

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 6

In the Matter of

Mr. Henry R. Stevenson, Jr.  
Parkwood Land Company

Docket No. CWA-06-2011-2709

Respondents

REGIONAL HEARING CLERK  
EPA REGION VI

2012 MAR 26 PM 2:49

FILED

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**RESPONDENT'S MEMORANDUM REGARDING VENUE**

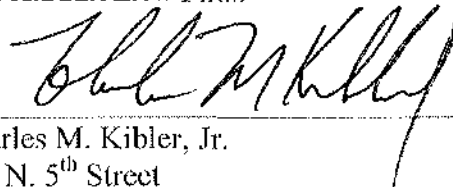
Respondents, Henry R. Stevenson Jr. and Parkwood Land Company submits this Memorandum Regarding Venue at the request of the Regional Judicial Officer and would respectfully show the following:

1. Complainant requests the hearing in this case to be conducted in Dallas, Texas because it is "the city in which the relevant Environmental Protection Agency Regional Office is located." Complainant also sites "severe budgetary constraints, particularly with regard to travel" as a reason for conducting the hearings in Dallas, Texas. As such, Complainant asks the Regional Judicial Officer to disregard (1) the 300 miles distance from the site which is at dispute in this proceeding to Dallas, Texas; (2) the expenses required of Respondent to incur for the travel of his legal counsel, expert witness, and himself; and (3) normal venue allowed to those accused in criminal and/or civil proceedings under Federal and State venue statutes.
2. In federal diversity cases, the venue can only be (1) the district where any defendant resides if all defendants reside in the same state, (2) the district where a substantial part of the events giving rise to the claim occurred, or (3) the district in which any defendant is

- subject to personal jurisdiction if there is no district in which the claim can otherwise be brought. 28 U.S.C. §1391.
3. Under Texas venue provisions, a suit involving land must be filed in the county where all or a part of the land is located. Tex.Civ.Prac.Rem. Code §15.011.
  4. The prehearing conference shall be held in the county where the respondent resides or conducts the business which the hearing concerns, in the city in which the relevant Environmental Protection Agency Regional Office is located, or in Washington, DC, unless the Presiding Officer determines that there is good cause to hold it at another location or by telephone. 40 C.F.R. §22.19(d).
  5. While it may be "permissible" under the venue provisions, it is wholly unfair to require a Respondent to spend his/her resources to defend themselves against an EPA claim in a venue which is (1) 300 miles from the county where the respondent resides or conducts business; (2) contrary to the venue provisions afforded a Defendant in Federal Court; and (3) contrary to the mandatory venue provisions afforded to a Defendant in a land or property case under Texas law.
  6. Respondent respectfully requests the conference be conducted in Orange County, Texas which would be permissible under the venue provisions in 40 C.F.R. §22.19(d).

Respectfully Submitted,

THE KIBLER LAW FIRM

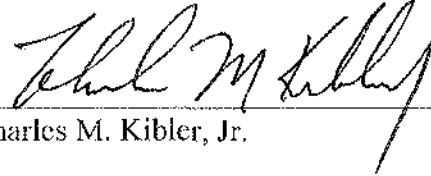


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Attorney for Respondents

**CERTIFICATE OF SERVICE**

I certify that on March 22, 2012 a true and correct copy of Respondent's Memorandum Regarding Venue was served to each person listed below via First Class Mail.



Charles M. Kibler, Jr.

Russell Murdock  
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Dallas Texas 75202

Lorena S. Vaughn  
Regional Hearing Clerk  
U.S. Environmental Protection Agency  
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