

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

FILED
2011 NOV 22 AM 10:09
REGIONAL HEARING CLERK
EPA REGION VI

In the Matter of:

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

Respondents.

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Docket No. CWA-06-2011-2709

SCHEDULING ORDER

Complainant, the Director, Water Quality Protection Division, United States Environmental Protection Agency Region 6 ("EPA"), seeks to assess a Class I administrative penalty under Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g). Class I penalty actions are governed by procedures set forth in the revised rules for non-Administrative Procedures Act (non-APA) cases. See 40 C.F.R. Part 22, Subpart I. I have been assigned to act as Presiding Officer in this case.

Complainant filed the Administrative Complaint ("Complaint") in this action on July 18, 2011. Respondents, Mr. Henry R. Stevenson and Parkwood Land Company filed an Answer to Complaint with the Regional Hearing Clerk on August 23, 2011.

THEREFORE, IT IS ORDERED:

1. Both Complainant and Respondent shall submit a prehearing exchange, as provided for in 40 C.F.R. §§ 22.52 and 22.19(a), for use at the hearing to be held in this matter. The prehearing exchange shall be **filed** no later than **January 10, 2012**. This submission, at a minimum, shall include:
 - a.) The name of each witness, including experts, each party intends to present at the hearing, as well as a brief description of the witness' connection to the case, the witness' qualifications (in the case of an expert witness), and a narrative of the witness' expected testimony. If the Respondent does not plan to call any witnesses (and thus rely solely on cross-examination of the Complainant's witnesses), Respondent must affirmatively state that it does not plan to call any witnesses at the hearing.
 - b.) A statement as to whether any witness will need an interpreter in order to testify, and, if so, what language.

e.) A statement as to whether any special accommodations under the Americans with Disabilities Act are needed for counsel or any witness or party representative.

d.) Copies of exhibits (including an index of the exhibits) intended for introduction into evidence at the hearing. The documents shall be submitted as part of the prehearing exchange even if they previously have been filed with the Regional Hearing Clerk. The exhibits shall include a resume or curriculum vitae for each proposed expert witness. If the Respondent does not plan to introduce any exhibits into evidence, Respondent must affirmatively state that it does not plan to introduce any exhibits into evidence at the hearing.

The exhibits shall be identified as "Complainant's" or "Respondent's" exhibit, as appropriate, and numbered with Arabic numerals (e.g., "Complainant's Ex. 1").

Documents used solely for purposes of impeachment do not have to be included.

e.) A statement of the party's estimate of how long it will take to put on its case.

f.) A statement of the party's position regarding the location of the hearing, keeping in mind that the rules provide that the hearing 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, D.C., unless the Presiding Officer determines that there is good cause to hold it in another location. 40 C.F.R. §§ 22.21(d) and 22.19(d).

g.) The Complainant shall provide an explanation of how its proposed penalty was calculated in accordance with the criteria set forth in the Clean Water Act.

h.) The Respondent shall provide an explanation of why the proposed penalty should be mitigated or eliminated.

2. Any response by a party to the prehearing exchange filed by the other party shall be filed not later than **January 24, 2012**.
3. The parties shall participate in a prehearing conference with the Presiding Officer on **January 21, 2012, beginning at 10:00 a.m. central standard time**. The parties should be prepared to address the matters identified in 40 C.F.R. § 22.19(b) during the conference. The conference will be conducted by telephone. Each party shall join the call by calling the following **dial-in number: 866-299-3188**. At the prompt, enter **conference code 214-665-2122, followed by the # sign**. If a party encounters problems connecting to the call, the customer service number for the conference call is: 888-876-3081.

Failure by the Complainant or the Respondent to comply with the prehearing exchange requirements or to appear for the prehearing conference may result in that party being found in default. 40 C.F.R. § 22.17(a). Failure by a party to list witnesses or submit documents as part of the information exchange may result in exclusion of those witnesses from testifying or the documents not being admitted into evidence. 40 C.F.R. §§ 22.19(a) and 22.22(a).

The Complainant's or the Respondent's failure to comply with any part of this Order may result in any sanction authorized by 40 C.F.R. Part 22.

SO ORDERED, this 22 day of November 2011.

A handwritten signature in black ink, appearing to read 'Pat Rankin', is written over a horizontal line. The signature is cursive and somewhat stylized.

PAT RANKIN
REGIONAL JUDICIAL OFFICER

CERTIFICATE OF SERVICE

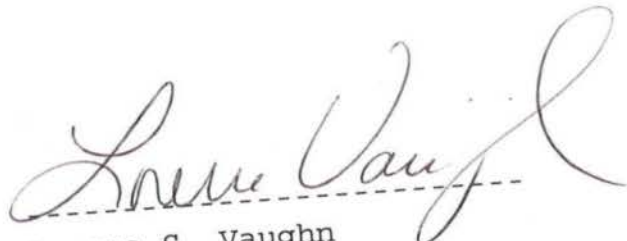
I, Lorena S. Vaughn, the Regional Hearing Clerk, do hereby certify that a true and correct copy of the Scheduling Order for Class I - CWA 06-2011-2709 was provided to the following on the date and in the manner stated below:

Charles M. Kibler, Jr.
 The Kibler Law Firm
 765 N. 5th Street
 Silsbee, Texas 77656

CERTIFIED MAIL

Russell Murdock
 U.S. Environmental Protection Agency
 1445 Ross Avenue
 Dallas, Texas 75202

INTEROFFICE MAIL



Lorena S. Vaughn
 Regional Hearing Clerk

11-22-11

 Date

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