

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2014 APR -7 PM 4: 45

TCEQ DOCKET NO. 2013-2062-IWD

CHIEF CLERKS OFFICE

APPLICATION OF STEELY LUMBER §
CO., INC. FOR RENEWAL OF TPDES §
PERMIT NO. WQ0004249000 FOR §
STEELY LUMBER WASTEWATER §
TREATMENT PLANT IN WALKER §
COUNTY, TEXAS §

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

APPLICANT'S FORMAL RESPONSE TO REQUEST FOR RECONSIDERATION

Pursuant to the March 26, 2014 letter from the Chief Clerk of the Texas Commission on Environmental Quality (the "TCEQ"), Applicant Steely Lumber Co., Inc. ("*Steely Lumber*" or "*Applicant*") files this Formal Response to the Request for Reconsideration submitted by Mr. George H. Russell in the above referenced matter. For the reasons stated below, the Request for Reconsideration should be denied.

Based on a briefing schedule set via a January 15, 2014 letter from the TCEQ General Counsel, the TCEQ Executive Director, the Office of Public Interest Counsel ("*OPIC*"), and the Applicant each filed briefs in this matter on January 27, 2014 (the "*Prior Briefing*"). With very limited exception as discussed below, Applicant fully agrees with and incorporates by reference the Prior Briefing by the Executive Director, OPIC and the Applicant. Mr. Russell filed responses to the Prior Briefing on January 30, 2014 and on January 31, 2014, but his responses to the briefs add nothing new.

II. All Issues Raised in the Request for Reconsideration have been Addressed

The comments and the Request for Reconsideration take a scattershot approach by raising several theories and making several statements and allegations, but the theories, statements, and allegations are unsupported.

For example, contrary to the theories raised by Mr. Russell, the permitted activity at the sawmill facility that is the subject of the Application does not implicate other adjacent or

nearby property that has nothing to do with the sawmill facility. The maps and sawmill facility renditions provided with the Application make it clear that the area identified in the comments as the nursery, the second pond, and the "junk yard" are not part of the sawmill facility. The nursery is a separate company all together, and is owned and operated by Landmark Restoration dba Foliage Creek Nursery, which is subject to its own regulations. The second pond is part of the nursery and is used to capture storm water for use in watering plants in the nursery. Any items that are not part of the sawmill facility could not affect the discharge of wastewater at Outfall 001, and there are no items associated with the sawmill (oils/dry kiln materials/log storage) that are stored or used in areas outside of the area that is subject to the permit. Thus, stormwater flow and drainage from the nursery and other areas of concern raised in the comments and the Request for Reconsideration are located in such a manner so that the flow cannot pass through Outfall 001.

In short, all of the theories raised in Mr. Russell's comments and in his responses have been fully refuted in the Executive Director's Response to Comments and in the Prior Briefing.

II. Proposed Other Requirement No. 13

In the Executive Director's January 27, 2014 Response to Request for Reconsideration, the Executive Director suggests adding Other Requirement No. 13 which would require limited sampling of the wastewater effluent for naturally occurring radioactive materials ("NORM"). Although Applicant's understanding is that sampling wastewater effluent for NORM is atypical and Applicant questions the technical justification for such NORM sampling in this case, Applicant will agree to a one-time sampling of effluent at Outfall 001 for NORM, with minor modifications to the Executive Director's initial suggestion.¹ It is Applicant's understanding that the Executive Director agrees with minor

¹ Applicant does not object to Other Requirement No. 13, revised as follows, which is pursuant to Applicant's discussions with the Executive Director: The permittee shall sample effluent for naturally occurring radioactive materials (NORM) at Outfall 001 one time following the first discharge after issuance of this permit. The permittee shall have the sample analyzed by a certified laboratory accredited by the TCEQ using accredited laboratory methods for the following NORM:

| Pollutant | Minimum Detection Level |
|-----------|-------------------------|
|-----------|-------------------------|

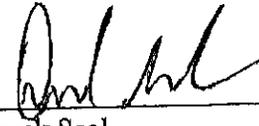
modifications, and that if NORM is not detected at above the minimum detection level, no further action will be taken, and no further NORM sampling will be required.

III. Conclusion and Prayer

As fully explained in the Prior Briefing, the Application that is the subject of the Motion for Reconsideration is a renewal, but with more stringent conditions.² The Request for Reconsideration should be denied because there is no technical or legal basis to support it. Thus, Applicant respectfully prays that the Commission deny the Request for Reconsideration, grant the Application, and issue the permit.

Dated: April 7, 2014

RESPECTFULLY SUBMITTED,

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| | |
|---|---------|
| Gross alpha particle activity | 3 pCi/L |
| Gross beta particle and photon emitters | 3 pCi/L |
| Radium 226 | 1 pCi/L |
| Radium 228 | 1 pCi/L |
| Uranium, Total | 1 µg/L |

The permittee shall submit the water quality analyses to the TCEQ Water Quality Assessment Team (MC-150) and the Industrial Permits Team (MC-148) upon initial discharge. The TCEQ may require additional testing or may amend the permit, pursuant to 30 TAC Section 305.62, based on its review of the test results. The permittee must be in compliance with 25 TAC Chapter 289, as applicable.

² *Statement of Basis/Technical Summary Executive Director's Preliminary Decision, TPDES Permit No WQ0004249000, pp. 3-4.*

CERTIFICATE OF SERVICE

I certify that I have served a true and correct copy via FAX and via certified mail of the foregoing Applicant's Formal Response to Request for Reconsideration to the persons on the list attached hereto, on this the 7th day of April, 2014.



Derek Seal

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DOCKET NO. 2013-2062-IWD; PERMIT NO. WQ0004249000

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