

CAUSE NO. 2013-PC-3848

TEXAS COMMISSION ON	§	IN PROBATE COURT
ENVIRONMENTAL QUALITY,	§	
<i>Plaintiff,</i>	§	
	§	
	§	
	§	
v.	§	
	§	NO. 2
DOMINIQUE HALL,	§	
INDEPENDENT	§	
ADMINISTRATOR OF THE	§	
ESTATE OF BILL HALL, JR.,	§	
DECEASED,	§	
<i>Defendant.</i>	§	OF BEXAR COUNTY, TEXAS

PLAINTIFF'S FIRST AMENDED PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW INTO COURT, through undersigned counsel, comes Plaintiff, Texas Commission on Environmental Quality ("TCEQ"), and files this its Original Petition against Defendant, Dominique Hall, Independent Administrator of the Estate of Bill Hall, Jr. ("Administrator"), in support of which Plaintiff respectfully shows the following:

I.

Discovery Level and Claim for Relief

1. The discovery in this case is intended to be conducted under Level 2 pursuant to Tex. R. Civ. P. 190.3. Plaintiff seeks monetary relief over \$200,000 but not more than \$1,000,000. Tex. R. Civ. P. 47 (c)(3).

## II.

### Parties

2. The Texas Commission on Environmental Quality is an agency of the State of Texas created by the Legislature to implement the constitution and laws of this state relating to the conservation of natural resources and the protection of the environment. Tex. Water Code Ann. § 5.012 (West 2014). TCEQ is located at 12100 Park 35 Circle, Austin, Texas 78753-0000.

3. Dominique Hall, Independent Administrator of the Estate of Bill Hall, Jr., is an individual residing in San Antonio, Bexar County, Texas. She is the Independent Administrator of the Estate of Bill Hall, Jr. and may be served process by serving her attorney, Edward M. Lavin, Esquire, Attorney for Independent Administrator Dominique Hall, at 8918 Tesoro Drive, Suite 418, San Antonio, Bexar County, Texas 78217.

## III.

### Jurisdiction and Venue

4. This Court has jurisdiction under the Texas Estates Code, which provides that a statutory probate court, in a county in which there is a statutory probate court, has exclusive jurisdiction of all probate proceedings, and that any cause of action related to the probate proceedings must be brought in a statutory probate court[.] Tex. Estates Code Ann. § 32.005(a) (West 2014).

5. Venue is proper in Bexar County under Texas Estates Code Ann. § 33.002 (West 2014).

6. This Court has jurisdiction over Dominique Hall because she is the independent

administrator of the Estate of Bill Hall, Jr., and resides in the State of Texas.

#### IV.

##### Background

7. On November 21, 2013, an application for independent administration was filed with this Court, commencing Cause No. 2013-PC-3848, In the Matter of Bill Hall, Jr., Deceased, Probate Court No. 2, Bexar County, Texas. On December 26, 2013, this Court received an Amended Consent and Application of Heirs and Distributees for Independent Administration. On December 30, 2013, a hearing was held in Cause No. 2013-PC-3848 on an application for independent administration for the Estate of Bill Hall, Jr. At the hearing, the Court ordered issuance of Letters of Independent Administration, appointing Dominique Hall as Independent Administrator for the Estate of Bill Hall, Jr.

8. During his lifetime, Bill Hall, Jr., owned Bill Hall, Jr. Trucking Co., LTD (“Hall Trucking”). Before his passing, Bill Hall, Jr., entered into thirteen separate grant contracts (“Contracts”) for grant funding to lease thirteen new trucks for Hall Trucking.<sup>1</sup> Hall entered into each of the Contracts with TCEQ, pursuant to Chapter 386 of the Texas Health and Safety Code, the Texas Emissions Reduction Plan (“TERP”).

9. Hall received a total sum of \$475,631.00 in grant funds (“Funds”) from the Contracts to cover a portion of the acquisition costs for thirteen new trucks for the Bill Hall, Jr. Trucking, Co., LTD fleet (“Grant Equipment”). TCEQ approved the Contracts in

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<sup>1</sup> Paragraph 16 below contains a chart detailing the contract numbers, dates, and pro rata amounts due and owing under each contract.

exchange for Hall's promise to operate the Grant Equipment to reduce oxides of Nitrogen emissions in affected counties designated in § 386.001(2) of the Texas Health & Safety Code.

Duty to achieve required reductions

10. In accordance with the purposes and requirements of TERP, the amount of the Funds provided to Hall was based on the amount of emission reductions expected to be achieved by Hall's use of the Grant Equipment over a period of seven years ("Required Reductions"). Article 12.2 of the General Condition and Article 7.3 of the Grant Agreement in the Contract entitles TCEQ to a return of a pro rata share of the Funds if Hall should fail to generate the promised emission reductions.<sup>2</sup>

11. In July 2013, Cynthia Saldana notified TCEQ that Hall returned all thirteen pieces of Grant Equipment to French Ellison Trucks following expiration of the thirteen leases in December 2012. Without the trucks, Hall could not fulfill his contractual obligations to operate the Grant Equipment for the full term of each contract, guaranteeing that the promised emissions reductions would not be achieved. Based on the notice, TCEQ issued thirteen demand letters to recover unearned Grant Funds in August 2013, but never received reimbursement.

12. On December 31, 2013, TCEQ received notice of the probate of the Estate of Bill Hall, Jr., in the form of a Notice to Present Claim under the Texas Probate Code (currently recodified under the Texas Estates Code § 308.0540.).

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<sup>2</sup> In contracts entered into by Hall in February 2008 Hall committed to using each piece of Grant Equipment to drive 70,000 miles per year over the course of a seven year term. In contracts entered into in February 2009 Hall committed to using each piece of Grant Equipment to drive 80,000 miles per year over the course of a seven year term.

13. The TCEQ Presentation of Claim was timely presented to the Administrator on April 29, 2014, preserving its claims against the Estate. See **Exhibit 1**. The Administrator neither allowed nor rejected the claim, in part or in whole, within thirty days of presentment, thereby rejecting the claim by operation of law. Tex. Estates Code Ann. § 355.051 (West 2009).

V.

Causes of Action – Breach of Contract

14. Plaintiff incorporates by reference the allegations contained in ¶¶ 1-13 of this Original Petition as if fully restated herein.

15. TCEQ and Hall entered into thirteen valid and enforceable contracts, supported by valuable consideration, requiring Hall to operate each of the thirteen pieces of Grant Equipment subject to the Contracts for the full term of each Contract. Hall failed to operate the thirteen pieces of Grant Equipment according to the thirteen Contracts, and thus failed to achieve the Required Reductions of oxides of Nitrogen emissions in affected counties designated in Texas Health & Safety Code § 386.001(2) (West 2010). Such failure constitutes a material breach of each of the thirteen TERP Contracts listed in ¶ 16 below.

16. With respect to each of the Contracts, TCEQ is entitled to the return of the following pro rata shares of each Contract:

	Contract No.	Contract Date	Pro Rata Share
1	582-08-87978-0173	Feb. 26, 2008	\$16,674.17
2	582-08-87978-0174	Feb. 26, 2008	\$16,674.17
3	582-08-87978-0175	Feb. 26, 2008	\$16,674.17

4	582-08-87978-0176	Feb. 26, 2008	\$16,674.17
5	582-08-87978-0177	Feb. 26, 2008	\$12,287.33
6	582-08-87978-0178	Feb. 26, 2008	\$16,890.33
7	582-08-87978-0179	Feb. 26, 2008	\$16,890.33
8	582-08-87978-0201	Feb. 27, 2008	\$16,674.17
9	582-08-87978-0202	Feb. 28, 2008	\$16,674.17
10	582-09-80211-0264	Feb. 21, 2009	\$18,866.83
11	582-09-80211-0265	Feb. 21, 2009	\$13,318.25
12	582-09-80211-0266	Feb. 21, 2009	\$13,318.25
13	582-09-80211-0267	Feb. 21, 2009	\$13,318.25

## VI.

### Summary

17. In accordance with the purpose and requirements of TERP and the terms of the Contracts, TCEQ is entitled to a return of a pro rata share of the unearned portions of each contract, totaling \$204,934.59 of the Grant Funds, based on Defendant's failure to achieve the Required Reductions set out in each of the Contracts.

## VII.

18. Pursuant to Rule 54 of the Texas Rules of Civil Procedure, all conditions precedent have been performed or have occurred.

## VIII.

### Attorney's Fees

19. In accordance with § 2107.006 of the Texas Government Code, the Office of the

Attorney General is entitled to recover reasonable attorney's fees, investigative costs, and court costs on behalf of the Plaintiff, the State of Texas. The Office of the Attorney General seeks reasonable attorney's fees.

IX.

Request for Disclosures

20. Under Texas Rules of Civil Procedure 194, Defendant Dominique Hall, Independent Administrator of the Estate of Bill Hall, Jr., is requested to disclose, within 50 days of service of this request, the information or material described in Texas Rules of Civil Procedure 194.2 subsections (a)-(i), and (l).

X.

Prayer

WHEREFORE, Plaintiff prays that the Defendant be cited to appear and answer herein and that upon final hearing hereof, Plaintiff, Texas Commission on Environmental Quality, have judgment against Defendant, Dominique Hall, Independent Administrator of the Estate of Bill Hall, Jr., for the following:

1. Principal sum in the amount of \$204,934.59;
2. Post-judgment interest on the total amount of the final judgment at the statutory rate specified in Texas Finance Code § 304.003 from the date of judgment until paid;
3. Reasonable and necessary attorney's fees;
4. All costs of suit; and,
5. Such other relief to which TCEQ may be entitled.

Respectfully submitted,

GREG ABBOTT  
Attorney General of Texas

DANIEL T. HODGE  
First Assistant Attorney General

DAVID C. MATTAX  
Deputy Attorney General for Defense Litigation

ROBERT O'KEEFE  
Division Chief  
Financial Litigation, Tax, and  
Charitable Trusts Division

/s/Eric A. Hudson  
ERIC A. HUDSON  
Assistant Attorney General  
Texas Bar No. 24059977  
Financial, Tax, and  
Charitable Trusts Division  
P.O. Box 12548, Capitol Station  
Austin, Texas 78711-2548  
Tele: (512) 936-6417  
Fax: (512) 478-4013  
[Eric.hudson@texasattorneygeneral.gov](mailto:Eric.hudson@texasattorneygeneral.gov)  
***Attorney for TCEQ***



**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of Plaintiff's First Amended Petition was this 21st day of November, 2014, sent to Defendant through counsel of record by U.S. Certified Mail, Return Receipt Requested, E-Service, E-Mail, and Fax as shown below:

Edward M. Lavin  
8918 Tesoro Drive, No. 418  
San Antonio, Texas 78217  
Phone: (210) 829-1938  
Fax: (210) 829-5244  
E-Mail: [elavin@edlavin.com](mailto:elavin@edlavin.com)  
***Attorney for Defendant***

/s/ Eric A. Hudson

**Eric A. Hudson**  
Assistant Attorney General