



Harris County seeks temporary and permanent injunctive relief in order to protect the public from future misconduct by the Defendant. In addition, Harris County seeks civil penalties as well as attorney's fees and courts costs.

### **1. DISCOVERY**

1.1 Pursuant to Rule 190 of the Texas Rules of Civil Procedure, discovery will be conducted under a level 2 discovery control plan. Tex. R. Civ. P. 190.3.

1.2 This case is not subject to the restriction of expedited proceedings under Rule 169 of the Texas Rules of Civil Procedure because: (1) Harris County seeks non-monetary injunctive relief and (2) Harris County's claims for civil penalties are over \$200,000 but not more than \$1,000,000.

### **2. PARTIES**

2.1 Plaintiff is Harris County, Texas (Harris County), a political subdivision of the State of Texas, and is authorized to bring this action by virtue of authority granted under Section 7.351 of the Texas Water Code.

2.2 The State of Texas (State), acting through the Texas Commission on Environmental Quality (TCEQ), is a necessary and indispensable party to this suit. Service on the State is not necessary at this time.

2.3 Defendant is Texas Industrial Box Maintenance, Inc. Defendant is located at 15331 Market Street, Channelview, Harris County, Texas 77530 and can be served through its registered agent, Walter C. Wilson at 3118 Richmond Avenue, Suite 200, Houston, Texas 77098, or wherever he may be found.

### **3. JURISDICTION AND VENUE**

3.1 All of the violations of state environmental laws, rules, and regulations that Defendant committed occurred in Harris County, Texas. The Court has subject matter jurisdiction over this

case pursuant to Section 7.351 of the Texas Water Code and venue is proper as to Defendant pursuant to Section 7.105(c) of the Texas Water Code. Harris County has complied with all statutory legal conditions precedent to the filing of this suit.

#### 4. APPLICABLE LAW

##### A. Regulation of Air Quality

###### 1. Authority under the Texas Clean Air Act

4.1 The Texas Clean Air Act (TCAA) is found in Chapter 382 of the Texas Health & Safety Code. The purpose of the TCAA is to safeguard the State's air resources from pollution by controlling or abating air pollution and emissions of air contaminants, consistent with the protection of public health, general welfare, and physical property, including the aesthetic enjoyment of air resources by the public and the maintenance of adequate visibility. Tex. Health & Safety Code § 382.002.

4.2 The TCAA authorizes the TCEQ to adopt rules to carry out the intent and purposes of the Act. Tex. Health & Safety Code § 382.085(b). The TCEQ has promulgated rules based on that authority, found in chapters 101-122 of Title 30 of the Texas Administrative Code.

###### 2. Unauthorized Air Emissions

4.3 Except as authorized by a TCEQ rule or order, the TCAA prohibits any person from causing, suffering, allowing or permitting the emission of any air contaminant or the performance of any activity that causes or contributes to air pollution. Tex. Health & Safety Code § 382.085(a).

4.4 "A person may not cause, suffer, allow, or permit the emission of any air contaminant or the performance of any activity in violation of this chapter or any [TCEQ] rule or order." Tex. Health & Safety Code § 382.085(b).

4.5 The TCAA defines “air contaminant” as “particulate matter, radioactive material, dust fumes, gas, mist, smoke, vapor, or odor, including any combination of those items, produced by processes other than natural.” Tex. Health & Safety Code § 382.003(2).

4.6 The TCAA defines “air pollution” as “the presence in the atmosphere of one or more air contaminants or combination of air contaminants in such a concentration and of such a duration that: (a) are or may tend to be injurious to or adversely affect human health or welfare, animal life, vegetation, or property; or (b) interfere with the normal use or enjoyment of animal life, vegetation, or property.” Tex. Health & Safety Code § 382.003(3).

3. Air Quality Nuisance

4.7 Section 101.4 of Title 30 of the Texas Administrative Code prohibits any person from discharging from any source whatsoever one or more air contaminants or combinations thereof, in such concentration and of such duration as are or may tend to be injurious to or to adversely affect human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property.

4. Permit for Emitting Air Contaminants

4.8 Section 116.110(a) of Title 30 of the Texas Administrative Code provides that any person who plans to construct any new facility or to engage in the modification of any new facility which may emit air contaminants into the air of this state shall obtain a permit or satisfy the conditions for exempt facilities before any work is begun on the facility.

5. Maintenance of Equipment and Records

4.9 Section 106.4(c) of Title 30 of the Texas Administrative Code provides “the emissions from the facility shall comply with all rules of the [TCEQ] and with the intent of the [TCAA], including protection of health and property of the public, and all emissions control equipment shall be maintained in good condition and operated properly during operation of the facility.”

4.10 Section 106.8(c)(2) of Title 30 of the Texas Administrative Code provides that “a facility shall maintain records containing sufficient information to demonstrate compliance with the following: (A) all applicable general requirements of § 106.4 of this title or the general requirements, if any, in effect at the time of the claim; and (B) all applicable Permit By Rule (PBR) conditions.”

4.11 Section 106.8(c)(3) of Title 30 of the Texas Administrative Code provides that “a facility shall keep all required records at the facility site. If however, the facility normally operates unattended, records must be maintained at an office within Texas having day-to-day operational control of the plant site.”

4.12 The TCAA defines “facility” as a “discrete or identifiable structure, device, item, equipment, or enclosure that constitutes or contains a stationary source, including appurtenances other than emission control equipment.” Tex. Health & Safety Code §382.003(6).

**B. Regulation of Industrial Solid Waste and Municipal Hazardous Waste**

1. Authority Under the Texas Solid Waste Disposal Act

4.13 The Texas Solid Waste Disposal Act (TSWDA), set out in Chapter 361 of the Texas Health & Safety Code, provides for the “management of solid waste.” Tex. Health & Safety Code §§ 361.001-002. The TCEQ is the administrative agency that is primarily responsible for regulating solid waste in Texas and it has adopted rules that further implement the requirements and restrictions in the TSWDA. Tex. Health & Safety Code § 361.011.

2. Unauthorized Storage, Processing, and Disposal

4.14 Section 335.2(a) of Title 30 of the Texas Administrative Code provides that “no person may cause, suffer, allow, or permit any activity of storage, processing, or disposal of any industrial solid waste or municipal hazardous waste unless such activity is authorized by a permit, amended permit, or other authorization from the Texas Commission on Environmental

Quality (Commission) or its predecessor agencies, the Department of State Health Services (DSHS), or other valid authorization from a Texas state agency.”

4.15 “Solid waste” is defined as “garbage, rubbish, refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations and from community and institutional activities.” Tex. Health & Safety Code § 361.003(34); 30 Tex. Admin. Code § 335.1(138).

4.16 “Industrial solid waste” is defined as “solid waste resulting from or incidental to a process of industry or manufacturing . . .” Tex. Health & Safety Code § 361.003(16); 30 Tex. Admin. Code § 335.1(79).

4.17 “Hazardous waste” is defined as “solid waste identified or listed as hazardous waste” under Section 6901 of Title 42 of the United States Code. Tex. Health & Safety Code § 361.003(12); 30 Tex. Admin. Code § 335.1(69).

### **C. Regulation of Water Quality**

#### **1. Authority**

4.18 The TCEQ is the administrative agency that is primarily responsible for regulating water quality in this state. Tex. Water Code § 26.011. The TCEQ has adopted rules that further implement the requirements and restrictions of Chapter 26 of the Texas Water Code.

#### **2. Unauthorized Discharges**

4.19 Section 26.121(a)(1) of the Texas Water Code provides that “Except as authorized by the [TCEQ], no person may discharge sewage, municipal waste, recreational waste, agricultural waste, or industrial waste into or adjacent to any water in the state.”

4.20 Section 335.4(1) of Title 30 of the Texas Administrative Code provides that “No person may cause, suffer, allow, or permit the collection, handling, storage, processing or disposal of industrial solid waste or municipal hazardous waste in such a manner so as to cause the discharge or imminent threat of discharge of industrial solid waste or municipal hazardous waste into or adjacent to the water in the state without obtaining specific authorization for such discharge from the [TCEQ].”

4.21 “Industrial waste” is defined as “waterborne liquid, gaseous, or solid substances that result from any process of industry, manufacturing, trade or business.” Tex. Water Code § 26.001(11).

#### **D. Harris County Storm Water Regulations**

##### **1. Authority**

4.22 Chapter 573 of the Texas Local Government Code provides for the regulation of storm water by counties.

4.23 Pursuant to the Texas Local Government Code, a county may develop and enforce storm water management guidelines to reduce the discharge of pollutants. Tex. Loc. Gov’t Code § 573.002. Accordingly, in 2001 Harris County adopted the *Regulations of Harris County, Texas for Storm Water Quality Management* (Storm Water Regulations).

##### **2. Storm Water Discharges Prohibited**

4.24 “No person shall discharge or cause to be discharged into the Municipal Separate Storm Sewer System (MS4) anything that is not composed entirely of storm water . . .” Storm Water Regulations, Part E, § 1.02(a).

4.25 “It is a violation of these [Storm Water Regulations] if a person discharges any storm water that contains a pollutant or any substance that causes, continues to cause, or will cause pollution.” Storm Water Regulations, Part E § 1.02(c).

4.26 “Discharge” means “the introduction or addition of any pollutant, storm water, or any other substance whatsoever into the MS4 . . . or to cause, suffer, allow, or permit any such introduction or addition.” Storm Water Regulations, Part A, § 2.13.

4.27 “Municipal Separate Storm Sewer System” or “MS4” means “the system of man-made conveyances owned and operated by . . . Harris County or Harris County Flood Control District, and designated or used for collecting or conveying storm water . . .” Storm Water Regulations, Part A, § 2.24.

4.28 “Pollutant” includes solid waste, biological materials and industrial, municipal and agricultural waste discharged into the MS4 or any water in the state or waters of the United States. Storm Water Regulations, Part A, § 2.36

4.29 “Pollution” means “the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to public health, safety, or welfare, or impairs the usefulness or public enjoyment of the water for any lawful or reasonable purpose.” Storm Water Regulations, Part A, § 2.37

**E. Violation of a Statute, Rule, Order, or Permit is Prohibited**

4.30 “A person may not cause, suffer, allow, or permit a violation of a statute within the [TCEQ’s] jurisdiction or a rule adopted or an order or permit issued under such statute.” Tex. Water Code § 7.101.

**F. Authority to Sue**

4.31 Harris County is authorized to bring suit for civil penalties and injunctive relief if it appears that there is a violation or threat of violation of Chapter 26 of the Texas Water Code, Chapter 361 or Chapter 382 of the Texas Health & Safety Code or of a rule, permit, or order

issued thereunder that has occurred or is occurring in Harris County. Tex. Water Code §§ 7.351(a), 7.105.

## 5. HARRIS COUNTY INVESTIGATIONS

5.1 Since July 2004, PCS and its predecessor EPH, have been investigating the Site which is owned and operated by Defendant.

### A. 2004 Investigation

5.2 On **July 16, 2004** an investigator from EPH conducted an investigation of the Site in response to two neighborhood complaints of a strong, Clorox or benzene-like odor that caused complainants' and their families' nausea and headaches. Complainant also stated that thick clouds of dust from the Site frequently enter his property and covers his belongings outside. Upon arrival to the Complainant's property, the investigator detected a constant mild, pungent like odor, which gave her a headache. The investigator also observed a thick layer of dirt which had accumulated at the bottom of the Complainant's pool because of the dust clouds coming from the site. An odor survey was conducted and the investigator determined that the odor came from four metal roll-off boxes located on the Site and also noted air-borne dust on the Site.

### B. 2009 Investigation

5.3 On **October 28, 2009** EPH investigators conducted an investigation of the Site as part of a routine inspection to determine the current status of waste documentation, handling, and disposal. Investigators observed three roll-off boxes that contained catalyst with several inches of black, gritty material and the front compartments were open. Investigators noted a strong, pungent odor being emitted from an open hatch on a hazardous wastewater storage tank and detected a 7.5 ppm concentration of volatile organic compounds emitting from the tank. TIBM did not have authorization to emit these air contaminants nor did they have authorization to accept the waste for the purpose of bulking for future transport.

**C. 2012 Investigations**

5.4 On **November 30, 2012** a PCS investigator conducted an investigation of the Site in response to a neighborhood complaint alleging a strong chemical odor present inside the Complainant's home. The odor was of such intensity that it forced the Complainant to leave her home out of fear for her health and safety, and for the health and safety of her children. Upon arrival to the Complainant's residence, the PCS investigator detected a strong sulfide-like odor which began to burn the investigator's eyes shortly after his arrival. An odor survey was conducted and the same odor was detected directly downwind of TIBM. The investigator did not detect any odors upwind of the Site. The investigator proceeded to TIBM's property and detected the same nuisance odor originating from tanks stored on the southwest corner of the Site.

5.5 On **December 1, 2012**, a PCS investigator conducted an investigation of the Site in response to two neighborhood complaints alleging a strong chemical odor that was causing Complainants' eyes to burn. Upon arrival to Complainant's home, the investigator detected a very strong sulfide-like odor. The odor was of such concentration that the investigator's throat tightened and he began coughing. An odor survey was conducted and sulfide-like odor similar to the odor detected at the Complainants home was detected downwind of TIBM. The investigator did not detect any odors upwind of the Site. The Investigator proceeded to TIBM's property and determined the smell originated from the southwest corner of the Site. TIBM's General Manager, JC Collins, and the investigator determined the source of the nuisance odor to come from one of two frac tanks stored at the Site. The top vent of the frac tank was missing its cover. Mr. Collins attempted to seal the open vent with electrical tape causing the odor to die down in intensity.

5.6 On **December 2, 2012** a PCS investigator conducted an investigation in response to a neighborhood complaint alleging a chemical odor present at the Complainant's home and causing breathing difficulties. Upon arrival to Complainant's home, the investigator detected an intermittent, strong sulfide-like odor and confirmed a nuisance. The investigator conducted an odor survey and detected a faint hydrocarbon-like odor downwind of the storage yard of TIBM. The investigator also detected an intermittent, strong sulfide-like odor directly downwind of three frac tanks, a vacuum truck, and a tanker trailer on located on the southwest corner of TIBM. No odors were detected upwind of the Site. Further inspection of TIBM's property determined the nuisance odor to come from containers located on the Site.

5.7 On **December 6, 2012** a PCS investigator conducted a routine inspection of the Site. The investigator inspected "Area A" on TIBM's property and observed approximately 26 containers with open hatches and valves. Only four of these containers were marked with identifiers indicating these containers as clean. The investigator detected strong to moderate odors emanating from two of those containers in the area. The first container was identified by Wayne Hyde, the Site supervisor, as a recently cleaned 25-yard, dewatering vacuum box. The investigator detected a "mercaptan like" odor from the container and observed elevated readings on the PID, a device used in air investigations to identify the presence of Volatile Organic Compounds in the air. The investigator and Mr. Hyde also detected the same odor downwind at an off-site location. Mr. Hyde stated that clean containers are not kept vapor tight so that they might air dry while being stored in that area. The other container emitted a "chemical like" odor and was approximately one quarter full of non-haz waste heel. The containers were not stored in accordance with TIBM's facility map submitted to the TCEQ with their original PBR application, which designated this portion of "Area A" as a "Parking Area for Boxes/Trailers Last Containing Hazardous Waste." The northwest corner of the Site was identified as a "Non-

Haz Box and Trailer Parking Area” and was not recognized as an emission point area (EPN) for fugitive emissions or a non-haz waste storage area.

5.8 The investigator also inquired about TIBM’s carbon adsorption system (CAS) and column scrubber, which is a vapor recovery system. When asked about possible breakthrough events, JC Collins, general manager of the Site, informed the investigator that TIBM does not use any air monitoring equipment to check their CAS for possible breakthrough. Maintenance or service logs for the CAS and column scrubber were not being kept. TIBM utilizes a four gas meter to determine vapor densities. When asked about the calibration process and to review the calibration log of the four gas meter, Mr. Collins stated that TIBM did not maintain a calibration log. Mr. Collins admitted to not having any formal training to operate this type of meter and that he trained his employees to use the meter with knowledge of his own self-taught methods. Mr. Collins could not provide training logs upon request.

5.9 Documentation was not maintained for the CAS, column scrubber, and four-gas meter to be able to determine if the equipment was in good condition and operating properly. In fact, no documentation was available for maintenance, calibration, training, or operating logs. Nor could documentation for date, duration, and type of vapor recovery system used on containers during degassing operations be provided.

**D. 2014 Investigation**

5.10 On or about **April 14, 2014**, PCS investigators returned to the Site to conduct Wet Weather Screening. During a rain event, the investigators inspected the storm water flow along the east fence line area and found a 15 foot by 10 foot stained area of soil beneath a 10,000 gallon above ground storage tank at the southeastern corner of the Site. The stained soil had an oil sheen with a strong solvent-like odor that increased with intensity as the rain fell heavier. Investigators also observed oily water pooled under the above ground storage tank and drain

under TIBM's office building. The investigators informed TIBM's General Manager, Anthony Brown, of the spill who stated that the stain came from non-hazardous waste wash-water from their tank cleaning facility and appeared to have leaked as a driver was disconnecting a transfer hose, which holds approximately 20 gallons. Samples collected by PCS investigators, from the area of stained soil where the spill occurred, confirmed hydrocarbon contamination.

5.11 PCS investigators then observed pooled storm water discharging from the area of the spill through the chain link fence east of the stained soil. The discharge also had the same solvent-like odor. PCS investigators then collected a sample of the storm water discharge that flowed into the Harris County roadside ditch from the Site at the southeast corner of the property and that sample confirmed hydrocarbon contamination. PCS investigators also found contaminated storm water, confirmed through sample analysis, discharging from the south side of the property into a roadside ditch. TIBM does not have authorization to discharge storm water comingled with wastewater.

**E. Violation Notices**

5.12 Accordingly, TIBM was issued Violation Notices on August 6, 2004; November 23, 2009; December 27, 2012; January 3, 2013; January 28, 2013; February 13, 2013; and May 19, 2014 for violations of the Texas Water Code, the Texas Health & Safety Code, TCEQ rules, and the Harris County Storm Water Regulations.

**6. FIRST CLAIM: TIBM'S VIOLATIONS AT THE SITE**

**A. TCAA Violations**

1. Air Quality Nuisance

6.1 TIBM violated Tex. Health & Safety Code § 382.085, Tex. Water Code § 7.101, and 30 Tex. Admin. Code § 101.4 by causing, suffering, allowing, or permitting the emission of an air contaminant or the performance of an activity that caused or contributed to air pollution.

Specifically, investigations conducted on July 16, 2004; December 1, 2012; December 2, 2012; and November 30, 2012 documented that operations at the Site emitted odor and dust in such concentration and in such duration as to interfere with the normal use and enjoyment of property. These observations constitute four days of violation. However, additional days of violation may have occurred and TIBM is liable for a penalty within the statutory range for each day of violation.

2. Unauthorized Air Emissions

6.2 TIBM violated Tex. Health & Safety Code § 382.085, Tex. Water Code § 7.101, and 30 Tex. Admin. Code § 116.110(a) by causing, suffering, allowing, or permitting the emission of an air contaminant or the performance of an activity that caused or contributed to air pollution. Specifically, investigations conducted on October 28, 2009 and December 6, 2012 documented that operations on the Site released unauthorized air contaminants. These observations constitute two days of violation. However, additional days of violation may have occurred and TIBM is liable for a penalty within the statutory range for each day of violation.

3. Failure to Maintain Records Relating to Facility Operations at the Site

6.3 TIBM violated Tex. Health & Safety Code § 382.085, Tex. Water Code § 7.101, and 30 Tex. Admin. Code §§ 106.4(c), 106.4(c)(3), 106.8(c)(2)(A)-(B) by causing, suffering, allowing, or permitting activity in violation of the TCAA and the rules of the TCEQ. Specifically, an investigation conducted on December 6, 2012 documented that TIBM failed to comply with all the rules of the TCEQ by failing to keep and maintain records for facility operations at the Site. These observations constitute one day of violation. However, additional days of violation may have occurred and TIBM is liable for a penalty within the statutory range for each day of violation.

**B. TSWDA Violation**

6.4 TIBM violated Chapter 361 of the Texas Health and Safety Code, Tex. Water Code § 7.101, and 30 Tex. Admin. Code § 335.2 by causing, suffering, allowing, or permitting an activity of storage of industrial solid waste or municipal hazardous waste without authorization. Specifically, an investigation conducted on October 28, 2009 documented that TIBM accepted municipal hazardous waste for the purpose of bulking for future transport without authorization. This observation constitutes one day of violation. However, additional days of violation may have occurred and TIBM is liable for a penalty within the statutory range for each day of violation.

**C. Water Quality Violation**

6.5 TIBM violated Tex. Water Code § 7.101, Tex. Water Code § 26.121, and 30 Tex. Admin. Code 335.4(1) by causing, suffering, allowing, or permitting the discharge of industrial waste, industrial solid waste, or municipal hazardous waste into or adjacent to the waters of the state without authorization. Specifically, an investigation conducted on April 14, 2014 documented leaks and spills of contaminated wastewater which comingled with storm water and discharged from the Site to a Harris County roadside ditch, entering the waters of the state. This observation constitutes one day of violation. However, additional days of violation may have occurred and TIBM is liable for a penalty within the statutory range for each day of violation.

**D. Violations of Harris County Storm Water Regulations**

6.6 TIBM violated the Harris County Storm Water Quality Regulations, Part E, §§ 1.02(a) and 1.02(c). Specifically, an investigation conducted on April 14, 2014 documented leaks and spills of wastewater resulting in unauthorized discharges of contaminated storm water from the facility at the Site. The contaminated storm water flowed into a road side ditch. This

observation constitutes one day of violation. However, additional days of violation may have occurred and TIBM is liable for a penalty within the statutory range for each day of violation.

## **7. SECOND CLAIM: INJUNCTIVE RELIEF**

7.1 As shown above, TIBM violated the provisions of the Texas Water Code, the Texas Health & Safety Code, TCEQ rules, and the Regulations of Harris County for Storm Water Quality Management.

7.2 Harris County is authorized to file suit for injunctive relief and civil penalties for violations of Chapter 7 and 26 of the Texas Water Code, Chapter 361 of the Texas Health & Safety Code, and the TCEQ rules promulgated under these statutes. Tex. Water Code §§ 7.105, 7.351. Additionally, Harris County is authorized to file suit for injunctive relief for violations of the Storm Water Regulations. Storm Water Regulations, Part E, § 4.01.

7.3 Harris County is not required to pay a filing fee or other security for costs and is not required to pay a bond prior to the Court granting an injunction. Tex. Civ. Prac. & Rem. Code § 6.001.

7.4 Harris County seeks a temporary injunction ordering TIBM, its employees, agents, successors, and or assigns, to comply with the Texas Water Code, the Texas Health & Safety Code, the Harris County Storm Water Quality Regulations, and all other rules of the TCEQ at the Site. Specifically, Harris County requests an injunction ordering Defendant TIBM to perform the following:

(1) Immediately cease and desist all unauthorized storage, processing, and disposal of solid waste at the Site unless authorized by a registration or other form of authorization from the TCEQ.

(2) Within thirty (30) days after the injunction is entered, remove all unauthorized solid waste at the Site and dispose of the removed solid waste at an authorized TCEQ facility.

(3) Within sixty (60) days after the injunction is entered, deliver copies of all solid waste disposal receipts generated by Paragraph 7.4(2) above, by certified mail to PCS and TCEQ.

(4) Immediately cease and desist discharging from any source whatsoever one or more air contaminants or combinations thereof, in such concentration and of such duration as are or may tend to be injurious to or to adversely affect human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation or property.

(5) Immediately cease and desist discharging from any source whatsoever one or more unauthorized air contaminants or combinations thereof at the Site.

(6) Immediately comply with all rules of the TCEQ including but not limited to keeping and maintaining all required records related to facility operations at the Site;

(7) Immediately cease and desist discharging from any source whatsoever at the Site municipal waste, industrial waste, industrial solid waste, or municipal hazardous waste into or adjacent to the waters of the state;

(8) Immediately cease and desist discharging facility wastewater or any storm water commingled with facility wastewater at the Site into or adjacent to the waters of the state;

(9) TIBM shall notify Harris County of any discharge of wastewater from its facility at the Site as soon as possible, but no later than 24 hours of the discharge by calling 713-920-2831, attn.: Compliance;

(10) Immediately after the injunction is entered, begin an application to TCEQ for authorization to discharge storm water associated with industrial activity under an individual industrial Texas Pollutant Discharge Elimination System (TPDES) permit;

(11) Within ninety (90) days after the injunction is entered, submit the application to TCEQ for authorization to discharge storm water associated with industrial activity under an individual industrial TPDES permit;

(12) Within two days (2) after the injunction is entered, post a sign at the front of the Site displaying the name and telephone number of a TIBM supervisor who can be reached 24 hours a day and 7 days a week;

(13) Ensure that all openings to containers, including but not limited to tanks, vessels, boxes, and frac tanks, are closed after washing prior to being placed in the area at the Site for cleaned containers as designated by TIBM; and

(14) Maintain and provide upon request all maintenance, calibration, training, and operation logs for the CAS, column scrubber, and four-gas meter for the past 12 month period.

7.5 Harris County requests any additional or alternative injunctive relief deemed appropriate by the Court.

7.6 Upon final trial, Harris County requests that the Court make the temporary injunction against TIBM permanent.

7.7 Notifications to be submitted to the PCS and TCEQ shall be submitted to:

Compliance Manager  
Harris County Pollution Control Services Department  
101 South Richey, Suite H  
Pasadena, Texas 77056

and

Order Compliance Team  
Enforcement Division, MC 219  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711

## **8. THIRD CLAIM: CIVIL PENALTIES**

8.1 A person who violates the Texas Water Code, the Texas Health & Safety Code, or a TCEQ permit, rule, or order is liable for a civil penalty of not less than \$50 nor greater than \$25,000 for each day of each violation. Tex. Water Code § 7.102.

8.2 A person who violates Part E of the Storm water Regulations may be liable for civil penalties up to \$1,000 per day for each violation. Storm Water Regulations, Part E § 4.01.

8.3 Harris County requests that TIBM be assessed a civil penalty between \$50 and \$25,000 for each day and act of violation of the Texas Water Code, the Texas Health & Safety Code, and the rules of the TCEQ. Each day of a continuing violation is a separate violation. Tex. Water Code § 7.102.

8.4 Harris County requests that TIBM be assessed a civil penalty up to \$1,000 per day for each violation of the Storm Water Regulations. Each day a violation continues is considered a separate violation for purposes of assessing the civil penalty. Storm Water Regulations, Part E § 4.01.

## **9. FOURTH CLAIM: ATTORNEY'S FEES AND COURT COSTS**

9.1 Pursuant to Sections 7.108 and 7.354 of the Texas Water Code, Harris County and the State are entitled to an award of attorney's fees and costs for bringing this suit.

## **10. PRAYER**

Harris County, Texas prays for judgment against Defendant as follows:

10.1 The Defendant be cited to appear and answer herein;

10.2 That upon notice and hearing, a temporary injunction be granted against Defendant as requested above;

10.3 That upon final trial of this cause, the Court grant civil penalties against Defendant within the range allowed by law, as requested above;

10.4 That upon final trial of this cause, permanent injunctive relief be granted against Defendant as requested above;

10.5 That upon final trial in this cause, the Court grant Harris County and the State its reasonable attorney's fees and that all costs be assessed against Defendant; and

10.6 The Court grant such other and further relief to which Harris County may be justly entitled.

Respectfully submitted,

VINCE RYAN, 99999939  
Harris County Attorney

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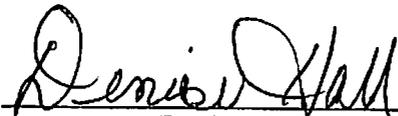
**ATTORNEYS FOR PLAINTIFF  
HARRIS COUNTY, TEXAS**

VERIFICATION

THE STATE OF TEXAS §  
  §  
COUNTY OF HARRIS §

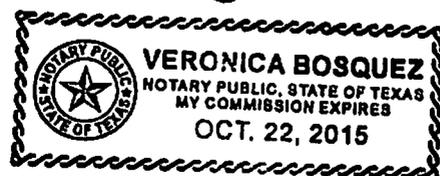
On this day, Denise Hall, Compliance Coordinator for the Harris County Pollution Control Services Department, formerly known as the Harris County Public Health & Environmental Services, Environmental Health Division, known to me through the presentation of a Texas State driver's license, appeared before me, the undersigned notary public, and after I administered an oath to her, upon her oath she said:

“My name is Denise Hall, Compliance Coordinator for the Harris County Pollution Control Services Department, formerly known as the Harris County Public Health and Environmental Services Department, Environmental Public Health Division. I am more than 21 years of age and capable of attesting to the following: I have read the foregoing Original Petition and Application for Temporary and Permanent Injunction, in *Harris County vs. Texas Industrial Box Maintenance, Inc.*, and in my official capacity as Compliance Coordinator, I am personally familiar with the investigation into the described violations, and the facts contained in the foregoing petition are true and correct.”

  
Denise Hall

SWORN TO and SUBSCRIBED before me by Denise Hall on this the 18 day of June, 2014.

  
Notary Public, in and for the  
State of Texas



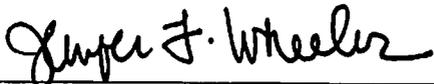


VERIFICATION

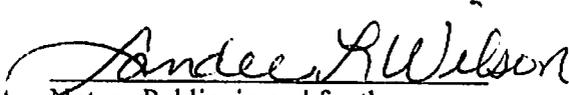
THE STATE OF TEXAS §  
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COUNTY OF HARRIS §

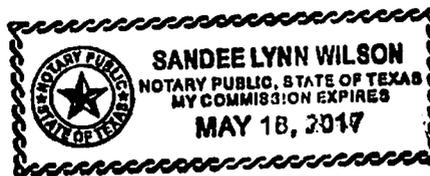
On this day, Jennifer Wheeler, Compliance Manager for the Harris County Pollution Control Services Department, formerly known as the Harris County Public Health & Environmental Services, Environmental Health Division, known to me through the presentation of a Texas State driver's license, appeared before me, the undersigned notary public, and after I administered an oath to her, upon her oath she said:

"My name is Jennifer Wheeler, Compliance Manager for the Harris County Pollution Control Services Department, formerly known as the Harris County Public Health and Environmental Services Department, Environmental Public Health Division. I am more than 21 years of age and capable of attesting to the following: I have read the foregoing Original Petition and Application for Temporary and Permanent Injunction, in *Harris County vs. Texas Industrial Box Maintenance, Inc.*, and in my official capacity as Compliance Manager, I am personally familiar with the investigation into the described violations, and the facts contained in the foregoing petition are true and correct."

  
Jennifer Wheeler

SWORN TO and SUBSCRIBED before me by Jennifer Wheeler on this the 18 day of June, 2014.

  
Notary Public, in and for the  
State of Texas





I, Chris Daniel, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this June 20, 2014

Certified Document Number: 61268882 Total Pages: 23

Chris Daniel, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

**In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail [support@hcdistrictclerk.com](mailto:support@hcdistrictclerk.com)**