

TEXAS ENVIRONMENTAL LAW

February 1977

Copyright © 1977
by
Professional Development Program
STATE BAR OF TEXAS
All rights reserved.

(Prepared for the institute on "Texas Environmental Law" sponsored by the State Bar of Texas' Environmental Law Section and the Texas Law Institute of Coastal and Marine Resources and held in Austin on Thursday and Friday, March 3 and 4, 1977.)

JURISDICTIONAL, PROCEDURAL, AND RELATED PROBLEMS
IN PRIVATE ENVIRONMENTAL LITIGATION

Table of Contents

	<u>Page</u>
INTRODUCTION	1
I. JURISDICTIONAL PROBLEMS	2
A. FEDERAL QUESTION JURISDICTION	2
B. DIVERSITY JURISDICTION	5
C. SPECIAL JURISDICTIONAL PROBLEMS - CITIZEN SUIT PROVISIONS	7
1. Jurisdiction under the Federal Clean Air Act (CAA)	8
2. Jurisdiction under the Federal Water Pollution Control Act Amendments of 1972 (FWPCA)	15
II. PROCEDURAL AND RELATED PROBLEMS	25
A. STANDING TO SUE	25
B. CLASS ACTIONS	38
C. SOVEREIGN IMMUNITY	41
D. PREEMPTION	42
III. ATTORNEY FEES	44
IV. SELECTED STATE LEGISLATIVE REFORMS	47
V. CONCLUSION	48
APPENDIX	a
A. Parts of federal Administrative Procedure Act	a
B. Full Text of NEPA	b
C. Full Text of Michigan Act	g
D. Selected Parts from California Environ- mental Quality Act	i