec Baldwin. Mr. Baldwin aimed the revolver in Halyna Hutchins and Joel Souza’s direction and a projectile was fired, striking Ms. Hutchins and Mr. Souza.

40. CO Montoya documented two violations in his inspection report. The violations were based on documentation obtained from the investigation and employee interviews.

41. The first violation is the Employer’s failure to ensure the workplace was free from the recognized hazard of its employees being struck by discharged rounds or projectiles when firearms were used on the set of the motion picture production.

42. The Employer did not provide staff responsible for ensuring firearms safety with sufficient time to inspect ammunition received to ensure that no live rounds were present.

43. The first misfire, which occurred on October 16, 2021, presented a hazard to Sarah Zachary and any employees nearby. The Employer failed to address the hazardous condition and reinforce adherence with their own protocols to protect workers.

44. Dave Halls was present on set when the first misfire occurred; Mr. Halls did not discuss the incident with staff, report the incident to the producers, review the incident as Safety Coordinator, ensure Sarah Zachary took appropriate actions with respect to safety protocols, or take any other corrective measures. According to employees interviewed, crew members verbally expressed their surprise and discomfort with the Employer's lack of action regarding the worksite safety issues.

45. The Employer initiated no investigative action for the second firearm misfire on October 16, 2021, beyond Ms. Gutierrez-Reed asking Mr. Teixeira how it happened. Dave Halls was present during the incident but did not discuss the incident with staff, report the incident to the producers, or review the incident in his role as Safety Coordinator.

46. When the First Assistant Camera operator (Mr. Luper) resigned, informing management that there was an ongoing lack of safe firearms practices (among other labor issues) and that misfires had occurred, Employer took no action to review or address worker safety concerns.

47. When Ms. Gutierrez-Reed had used most of her contractually limited "Armorer days," she was issued a written instruction on October 17, 2021, to focus less on her Armorer tasks and spend more time on her Props Assistant duties. When Ms. Gutierrez-Reed expressed a need to ensure actors be able to safely handle a firearm with a holster, she was told by Ms. Pickle that she would be informed if that was necessary. When Ms. Gutierrez-Reed was scheduled to train the stunt crew on firearms safety, she was told that the Stunt Coordinator would handle that instead.

Finally, when Ms. Gutierrez-Reed asked Mr. Halls to inform her when Mr. Baldwin arrived inside of the church so she could conduct a firearm safety check for Mr. Baldwin's firearm, Mr. Halls - the Safety Coordinator - failed to notify her and proceeded to hand the firearm to Mr. Baldwin, immediately preceding the fatal shot.

48. Employer recognized the hazards associated with firearms and selected safety bulletins that were designed to control and mitigate these recognized hazards as protocols for employee protection. The Employer described these protocols as being enforced by Dave Halls, First Assistant Director and Safety Coordinator. Ryan Smith, Producer and Employer representative, also stated during the Closing Conference that all members of cast and crew have stop-work authority. Despite this, no corrective, investigative, or disciplinary action was taken by any member of management after the first and second firearm misfires. Dave Halls was physically present on set and aware of these misfires, and chose not to take any corrective, investigative, or disciplinary action. When the Unit Production Manager, Row Walters, was informed by the Property Master and the First Assistant Camera operator that firearm misfires had occurred, Ms. Walters did not initiate any corrective, investigative or disciplinary action in accordance with Employer's safety procedures.

49. Employer demonstrated plain indifference to the hazards associated with firearms by routinely failing to practice their own safety protocols, failing to enforce adherence to safety protocols, and failing to ensure that the handling of deadly weapons was afforded the time and effort needed to keep the cast and crew safe. Additionally, Employer disregarded or otherwise did not follow-up, ask questions, or try to understand what happened when employees notified management about the misfire incidents and not feeling safe on set. The Safety Coordinator, Mr. Halls, was present on set and took no direct action to address safety concerns. Management was

provided multiple opportunities to take corrective actions and chose not to do so. As a result of these failures, Director Joel Souza and Cinematographer Halyna Hutchins were severely injured. Ms. Hutchins succumbed to her injuries on October 21, 2021.

50. The second violation noted in CO Montoya's inspection report is due to Employer failing to perform the required maintenance inspections for a fire extinguisher that was discovered at the Site.

51. As a result of the inspection, the Bureau issued a Citation and Notification of Penalty totaling \$136,793.00 ("Citation") to the Employer on April 19, 2022, by certified mail, which Employer received on April 25, 2022. **Department Exhibit A.**

### **CITED VIOLATIONS**

52. Paragraphs 1 through 51 above are hereby incorporated by reference.

53. The federal Occupational Safety and Health Standards, 29 C.F.R. Part 1910 and Part 1926 have been incorporated by reference into the Regulations, 11.5.2.9 and 11.5.3.9 NMAC.

54. Citation 1, Item 1 issued to the Employer on April 19, 2022, was classified as willful-serious and provided for a proposed penalty of \$136,793.00 and states:

50-9-5.A NMSA 1978: The employer did not furnish employment and a place of employment which were free from recognized hazards that were causing or likely to cause death or serious physical harm to employees in that employees were exposed to being stuck by discharged rounds or projectiles when firearms were used on the set of the motion picture production.

This hazard was recognized by the employer and the film industry by way of "safety bulletins" published by the "Industry Wide Labor-Management Safety Committee," specifically, "Safety Bulletin #1, Recommendations for Safety with Firearms and Use of 'Blank Ammunition'."

Among others, one feasible and acceptable abatement method is to ensure that the provisions of the "Industry Wide Labor-Management Safety Committee", "Safety Bulletin #1, Recommendations for Safety and Firearms and Use of 'Blank

Ammunition,’,” are fully implemented and effectively enforced by production management.

55. Citation 2, Item 1(a) issued to the Employer on April 19, 2022, was classified as other-than-serious and provided for a proposed penalty of \$0.00 and states:

NMAC 11.5.2.9

29 C.F.R. 1910.157(e)(2): Portable extinguishers or hose used in lieu thereof under paragraph (d)(3) of this section shall be visually inspected monthly.

The Employer did not ensure that all portable fire extinguishers were subject to a monthly inspection to identify discrepancies or loss of function. An extinguisher had not been annually inspected since 2017.

56. Citation 2, Item 1(b) issued to the Employer on April 19, 2022, was classified as other-than-serious and provided for a proposed penalty of \$0.00 and states:

NMAC 11.5.2.9

29 C.F.R. 1910.157(e)(3): The employer shall assure that portable fire extinguishers are subjected to an annual maintenance check. Stored pressure extinguishers do not require an internal examination. The employer shall record the annual maintenance date and retain this record for one year after the last entry or the life of the shell, whichever is less.

The Employer did not ensure that all portable fire extinguishers on set had received an annual maintenance check as required. The fire extinguisher on the Special Effects cart had not been checked since 2017.

## PENALTY

57. Pursuant to NMSA 1978, Section 50-9-24(A) (2017), any employer who willfully or repeatedly violates any provision of the Occupational Health and Safety Act or any regulation or order promulgated pursuant to that act may be assessed a civil penalty not to exceed one hundred twenty-six thousand seven hundred forty-nine dollars (\$126,749) for each violation as adjusted annually for inflation; provided that a civil penalty shall not be less than nine thousand fifty-four dollars (\$9,054) for each willful violation.

58. The Bureau classified Citation 1, Item 1 issued to the Employer as willful-serious and the proposed penalty totals \$136,793.00.

59. The Bureau classified Citation 2, Items 1(a) and (b) issued to the Employer as other-than-serious with no proposed penalty.

## **STATUS OF CITATION**

60. The Respondent has not provided the Department with written certification of abatement for Citation 1, Items 1 and Citation 2, Items 1(a) and (b).

## **REQUEST FOR ORDER AFFIRMING CITATION AND PENALTY.**

61. The Department respectfully requests that the Commission affirm Citation 1, Item 1, and Citation 2, Items 1(a) and (b).

62. The Department respectfully requests that the Commission assess a penalty against the Employer in the amount of \$136,793.00 for the affirmed violations of the applicable regulations.

63. The Department respectfully requests other such further relief as the Commission deems appropriate.

Dated this 9<sup>th</sup> day of August 2022

NEW MEXICO ENVIRONMENT DEPARTMENT

By: \_\_\_\_\_

Mia Napolitano  
Andrew Knight  
Jen Olson  
Assistants General Counsel  
New Mexico Environment Department

Digitally signed by Mia  
Napolitano  
Date: 2022.08.09 14:04:29 -06'00'

Office of General Counsel  
1190 S. St. Francis Drive  
PO Box 5469  
Santa Fe, NM 87502

## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Administrative Complaint was served on the following by the methods indicated below, on August 9, 2022:

### ***VIA EMAIL***

Thomas L. Van Wyngarden  
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Derek M. Mayor  
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*Hearing Clerk*

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*Counsel for New Mexico Occupational Health and Safety Review Commission*

### ***VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED*** (Certified Number: 7005 1820 0001 5708 3540)

Rust Movie Productions, LLC  
502 S. Broad St.  
Thomasville, Georgia 31792

Mia Napolitano   
Digitally signed  
by Mia Napolitano  
Date: 2022.08.09  
14:04:44 -06'00'

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Mia Napolitano, Assistant General Counsel  
New Mexico Environment Department



## Citation and Notification of Penalty

To:  
Rust Movie Productions, LLC  
AND ITS SUCCESSORS  
502 S. Broad St.  
Thomasville, GA 31792

**Inspection Number:** 1560072  
**Inspection Date(s):** 10/22/2021-10/25/2021  
**Issuance Date:** 04/19/2022

**Inspection Site:**  
Bonanza Creek Rd., Bonanza Creek Ranch  
Santa Fe, NM 87508

*The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.*

This Citation and Notification of Penalty (this Citation) describes violations of the Occupational Safety and Health Act of 1970. The penalty(ies) listed herein is (are) based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties proposed, unless within 15 working days (excluding weekends and Federal holidays) from your receipt of this Citation and Notification of Penalty, you mail a notice of contest to the Environment Department, Occupational Health and Safety Bureau at the address shown above. Issuance of this Citation does not constitute a finding that a violation of the Act has occurred unless there is a failure to contest as provided for in the Act or, if contested, unless this Citation is affirmed by the Review Commission or a court.

**Posting** - The law requires that a copy of this Citation and Notification of Penalty be posted immediately in a prominent place at or near the location of the violation(s) cited herein, or, if it is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) cited herein has (have) been abated, or for 3 working days (excluding weekends and Federal holidays), whichever is longer. The penalty dollar amounts need not be posted and may be marked out or covered up prior to posting.

**Informal Conference** - An informal conference is not required. However, at the request of an employer, affected employee(s), or a representative of employees, the Bureau Chief or the Bureau Chief's designee may hold an informal conference. At this conference any issues raised by an inspection, citation, proposed penalty, proposed petition for modification of the abatement date or proposed petition for variance may be discussed. Please note that an informal conference will not suspend or extend the deadline for contesting the Citation and Notification of Penalty.

When the conference is requested by an employer, an affected employee or representative shall be afforded an opportunity to participate, at the discretion of the Bureau Chief or Bureau Chief's designee. When the conference is requested by an employee or representative of employees, the employer shall be afforded an opportunity to participate, at the discretion of the Bureau Chief or Bureau Chiefs designee.

The request for an informal conference and the informal conference meeting shall not extend or modify in any manner:

1. an abatement date established in the citation;
2. the deadline for an employer to file a notice of contest;
3. any other filing deadline related to the citation; or
4. any matter pending before the bureau.

Once an employer files a notice of contest, a petition for modification of the abatement date, a request for a commission hearing, a petition for variance, or other filing with the Occupational Health and Safety Review Commission or the Environment Department, the opportunity for an informal conference is no longer available.

**Right to Contest** - You have the right to contest this Citation and Notification of Penalty. You may contest all citation items or only individual items. You may also contest proposed penalties and/or abatement dates without contesting the underlying violations. Unless you inform the Bureau Chief in writing that you intend to contest the citation(s) and/or proposed penalty(ies) within 15 working days after receipt, the citation(s) and the proposed penalty(ies) will become a final order of the Occupational Safety and Health Review Commission and may not be reviewed by any court or agency. It is recommended that the Notice of Contest be filed via "Certified Mail".

**Penalty Payment** - Payment of penalties are due within 15 working days of receipt of this notification unless contested. Make your check or money order payable to the Environment Department, Occupational Health and Safety Bureau. Please indicate the Inspection Number on the remittance.

OSHA does not agree to any restrictions, conditions, or endorsements put on any check or money order for less than the full amount due and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

**Notification of Corrective Action** - For violations that you do not contest, you must notify the Compliance Program Manager that each cited violation has been abated. To certify abatement, you should complete the "Description of Corrective Action Taken" box which follows each citation and sign the statement on the last citation page. You are not required to certify abatement if the compliance officer observed that abatement has occurred during the on-site inspection. The citation may indicate that you should submit additional documentation such as photographs, purchase orders, copies of written programs, etc. Failure to return all completed forms and documents to the Compliance Program Manager no later than 10 days after the abatement date may result in additional penalties.

You are also required to inform your employees about abatement activities by posting a copy of each document submitted to OHSB or a summary of the document near the place where the violation occurred. Documents must remain posted for 3 working days after submission to OHSB.

**Employer Discrimination Unlawful** - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint no later than 30 days after the discrimination occurred with the Environment Department, Occupational Health and Safety Bureau at the address shown above.

**Notice to Employees** - The law gives an employee or his/her representative the opportunity to object to any abatement date set for a violation if he/she believes the date to be unreasonable. The contest must be mailed to the Environment Department, Occupational Health and Safety Bureau at the address shown above and postmarked within 15 working days (excluding weekends and Federal holidays) of the receipt by the employer of this Citation and Notification of Penalty.



525 Camino de los Marquez, Suite 3, P. O. Box 5469  
Santa Fe NM 87505  
Phone: (505) 476-8700 Fax: (505) 476-8734

**Inspection Number:** 1560072  
**Inspection Date(s):** 10/22/2021-10/25/2021  
**Issuance Date:** 04/19/2022

**Citation and Notification of Penalty**

**Company Name:** Rust Movie Productions, LLC

**Inspection Site:** Bonanza Creek Rd., Bonanza Creek Ranch Santa Fe, NM 87508

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**Citation 1 Item 1**

Type of Violation: **Willful-Serious**

50-9-5.A NMSA 1978: The employer did not furnish employment and a place of employment which were free from recognized hazards that were causing or likely to cause death or serious physical harm to employees in that employees were exposed to being struck by discharged rounds or projectiles when firearms were used on the set of the motion picture production.

This hazard was recognized by the employer and the film industry by way of "safety bulletins" published by the "Industry Wide Labor-Management Safety Committee," specifically, "Safety Bulletin #1, Recommendations for Safety with Firearms and Use of 'Blank Ammunition'."

Among others, one feasible and acceptable abatement method is to ensure that the provisions of the "Industry Wide Labor-Management Safety Committee," "Safety Bulletin #1, Recommendations for Safety with Firearms and Use of 'Blank Ammunition'," are fully implemented and effectively enforced by production management.

**PROOF OF ABATEMENT:**

Date Corrected:

Describe Corrective Action:

**Date By Which Violation Must be Abated:**

**May 13, 2022**

**Proposed Penalty:**

**\$136,793.00**



525 Camino de los Marquez, Suite 3  
Santa Fe NM 87505  
Phone: (505) 476-8700 Fax: (505) 476-8734

**Inspection Number:** 1560072  
**Inspection Date(s):** 10/22/2021-10/25/2021  
**Issuance Date:** 04/19/2022

**Citation and Notification of Penalty**

**Company Name:** Rust Movie Productions, LLC

**Inspection Site:** Bonanza Creek Rd., Bonanza Creek Ranch Santa Fe, NM 87508

Citation 2 Item 1 a      Type of Violation: **Other-than-Serious**

NMAC 11.5.2.9

29 CFR 1910.157(e)(2): Portable extinguishers or hose used in lieu thereof under paragraph (d)(3) of this section shall be visually inspected monthly.

The Employer did not ensure that all portable fire extinguishers were subject to a monthly inspection to identify discrepancies or loss of function. An extinguisher had not been annually inspected since 2017.

**PROOF OF ABATEMENT:**

Date Corrected:

Describe Corrective Action:

**Date By Which Violation Must be Abated:**

**May 13, 2022**

**Proposed Penalty:**

**\$0.00**



525 Camino de los Marquez, Suite 3  
Santa Fe NM 87505  
Phone: (505) 476-8700 Fax: (505) 476-8734

**Inspection Number:** 1560072  
**Inspection Date(s):** 10/22/2021-10/25/2021  
**Issuance Date:** 04/19/2022

**Citation and Notification of Penalty**

**Company Name:** Rust Movie Productions, LLC

**Inspection Site:** Bonanza Creek Rd., Bonanza Creek Ranch Santa Fe, NM 87508

**Citation 2 Item 1 b**      Type of Violation: **Other-than-Serious**

NMAC 11.5.2.9

29 CFR 1910.157(e)(3): The employer shall assure that portable fire extinguishers are subjected to an annual maintenance check. Stored pressure extinguishers do not require an internal examination. The employer shall record the annual maintenance date and retain this record for one year after the last entry or the life of the shell, whichever is less.

The Employer did not ensure that all portable fire extinguishers on set had received an annual maintenance check as required. The fire extinguisher on the Special Effects cart had not been checked since 2017.

**PROOF OF ABATEMENT:**

Date Corrected:

Describe Corrective Action:

**Date By Which Violation Must be Abated:**

**May 13, 2022**

**Proposed Penalty:**

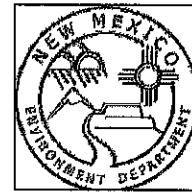
**\$0.00**

I attest that all corrective actions contained in this document are accurate and affected employees have been informed of the abatement.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**State of New Mexico**  
Environment Department  
Occupational Health and Safety Bureau



525 Camino de los Marquez, Suite 3  
Santa Fe NM 87505  
Phone: (505) 476-8700 Fax: (505) 476-8734

**Inspection Number:** 1560072  
**Inspection Date(s):** 10/22/2021-10/25/2021  
**Issuance Date:** 04/19/2022

**Citation and Notification of Penalty**

**Company Name:** Rust Movie Productions, LLC

**Inspection Site:** Bonanza Creek Rd., Bonanza Creek Ranch Santa Fe, NM 87508

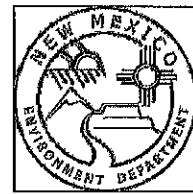
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**Robert Genoway**

Robert Genoway, Bureau Chief

Digitally signed by Robert Genoway  
Date: 2022.04.19 16:14:05 -06'00'

**State of New Mexico**  
Environment Department  
Occupational Health and Safety Bureau  
525 Camino de los Marquez, Suite 3  
Santa Fe NM 87505  
**Phone: (505) 476-8700 Fax: (505) 476-8734**



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## INVOICE

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**Company Name:** Rust Movie Productions, LLC

**Inspection Site:** Bonanza Creek Rd, Bonanza Creek Ranch  
Santa Fe, NM 87508

**Issuance Date:** 04/19/2022

**Summary of Penalties for Inspection Number:** 1560072

Citation 1 Item 1, Willful-Serious	\$136,793.00
Citation 2 Item 1a, Other-than-Serious	\$0.00
Citation 2 Item 1b, Other-than-Serious	\$0.00
<b>TOTAL PROPOSED PENALTIES:</b>	<b>\$136,793.00</b>

Please remit payment promptly to this office for the total amount of the uncontested penalties summarized above. Make your check or money order payable to: Environment Department, Occupational Health and Safety Bureau. Please indicate OHSB's Inspection Number (indicated above) on the remittance.

OHSB does not agree to any restrictions, conditions or endorsements put on any check or money order for less than full amount due and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

**Robert Genoway**      Digitally signed by Robert Genoway

Date: 2022.04.19 16:14:26 -06'00'

Robert Genoway, Bureau Chief

Date