TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 27, 2014

Bridget C. Bohac
Texas Commission on Environmental Quality
Office of the Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711-3087

Re: Application by Steely Lumber Co., Inc. for TPDES Permit No. WQ0004249000; TCEQ Docket No. 2013-2062-IWD

Dear Ms. Bohac:

I have enclosed the Executive Director's Response to Request for Reconsideration. Please let me know if you have any questions.

Sincerely,

Stefanie Skogen
Staff Attorney
Environmental Law Division

Enclosure

cc: Mailing list

TCEQ Docket No. 2013-2062-IWD

APPLICATION BY STEELY LUMBER CO., INC. TO RENEW TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM (TPDES) PERMIT NO. WQ0004249000	**§ § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

EXECUTIVE DIRECTOR'S RESPONSE TO REQUEST FOR RECONSIDERATION

The Executive Director (ED) of the Texas Commission on Environmental Quality (Commission or TCEQ) drafted a proposed permit based on Steely Lumber Co., Inc.'s application to renew TPDES Permit No. WQ0004249000 that it determined met the applicable legal requirements. George H. Russell filed a request for reconsideration, asking the Commission to take a closer look at the proposed permit and consider denying Steely Lumber's application. After reviewing Mr. Russell's request for reconsideration, the ED recommends that the Commission deny Mr. Russell's request. However, because Mr. Russell raised the issue of radioactivity with respect to Steely Lumber's well water and the ED found one report that stated that 3.41% of water samples from the Jasper Aquifer contained alpha particles above the maximum contaminant level, the ED suggests that the Commission issue the proposed permit with the an additional requirement, which can be found in Section IV of this response.

Attached for Commission consideration are the following:

Attachment A – Statement of Basis/Technical Summary and ED's Preliminary Decision
Attachment B – ED's Response to Public Comment (RTC)
Attachment C – Compliance History Reports

I. FACILITY DESCRIPTION

Steely Lumber applied to the TCEQ to renew TPDES Permit No. WQ0004249000 to authorize the discharge of wet decking wastewater, utility wastewater, and stormwater runoff on an intermittent and flow variable basis through Outfall 001. The facility is located at 1405 Southwood Drive, approximately 1.5 miles east of the intersection of U.S. Highway 75 and Southwood Drive, and approximately 2.5 miles southeast of the City of Huntsville in Walker County, Texas 77340. The effluent is discharged to an unnamed ditch, then to Shepherd Creek, then to Winters Bayou, then to East Fork San Jacinto River in Segment No. 1003 of the San Jacinto River Basin. The designated uses for Segment No. 1003 are primary contact recreation, high aquatic life use, and public water supply.

II. BACKGROUND

The TCEQ received the application on December 10, 2012, and declared it administratively complete on December 18, 2012. The Notice of Receipt and Intent to Obtain a Water Quality Permit was published on December 20, 2012, in *The Huntsville Item*. ED staff completed the technical review of the application on April 26, 2013, and prepared a draft permit. The Notice of Application and Preliminary Decision for a Water Quality Permit was published on July 4, 2013, in *The Huntsville Item*. The public comment period ended on August 5, 2013. The ED filed its RTC on October 4, 2013. The Office of the Chief Clerk mailed the ED's RTC on October 7, 2013. The hearing request and request for reconsideration period ended on November 6, 2013.

III. REQUEST FOR RECONSIDERATION ANALYSIS

Mr. Russell raised a variety of concerns in his request and especially focused on the potential impact that Steely Lumber's effluent could have on his properties when the discharge route floods his properties and the impact that areas north of Steely Lumber's facility could have on its effluent. The ED will discuss each issue individually.

A. ED's RTC

Issue 1: Addressing Response 1 from the RTC, Mr. Russell argued that the floodplains on his properties that are located downstream from Steely Lumber's facility are not state property and that Steely Lumber has no legal right to deposit stormwater-driven waste onto his properties.

Mr. Russell appears to be arguing that Steely Lumber's effluent is part of the water that ends up on his property when Shepherd Creek floods his property. Steely Lumber is not discharging onto Mr. Russell's property; it is discharging into water in the state that eventually flows through Mr. Russell's property. Through the issuance of its TPDES permit, Steely Lumber has the right to discharge into water in the state as long as it complies with the terms of its permit, which were written to protect public health and terrestrial and aquatic life. If Mr. Russell wants to address the fact that floodwaters are entering his property, he could contact the local floodplain administration for this area; the TCEQ itself does not have jurisdiction to address flooding issues as part of the wastewater permitting process. The TCEQ's Resource Protection Team, which can be reached at 512-239-4691, can assist with locating the local floodplain administration. Also, the proposed permit would not prevent Mr. Russell from seeking other legal remedies if he believes Steely Lumber is liable for damage to his property.

Issue 2: Addressing Response 2 from the RTC, Mr. Russell objected to the fact that Steely Lumber collects its own samples, arguing that TCEQ oversight should be standard practice, as the application and ED's analysis of the application both contain errors.

It is standard regulatory practice to have wastewater discharge permit holders collect their own samples, as it would be impractical for the TCEQ to do so. Samples must be collected as frequently as every day; for example, page 2 of the proposed permit

requires Steely Lumber to sample its flow daily when discharging. TCEQ oversight comes into play through the reporting requirements found in the Monitoring and Reporting Requirements section of the proposed permit. Steely Lumber must collect samples as required on page 2 of the permit, have those samples tested by a properly accredited laboratory (Monitoring and Reporting Requirement No. 2), and report the test results monthly to the TCEQ's Enforcement Division (Monitoring and Reporting Requirement No. 1). Other than sludge-related records, which must be maintained for at least five years, Steely Lumber must maintain its monitoring and reporting records and make them available for TCEQ inspection for three years (Monitoring and Reporting Requirement No. 3). Monitoring and Reporting Requirement No. 7 also would require Steely Lumber to report any noncompliance that may endanger human health or safety or the environment. TCEQ investigators can take samples, but they take those samples for inspection purposes only.

Issue 3: Addressing Response 3 from the RTC, Mr. Russell argued that Steely Lumber does not have the necessary easements to convey its effluent across his properties. He does not believe that Steely Lumber's effluent is treated and that the ED's reliance on the *Domel* case[1] is misplaced for this and other reasons.

While Steely Lumber's effluent is not treated at a wastewater treatment plant, Steely Lumber's wastewater storage and settling pond is a wastewater treatment system. As discussed on page 1 of the Statement of Basis/Technical Summary and ED's Preliminary Decision, discharges from the pond only occur when the collected wastewater exceeds the pond's capacity. Wastewater from the pond is reused as wet decking water for the wood logs stored onsite. According to Steely Lumber, the pond does not discharge on a daily basis and has a capacity of 1,178,100 gallons. In fact, Other Requirement No. 9 only authorizes discharges from the pond that are caused by a rainfall event. In other words, the proposed permit does not authorize daily discharges. This is reflected in the fact that the permitted flow on page 2 of the proposed permit is intermittent and variable. While the treatment method is simple, Steely Lumber still must comply with the effluent limits in the proposed permit, which ED staff have determined are protective of water quality along the discharge route.

Despite the fact that the applicant in the case was a city, *Domel v. City of Georgetown* applies to this application. As the ED discussed in Response 3 in its RTC, the Texas Court of Appeals held that "[the State] does not need title to use the bed and banks of a watercourse for their defined purpose of transporting water," and "the State has the right to use the channel of the watercourse to meet its constitutionally mandated duty to conserve and develop the State's water resources."[2] The decision in the case did not hinge on the applicant's status as a governmental entity; it was based on the State's right to allow water to flow through the bed and banks of every watercourse in the state. Therefore, the court's holding in *Domel* applies to Steely Lumber just as much as it applied to the City of Georgetown, and Steely Lumber does not need to obtain an easement across Mr. Russell's property to discharge to water in the state. For flooding

[1] Domel v. City of Georgetown, 6 S.W.3d 349 (Tex. App.–Austin 1999).
[2] *Id.* at 358.

issues, the ED refers to its response to Issue 1 above.

Issue 4: Addressing Response 4 from the RTC, Mr. Russell expressed concern that there is junk located within and outside the Shepherd Creek floodplain, pollutants from which could threaten the Shepherd Creek watershed. He expressed concern regarding the potability and radioactivity of the well water that makes up part of Steely Lumber's wet decking water and the possibility that the effluent will not meet U.S. Environmental Protection Agency (EPA) standards by the time it reaches Lake Houston. He said there was no analysis of boiler blowdown contaminants or of the water in the waste pond. He believes that the TCEQ should test the waste pond water and that the water is not fit for consumption by animals. He stated that Response 4 did not address his question of how alpha-pinenes, turpentines, and other volatiles impact aquatic life.

The area that Mr. Russell identified as a junk yard is not part of the facility that is the subject of the application according to the maps and facility renditions provided with the application. For the radioactivity issue, ED staff examined the State of Texas Well Report for Steely Lumber's water well.[3] According to the report, the well's depth is 387 feet, which means it draws water from the Jasper Aquifer in the Fleming Formation. In the area where the facility is located, the formation that has radioactivity concerns due to past volcanic activity is the Catahoula Formation, which is at a depth of about 1,300-1,400 feet. The ED did find one report that stated that 3.41% of water samples taken (4 out of 117 total) in the Jasper Aquifer contained alpha particles above EPA's recommended maximum contaminant level; those same samples contained no beta-particle readings above the maximum contaminant level.[4] As for the potability issue, the effluent limits in the proposed permit apply at the point of discharge, not while the water that will be part of the effluent is being used in Steely Lumber's operations or while it is still sitting in the wastewater pond. Steely Lumber is not required to discharge potable effluent; it is required to meet the permit requirements, which have been designed to ensure that the effluent will not have adverse toxic effects on aquatic life, terrestrial life, livestock, or domestic animals as required by title 30, section 307.6(b)(4) of the Texas Administrative Code.

One of the main sources for the proposed permit's requirements are EPA regulations found at 40 C.F.R. pt. 429 (Timber Products Processing Point Source Category), subpts. I (Wet Storage Subcategory) and K (Sawmills and Planning Mills Subcategory). EPA, not the TCEQ, developed the technical information necessary to establish regulations that would ensure that effluent that contains the types of pollutants that facilities like Steely Lumber would discharge comply with the Clean Water Act. EPA's Office of Water web site provides access to its technical reports used in the rulemaking process.[5] According to EPA, its technical conclusions for the rulemaking that created subparts I and K are found in the report "Development Document for

[3] The well report stated it was for Tracking #154865.

[4] TEXAS WATER DEVELOPMENT BOARD, AQUIFERS OF THE GULF COAST OF TEXAS (REPORT 365) 114, 119 (Texas Water Development Board 2006).

[5] The reports can be accessed at http://yosemite.epa.gov/water/owrccatalog.nsf/HomePage?OpenForm&CartID=null. One possible search is to click on "Keyword Index" and then "Wood Products."

Effluent Limitations Guidelines, New Source Performance Standards, and Pretreatment Standards for the Timber Products Processing Point Source Category."[6] The technical information that Mr. Russell seeks may be available in such reports. As for the effluent meeting EPA standards, the proposed permit is based on EPA standards, so the effluent would be in compliance with such standards when it first enters the discharge route, let alone once it has traveled as far as Lake Houston.

Issue 5: Addressing Response 5 from the RTC, Mr. Russell stated that Steely Lumber's commingled discharge does not list any hydrocarbons that may have saturated the ground. He also expressed concern regarding the level of independence that the TCEQ has given Steely Lumber for testing its effluent.

The ED is not aware of a need for Steely Lumber to have identified such hydrocarbons as a potential pollutant in its application. Please see the ED's response to Issue 2 for its response regarding Steely Lumber's self-monitoring.

Issue 6: Addressing Response 6, Mr. Russell expressed concern that Steely Lumber self-reports its pH data, especially considering the errors and omissions in the permit application.

Please see the ED's response to Issue 2 for its response regarding Steely Lumber's self-reporting.

Issue 7: Addressing Response 7, Mr. Russell does not believe that Steely Lumber is not discharging process wastewater into the ditch. This includes discharging pesticides from what Mr. Russell believes to be a nursery on Steely Lumber's property.

Steely Lumber is not authorized to discharge process wastewater under the proposed permit. It is only authorized to discharge wet decking wastewater, utility wastewater, and stormwater runoff through Outfall 001. The discharge of any other type of wastewater would be a violation of the proposed permit. Pesticides are not part of the definition of "process wastewater" in the proposed permit, which is located in Other Requirement No. 1.b. The area that Mr. Russell identified as a nursery is not part of the facility that is the subject of this application according to the maps and facility renditions provided with the application.

Issue 8: Addressing Response 8, Mr. Russell disagreed with the ED's characterization of Steely Lumber's effluent as treated wastewater, arguing that any wastewater that runs into the pond during a storm event will immediately run onto Shepherd Creek's floodplain and, eventually, his property.

As stated in Other Requirement No. 9 in the proposed permit, the permit only authorizes discharges from the pond that are caused by a rainfall event. Therefore, the effluent limits in the proposed permit are anticipated to apply during a rainfall event.

[6] Timber Products Processing Point Source Subcategory, 46 Fed. Reg. 8260, 8260 (Jan. 26, 1981). Searching for the report title on Google provides a link to the report.

Issue 9: Addressing Response 9, Mr. Russell argued that the TCEQ should examine for itself what is present on Steely Lumber's property rather than relying on renditions provided in the application.

A TCEQ investigator has been to Steely Lumber's facility as recently as October 25, 2012, and did not note any concerns regarding how Steely Lumber has represented what is located at its facility.

B. Steely Lumber's Application

Issue 10: Addressing Steely Lumber's response to No. 3(a) in Technical Report 1.0, Mr. Russell argued that aerial photographs reveal that there is a second pond that Steely Lumber did not disclose in its application and that the pond Steely Lumber did disclose does not have a vegetative buffer, which Steely Lumber claimed the pond had in its application.

The area that Mr. Russell identified as a second pond is not part of the facility that is the subject of this application according to the maps and facility renditions provided with the application. If Steely Lumber does own a second wastewater pond and is discharging into water in the state without the required authorization, it is subjecting itself to being found discharging without a permit in violation of state and federal law, but that would be an enforcement matter that is separate from the consideration of this application. A TCEQ investigator has been to Steely Lumber's facility as recently as October 25, 2012, and did not note any concerns regarding how Steely Lumber has represented what is located at its facility. The ED will note that the image of the facility on Google Maps as of January 22, 2014, shows vegetation present around the wastewater pond as it is depicted on Attachment C to its application, although there are logs covering part of the area in question.

Issue 11: Addressing Steely Lumber's response to No. 6(a) in Technical Report 1.0, Mr. Russell argued that Steely Lumber did not mention pollutants that could come from what appeared to be a junk yard that is in and above the flood plain.

The area that Mr. Russell identified as a junk yard is not part of the facility that is the subject of this application according to the maps and facility renditions provided with the application. A TCEQ investigator has been to Steely Lumber's facility as recently as October 25, 2012, and did not note any concerns regarding how Steely Lumber has represented what is located at its facility.

Issue 12: Addressing the Worksheets to the Industrial Wastewater Permit Application Technical Report completed by Steely Lumber, Mr. Russell argued that Steely Lumber should have also completed Worksheets 4.1, 6.0, and 7.0.

According to the application instructions, Steely Lumber was not required to complete and submit Worksheets 4.1, 6.0, and 7.0. The application is not for a major permit, new permit, or addition of an outfall, so Steely Lumber did not have to submit

Worksheet 4.1. Steely Lumber is not a publicly owned treatment works, so it did not have to submit Worksheet 6.0. Steely Lumber does not discharge solely stormwater runoff or solely stormwater runoff and one or more of the non-stormwater wastestreams listed in the Worksheet 7.0 instructions, so Steely Lumber did not have to submit Worksheet 7.0.

Issue 13: Addressing Steely Lumber's response to No. 5(c) on Worksheet 4.0, Mr. Russell stated that Steely Lumber mischaracterized the receiving water and surrounding area's aesthetics, arguing that the area on his properties through which the discharge route runs is managed as a natural area and contains significant trees, such as Walker County Champion River Birch.

An applicant's response to this particular question describes the aesthetics of the immediate receiving waters. For this application, the immediate receiving water is an unnamed ditch on Steely Lumber's property, not Shepherd Creek on Mr. Russell's properties.

Issue 14: Addressing Steely Lumber's response to No. 1(b) on Worksheet 5.0, Mr. Russell argued that Steely Lumber should have stated that it does discharge to the Lake Houston watershed because the effluent will eventually reach Lake Houston.

Title 30, section 311.31 of the Texas Administrative Code defines the Lake Houston watershed as "[t]he entire drainage area of Lake Houston, with the exception of that portion of the drainage basin of the West Fork of the San Jacinto River which lies upstream of the Lake Conroe Dam." Based on this definition and a review of maps of the Lake Houston Watershed generated by the TCEQ, it appears that Steely Lumber does discharge to the Lake Houston watershed. However, the requirement to submit a solids management plan comes from title 30, section 311.35 of the Texas Administrative Code, which only applies to domestic sewage treatment facilities that discharge to the watershed. Steely Lumber's wastewater treatment system is not a domestic sewage treatment facility. As stated on page 1 of the Statement of Basis/Technical Summary and ED's Preliminary Decision, Steely Lumber collects its domestic wastewater in an onsite sewage facility and discharges it through irrigation. Therefore, the solids management plan requirement does not apply to Steely Lumber.

Issue 15: Addressing Steely Lumber's Attachments B (topographic map), C, and D, Mr. Russell argued that the documents do not accurately depict what is present at the facility.

Steely Lumber has represented that Attachments B through D depict its facility. Even if Steely Lumber has operations located north of the facility, that does not mean they are part of the facility that discharges to the wastewater pond that is the subject of this application. A TCEQ investigator has been to Steely Lumber's facility as recently as October 25, 2012, and did not note any concerns regarding how Steely Lumber has represented what is located at its facility.

C. Mr. Russell's Exhibits

Mr. Russell provided fourteen exhibits in support of his arguments. The ED considered those exhibits in conjunction with Mr. Russell's arguments that are related to the exhibits and will not discuss them separately. The following is a list of the exhibits and which issues listed in this response the ED believes the exhibits relate to:

- Exhibits 1, 5, and 6 – Issues 4, 9, 11, and 15
- Exhibits 2 and 4 – Issues 7, 9, 10, and 15
- Exhibits 3 and 8-13 – Issues 1, 3, 8, and 13
- Exhibits 7 and 14 – Issues 4, 7, 9, 10, 11, and 15

IV. CONCLUSION

Based on the ED's review of the issues raised by Mr. Russell, the ED believes the proposed permit is sufficient and should be issued as written except for the following: Because Mr. Russell raised the issue of radioactivity with respect to Steely Lumber's well water and the ED found one report that stated that 3.41% of water samples from the Jasper Aquifer contained alpha particles above the maximum contaminant level, the ED suggests that the Commission issue the proposed permit with the following additional requirement:

> Other Requirement No. 13: 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 |
> |---|---|
> | Gross alpha particle activity | 3 pCi/L |
> | Gross beta particle and photon emitters | 3 pCi/L |
> | Radium 226 | 0.2 pCi/L |
> | Radium 228 | 0.5 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.
>
> If NORM are detected in the effluent, the applicant shall comply with the provisions of 25 TAC §289.259 – Licensing of Naturally Occurring Radioactive Material (NORM).

With this one change, the ED recommends that the Commission deny Mr. Russell's request for reconsideration of the ED's decision in this matter.

Respectfully submitted,

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Richard A. Hyde, P.E., Executive Director

Robert Martinez, Director
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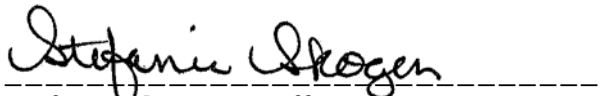
CERTIFICATE OF SERVICE

I certify that on January 27, 2014, a copy of the foregoing document was sent by electronic mail to the persons on the attached mailing list.



Stefanie Skogen, Staff Attorney
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TCEQ Docket No. 2013-2062-IWD

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ATTACHMENT A

STATEMENT OF BASIS/TECHNICAL SUMMARY AND
EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

DESCRIPTION OF APPLICATION

Applicant:	Steely Lumber Co., Inc.; Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0004249000 (TX0123421)
Regulated Activity:	Industrial Wastewater Permit
Type of Application:	Renewal
Request:	Renewal without Changes
Authority:	Federal Clean Water Act §402; Texas Water Code §26.027; 30 Texas Administrative Code (TAC) Chapter 305, Subchapters C-F, Chapters 307 and 319, Commission Policies; and United States Environmental Protection Agency (EPA) Guidelines

EXECUTIVE DIRECTOR RECOMMENDATION

The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. It is proposed the permit be issued to expire on July 1, 2018 in accordance with 30 TAC §305.71, Basin Permitting.

REASON FOR PROJECT PROPOSED

The applicant has applied to the Texas Commission on Environmental Quality (TCEQ) for a renewal of its existing permit.

PROJECT DESCRIPTION AND LOCATION

The applicant operates Steely Lumber Wastewater Treatment Plant, a saw mill that produces lumber, wood chips, fractionated wood, and humus.

The wastewater treatment system consists of wastewater storage and settling pond (Pond). On-site stormwater is collected in the Pond and is used as the source of wet decking water for the wood logs stored onsite. The Pond is located down gradient of two wet log storage areas to collect runoff from wet decking operations. Additionally, a small volume of steam condensate from boiler-generated steam and boiler blowdown is routed from the facility's wood drying operation to the Pond and commingled with the ponded wastewater. Discharges via Outfall 001 occur when the volume of the ponded wastewater exceeds the capacity of the Pond.

Domestic wastewater is routed to a registered Onsite Sewage Facility that consists of an Aqua Safe extended-aeration system with a 500-gallon pretreatment tank, a 500-gallon treatment tank and a 750-gallon pump tank. Domestic wastewater is chlorinated in the treatment tank. Treated domestic wastewater is discharged via three sprinkler heads for irrigation. Sludge from the septic system is pumped and transported offsite by a contracted hauler.

The plant site is located at 1405 Southwood Drive, approximately 1.5 miles east of the intersection of U.S. Highway 75 and Southwood Drive and approximately 2.5 miles southeast of the City of Huntsville, Walker County, Texas 77340.

The effluent is discharged to an unnamed ditch; thence to Shepherd Creek; thence to Winters Bayou; thence to East Fork San Jacinto River in Segment No. 1003 of the San Jacinto River Basin. The unclassified receiving waters have minimal aquatic life use for the unnamed ditch. The designated uses for Segment No. 1003 are high aquatic life use, contact recreation, and public water supply.

The effluent limits in the draft permit will maintain and protect the existing instream uses. All determinations are preliminary and subject to additional review and revisions.

The discharge from this permit action is not expected to have an effect on any federal endangered or threatened aquatic or aquatic dependent species or proposed species or their critical habitat. This determination is based on the United States Fish and Wildlife Service's (USFWS) biological opinion on the State of Texas authorization of the TPDES (September 14, 1998; October 21, 1998 update). To make this determination for TPDES permits, TCEQ and EPA only considered aquatic or aquatic dependent species occurring in watersheds of critical concern or high priority as listed in Appendix A of the USFWS biological opinion. The determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion. The permit does not require EPA review with respect to the presence of endangered or threatened species.

Segment 1003 is currently listed on the State's inventory of impaired and threatened waters (the 2010 Clean Water Act Section 303(d) list). The listing is specifically for elevated bacteria levels from the Caney Creek confluence upstream to U.S. Highway 190 (upper segment boundary) (AUs 1003_01, 1003_02, and 1003_03). Discharges from this facility are not expected to contribute to this impairment because Other Requirement No. 6 in the draft permit prohibits the discharge of domestic sewage, which is a known source of bacteria, and the compliance history for this facility between December 2007 and January 2013 is satisfactory.

SUMMARY OF EFFLUENT DATA

The following is a quantitative description of the discharge described in the Monthly Effluent Report data for the period December 2007 through December 2012. The "Average of Daily Avg." values presented in the following table are the average of all daily average values for the reporting period for each parameter. The "Maximum of Daily Max." values presented in the following table are the individual maximum values for the reporting period for each parameter:

Flow

Outfall	Frequency	Average of Daily Avg., MGD	Maximum of Daily Max., MGD)
001	1/day	2017	7988

Effluent Characteristics

Outfall	Parameter	Average of Daily Avg	Maximum of Daily Max
001	Chemical Oxygen Demand	N/A	186 mg/L
	Oil and Grease	N/A	< 5 mg/L
	Carbonaceous Biochemical Oxygen Demand (5-day)	N/A	116 mg/L
	Total Suspended Solids	N/A	1,384 mg/L
	Ammonia (as Nitrogen)	N/A	0.4 mg/L
	Dissolved Oxygen	4.4 mg/L (min.)	N/A
	pH (standard units)	(6.57, min.)	(7.62, max.)

A review of the self-reported data for discharges via Outfall 001 in the past five-year period indicated that the reported carbonaceous biochemical oxygen demand concentration of 116 mg/L exceeded its daily maximum effluent limitation of 35 mg/L in January 2012; the reported total suspended solids concentration of 1,384 mg/L exceeded its daily maximum effluent limitation of 60 mg/L in January 2012;

and the reported total suspended solids concentration of 231 mg/L exceeded its daily maximum effluent limitation of 60 mg/L in March 2012. No permit action was deemed necessary to address the lone effluent limitation exceedance for carbonaceous biochemical oxygen demand.

Other Requirement No. 12 was included in the draft permit to require the permittee to investigate the reason(s) for elevated levels of total suspended solids in discharges via Outfall 001, conduct a corrective action if necessary, and report information on findings and any corrective action to the Industrial Permits Team within 180 days of permit issuance.

DRAFT PERMIT CONDITIONS

The draft permit authorizes the discharge of wet decking wastewater, utility wastewater, and stormwater runoff on an intermittent and flow variable basis via Outfall 001.

Final effluent limitations are established in the draft permit as follows:

Outfall Number	Pollutant	Daily Average	Daily Maximum
001	Flow	Report, MGD	Report, MGD
	Chemical Oxygen Demand	N/A	Report, mg/L
	Oil and Grease	N/A	15 mg/L
	Carbonaceous Biochemical Oxygen Demand (5-day)	N/A	35 mg/L
	Total Suspended Solids	N/A	60 mg/L
	Ammonia, as Nitrogen	N/A	15 mg/L
	Dissolved Oxygen	4.0 mg/L, minimum	
	pH (standard units)	(6.0, minimum)	(9.0, maximum)

Regulations promulgated in Title 40 of the Code of Federal Regulations (40 CFR) require technology-based limitations be placed in wastewater discharge permits based on effluent limitations guidelines, where applicable, or on best professional judgment (BPJ) in the absence of guidelines. The discharge of wastewater associated with the wet storage of unprocessed wood (i.e., wet decking) is regulated under 40 CFR Part 429, Subpart I. Effluent limitations for pH were continued from the existing permit and were based on 40 CFR § 429.101. The facility's sawmill operations are regulated under 40 CFR Part 429, Subpart K. Other Requirements No. 1, 2, and 3, which were continued form the existing permit, were based on the 40 CFR Part 429, Subparts I and K. Monitoring requirements for chemical oxygen demand and effluent limitation for oil and grease, which were established based on BPJ, were continued from the existing permit. Effluent limitations for carbonaceous biochemical oxygen demand (5-day), total suspended solids, ammonia, as nitrogen, and dissolved oxygen were based on water shed protection rule at 30 TAC § 311.33, and were continued from the existing permit based on BPJ.

Calculations of water quality-based effluent limitations for the protection of aquatic life and human health are presented in Appendix A. Aquatic life criteria established in Table 1 and human health criteria established in Table 2 of 30 TAC Chapter 307 are incorporated into the calculations as well as recommendations in the Water Quality Assessment Team's Interoffice Memorandum dated January 9, 2013. The TCEQ's practice for determining significant potential is to compare the reported analytical data from the facility against percentages of the calculated daily average water quality-based effluent limitation. Permit limitations are required when analytical data reported in the application exceeds 85 percent of the calculated daily average water quality-based effluent limitation. Monitoring and reporting is required when analytical data reported in the application exceeds 70 percent of the calculated daily average water quality-based effluent limitation.

Partial analytical data provided by the permittee did not demonstrate a significant potential to exceed water quality-based effluent limitations calculated in Appendix A.

The permittee was unable to conduct additional sampling events prior to drafting of this permit because intermittent discharges via Outfall 001 are driven by stormwater, and no discharges were made via Outfall 001 after submission of the initial incomplete data by the permittee. Therefore, Other Requirement Nos. 10 and 11 were included in the draft permit to require the permittee to submit analytical data after permit issuance. Based on a technical review of the submitted analytical results, an amendment may be initiated by TCEQ staff to include additional effluent limitations, monitoring requirements, permit conditions, or a combination of these measures.

Biomonitoring requirements are not included in the draft permit at Outfall 001.

SUMMARY OF CHANGES FROM APPLICATION

The following changes have been made from the application, which make the draft permit more stringent.

1. Revised Other Requirement No. 7 to provide requirements for lining all new and modified wastewater ponds. These requirements were derived from 30 TAC Chapter 217, and are being applied to all industrial wastewater ponds, based on BPJ.

2. Other Requirement No. 10 was removed and replaced by new Other Requirement Nos. 10 and 11 to require the permittee to provide analytical data for discharges via Outfall 001 after permit issuance. This requirement was included because the permittee did not provide all the required analytical data with the permit application.

3. Included Other Requirement No. 12 to require the permittee to conduct an investigation to determine the reason(s) for elevated levels of total suspended solids in discharges via Outfall 001, conduct a corrective action if necessary, and report information on findings and any corrective action to the Industrial Permits Team within 180 days of permit issuance.

See the next section for additional changes to the existing permit.

SUMMARY OF CHANGES FROM EXISTING PERMIT

The following additional changes have been made to the draft permit.

1. Revised Page 1 to include the list of operations conduced at the facility.

2. Revised item No. 1 on Page no. 2 to clarify that the definition of utility wastewater includes boiler blowdown and steam condensate. This change was made because: (a) the definition of utility wastewater in the existing permit is not clear; (b) steam condensate is one of the components of utility wastewater among other waste streams such as cooling tower blowdown and air conditioning condensate; (c) the statement of basis for the existing permit identified steam condensate as one of the waste streams authorized for discharge via Outfall 001; (d) when this permit was issued on April 4, 2001, steam condensate was identified as one of the waste streams authorized at Outfall 001; and (e) the permittee provided documentation to demonstrate that the permit application for the existing permit identified steam condensate as one of the waste streams authorized at Outfall 001.

3. Revised item No. 1 on Page 2 to replace "Ammonia (As N)" with "Ammonia (as Nitrogen)," for clarity.

4. Revised item No. 4 on Page No. 2 to specify that the pond referenced in the existing permit is named the "storage and settling pond."

5. Updated the "Definitions and Standard Permit Conditions" section to provide the current language that is being included in all industrial wastewater discharge permits.

6. Revised Other Requirement No. 1.b.ii to state that the definition of "process wastewater" is specific to this permit because "process wastewater," as defined in 40 CFR Part 429, includes additional language for operations that are not performed at this facility.

7. Included Other Requirement No. 1.c. to provide the definition of utility wastewaters, as applicable to operations conducted by the permittee.

8. Removed the reference to dry process hardboard, veneer finishing, and particle board from Other Requirement No. 1.b.2 because the facility does not conduct these operations. Therefore, this information does not apply to the discharges authorized in the draft permit.

BASIS FOR DRAFT PERMIT

The following items were considered in developing the draft permit:

1. Application received on December 10, 2012 and additional information received via electronic mails dated April 15, 2013; April 17, 2013; and April 19, 2013.
2. Existing permit: TPDES Permit No. WQ0004249000 issued on June 3, 2010.
3. TCEQ Rules.
4. Texas Surface Water Quality Standards – 30 TAC §§307.1-307.10, effective July 22, 2010, as approved by EPA.
5. Texas Surface Water Quality Standards - 30 TAC §§307.1-307.10, effective August 17, 2000, and Appendix E, effective February 27, 2002, for portions of the 2010 Standards not approved by EPA.
6. *Procedures to Implement the Texas Surface Water Quality Standards*, Texas Commission on Environmental Quality, January 2003.
7. Appendix D, *Procedures to Implement the Texas Surface Water Quality Standards*, Texas Commission on Environmental Quality, Draft, June 2010.
8. Memos from the Water Quality Standards Implementation Team and the Water Quality Assessment Team of the Water Quality Assessment Section of the TCEQ.
9. "Guidance Document for Establishing Monitoring Frequencies for Domestic and Industrial Wastewater Discharge Permits," TCEQ Document No. 98-001.000-OWR-WQ, May 1998.
10. EPA Effluent Guidelines: 40 CFR Part 429 [Best Available Technology Economically Achievable (BAT) and Best Practicable Technology Currently Available (BPT)]. A new source determination was performed and new source performance standards as defined at 40 CFR §122.2 do not apply to the discharge of wet decking wastewater, utility wastewater, and stormwater runoff via Outfall 001.
11. Consistency with the Coastal Management Plan: N/A.

PROCEDURES FOR FINAL DECISION

When an application is declared administratively complete, the Chief Clerk sends a letter to the applicant advising the applicant to publish the Notice of Receipt of Application and Intent to Obtain Permit in the newspaper. In addition, the Chief Clerk instructs the applicant to place a copy of the application in a public place for review and copying in the county where the facility is or will be located. This application will be in a public place throughout the comment period. The Chief Clerk also mails this notice to any interested persons and, if required, to landowners identified in the permit application. This notice informs the public about the application, and provides that an interested person may file comments on the application or request a contested case hearing or a public meeting.

Once a draft permit is completed, it is sent, along with the Executive Director's preliminary decision, as contained in the technical summary or fact sheet, to the Chief Clerk. At that time, Notice of Application and Preliminary Decision will be mailed to the same people and published in the same newspaper as the prior notice. This notice sets a deadline for making public comments. The applicant must place a copy of the Executive Director's preliminary decision and draft permit in the public place with the application.

Any interested person may request a public meeting on the application until the deadline for filing public comments. A public meeting is intended for the taking of public comment, and is not a contested case proceeding. After the public comment deadline, the Executive Director prepares a response to all significant public comments on the application or the draft permit raised during the public comment period. The Chief Clerk then mails the Executive Director's Response to Comments and Final Decision to people who have filed comments, requested a contested case hearing, or requested to be on the mailing list. This notice provides that if a person is not satisfied with the Executive Director's response and decision, they can request a contested case hearing or file a request to reconsider the Executive Director's decision within 30 days after the notice is mailed.

The Executive Director will issue the permit unless a written hearing request or request for reconsideration is filed within 30 days after the Executive Director's Response to Comments and Final Decision is mailed. If a hearing request or request for reconsideration is filed, the Executive Director will not issue the permit and will forward the application and request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

If the Executive Director calls a public meeting or the Commission grants a contested case hearing as described above, the Commission will give notice of the date, time, and place of the meeting or hearing. If a hearing request or request for reconsideration is made, the Commission will consider all public comments in making its decision and shall either adopt the Executive Director's response to public comments or prepare its own response.

For additional information about this application contact Satya Dwivedula, P.E. at (512) 239-3548.

Satya Dwivedula — *May 13, 2013*
Satya Dwivedula, P.E. — Date

Appendix A
Calculated Water Quality-Based Effluent Limits

TEXTOX MENU #2 - INTERMITTENT STREAM WITHIN 3 MILES OF A FRESHWATER PERENNIAL STREAM/RIVER

The water quality-based effluent limitations developed below are calculated using:

Table 1, 2010 Texas Surface Water Quality Standards (30 TAC 307) for Freshwater Aquatic Life
Table 2, 2010 Texas Surface Water Quality Standards for Human Health (except Mercury)
Table 3, 2000 Texas Surface Water Quality Standards for Human Health (Mercury)
"Procedures to Implement the Texas Surface Water Quality Standards," Texas Commission on Environmental Quality, January 2003
"Procedures to Implement the Texas Surface Water Quality Standards," Appendix D, Texas Commission on Environmental Quality, June 2010

PERMIT INFORMATION

Permittee Name:	Steely Lumber Co., Inc.
TPDES Permit No.:	WQ0004249000
Outfall No.:	001
Prepared by:	Satya Dwivedula, P.E.
Date:	1/30/2013

DISCHARGE INFORMATION

Intermittent Receiving Water body:	Unnamed Ditch	
Perennial Stream/River within 3 Miles:	Shepherd Creek	
Segment No.:	1003	
TSS (mg/L):	7.0	
pH (Standard Units):	6.6	
Hardness (mg/L as $CaCO_3$):	37	
Chloride (mg/L):	32	
Effluent Flow for Aquatic Life (MGD):	7988	Max. of Avg. flow, 5-yr period; a value of 0.5 MGD for 2-yr period is not representative.
Critical Low Flow [7Q2] (cfs) for intermittent:	0	
Critical Low Flow [7Q2] (cfs) for perennial:	0.1	
Percent Effluent for Mixing Zone:	100.00	
Percent Effluent for Zone of Initial Dilution:	100	
Effluent Flow for Human Health (MGD):	2017	Avg. of Avg. flow, 5-yr period; a value of 0.260 MGD for 2-yr period is not representative.
Harmonic Mean Flow (cfs) for perennial:	0.2	
Percent Effluent for Human Health:	100	
Public Water Supply Use?:	**yes**	

CALCULATE DISSOLVED FRACTION (AND ENTER WATER EFFECT RATIO IF APPLICABLE):

Stream/River Metal	*Intercept (b)*	*Slope (m)*	*Partition Coefficient (Kp)*	*Dissolved Fraction (Cd/Ct)*		*Water Effect Ratio (WER)*	
Aluminum	N/A	N/A	N/A	1.00	Assumed	1	Assumed
Arsenic	5.68	-0.73	115632.10	0.55		1	Assumed
Cadmium	6.60	-1.13	441610.32	0.24		1	Assumed
Chromium (Total)	6.52	-0.93	542074.31	0.21		1	Assumed
Chromium (+3)	6.52	-0.93	542074.31	0.21		1	Assumed
Chromium (+6)	N/A	N/A	N/A	1.00	Assumed	1	Assumed
Copper	6.02	-0.74	248100.39	0.37		1	Assumed
Lead	6.45	-0.80	594184.84	0.19		1	Assumed

Stream/River Metal	*Intercept (b)*	*Slope (m)*	*Partition Coefficient (Kp)*	*Dissolved Fraction (Cd/Ct)*		*Water Effect Ratio (WER)*	
Mercury	N/A	N/A	N/A	1.00	Assumed	1	Assumed
Nickel	5.69	-0.57	161545.22	0.47		1	Assumed
Selenium	N/A	N/A	N/A	1.00	Assumed	1	Assumed
Silver	6.38	-1.03	323257.80	0.31		1	Assumed
Zinc	6.10	-0.70	322426.98	0.31		1	Assumed

CONVERT TISSUE-BASED CRITERIA TO WATER COLUMN CRITERIA:

Parameter	*Water and Fish Criterion (ug/kg)*	*Fish Only Criterion (ug/kg)*	*BCF (l/kg)*	*Water and Fish Criterion (ug/L)*	*Fish Only Criterion (ug/L)*
4,4'-DDD	166.16	166.16	53600	0.0031	0.0031
4,4'-DDE	214.4	214.4	53600	0.004	0.004
4,4'-DDT	209.04	209.04	53600	0.0039	0.0039
Dioxins/Furans	0.0004	0.0004	5000	8.00E-08	8.00E-08
Mercury					
Polychlorinated Biphenyls (PCBs)	19.96	19.96	31200	6.40E-04	6.40E-04

AQUATIC LIFE

CALCULATE DAILY AVERAGE AND DAILY MAXIMUM EFFLUENT LIMITATIONS:

Parameter	*FW Acute Criterion (ug/L)*	*FW Chronic Criterion (ug/L)*	*WLAa*	*WLAc*	*LTAa*	*LTAc*	*Daily Avg. (ug/L)*	*Daily Max. (ug/L)*
Aldrin	3	N/A	3.00	N/A	1.72	N/A	2.53	5.35
Aluminum	991	N/A	991	N/A	568	N/A	835	1766
Arsenic	340	150	615.204	271.416	352.512	208.990	307	650
Cadmium	3.261	0.123	13.342	0.504	7.645	0.388	0.570	1.207
Carbaryl	2	N/A	2.00	N/A	1.15	N/A	1.68	3.56
Chlordane	2.4	0.004	2.40	0.004	1.38	0.003	0.005	0.010
Chlorpyrifos	0.083	0.041	0.083	0.041	0.048	0.032	0.046	0.098
Chromium (+3)	252.378	32.829	1210.032	157.402	693.349	121.199	178	377
Chromium (+6)	15.7	10.6	15.7	10.600	9.00	8.162	12.0	25.4
Copper	5.565	4.049	15.231	11.080	8.727	8.532	12.5	26.5
Cyanide	45.8	10.7	45.8	10.700	26.2	8.239	12.1	25.6
4,4'-DDT	1.1	0.001	1.10	0.001	0.630	0.001	0.001	0.002
Demeton	N/A	0.1	N/A	0.100	N/A	0.077	0.113	0.239
Diazinon	0.17	0.17	0.170	0.170	0.097	0.131	0.143	0.303
Dicofol	59.3	19.8	59.3	19.800	34.0	15.246	22.4	47.4
Dieldrin	0.24	0.002	0.240	0.002	0.138	0.002	0.002	0.005
Diuron	210	70	210	70.001	120	53.900	79.2	168
Endosulfan I (alpha)	0.22	0.056	0.220	0.056	0.126	0.043	0.063	0.134
Endosulfan II (beta)	0.22	0.056	0.220	0.056	0.126	0.043	0.063	0.134
Endosulfan sulfate	0.22	0.056	0.220	0.056	0.126	0.043	0.063	0.134
Endrin	0.086	0.002	0.086	0.002	0.049	0.002	0.002	0.005
Guthion	N/A	0.01	N/A	0.010	N/A	0.008	0.011	0.024
Heptachlor	0.52	0.004	0.520	0.004	0.298	0.003	0.005	0.010
Hexachlorocyclohexane (Lindane)	1.126	0.08	1.13	0.080	0.645	0.062	0.091	0.192
Lead	21.551	0.840	111.188	4.333	63.711	3.336	4.904	10.4
Malathion	N/A	0.01	N/A	0.010	N/A	0.008	0.011	0.024
Mercury	2.4	1.3	2.40	1.300	1.38	1.001	1.47	3.11
Methoxychlor	N/A	0.03	N/A	0.030	N/A	0.023	0.034	0.072
Mirex	N/A	0.001	N/A	0.001	N/A	0.001	0.001	0.002

Parameter	*FW Acute Criterion (ug/L)*	*FW Chronic Criterion (ug/L)*	*WLAa*	*WLAc*	*LTAa*	*LTAc*	*Daily Avg. (ug/L)*	*Daily Max. (ug/L)*
Nickel	201.913	22.426	430.239	47.787	246.527	36.796	54.1	114
Nonylphenol	28	6.6	28.0	6.600	16.0	5.082	7.47	15.8
Parathion (ethyl)	0.065	0.013	0.065	0.013	0.037	0.010	0.015	0.031
Pentachlorophenol	5.836	4.477	5.836	4.477	3.344	3.447	4.92	10.4
Phenanthrene	30	30	30.0	30.000	17.2	23.100	25.3	53.5
Polychlorinated Biphenyls (PCBs)	2	0.014	2.00	0.014	1.15	0.011	0.016	0.034
Selenium	20	5	20.0	5.000	11.5	3.850	5.66	12.0
Silver (free ion)	0.8	N/A	7.8158391	N/A	4.478	N/A	6.58	13.9
Toxaphene	0.78	0.0002	0.780	0.00020	0.447	0.00015	0.00023	0.00048
Tributyltin (TBT)	0.13	0.024	0.130	0.024	0.074	0.018	0.027	0.057
2,4,5 Trichlorophenol	136	64	136	64.001	77.9	49.280	72.4	153
Zinc	50.465	50.878	164.365	165.711	94.181	127.597	138	293

HUMAN HEALTH

CALCULATE DAILY AVERAGE AND DAILY MAXIMUM EFFLUENT LIMITATIONS:

Parameter	*Water and Fish Criterion (ug/L)*	*Fish Only Criterion (ug/L)*	*WLAh*	*LTAh*	*Daily Avg. (ug/L)*	*Daily Max. (ug/L)*
Acrylonitrile	0.8	3.8	3.800	3.534	5.20	11.0
Aldrin	0.00094	0.001	0.001	0.001	0.001	0.003
Anthracene	5569	N/A	N/A	N/A	N/A	N/A
Antimony	6	1071	1071.069	996.094	1464	3098
Arsenic	10	N/A	N/A	N/A	N/A	N/A
Barium	2000	N/A	N/A	N/A	N/A	N/A
Benzene	5	513	513.033	477.121	701	1484
Benzidine	0.00086	0.002	0.002	0.002	0.003	0.006
Benzo(a)anthracene	0.068	0.33	0.330	0.307	0.451	0.955
Benzo(a)pyrene	0.068	0.33	0.330	0.307	0.451	0.955
Bis(chloromethyl)ether	0.0024	0.44	0.440	0.409	0.602	1.273
Bis(2-chloroethyl)ether	0.3	5.27	5.270	4.901	7.21	15.2
Bis(2-ethylhexyl)phthalate	6	41	41.003	38.132	56.1	119
Bromodichloromethane	10.2	322	322.021	299.479	440	931
Bromoform	69.1	2175	2175.139	2022.880	2974	6291
Cadmium	5	N/A	N/A	N/A	N/A	N/A
Carbon Tetrachloride	4.1	29	29.002	26.972	39.6	83.9
Chlordane	0.008	0.0081	0.008	0.008	0.011	0.023
Chlorobenzene	100	5201	5201.333	4837.240	7111	15044
Chlorodibromomethane (Dibromochloromethane)	7.6	239	239.015	222.284	327	691
Chloroform	70	7143	7143.458	6643.416	9766	20661
Chromium (+6)	62	502	502.032	466.890	686	1452
Chrysene	68.13	327	327.021	304.129	447	946
Cresols	736	1981	1981.127	1842.448	2708	5730
Cyanide	200	N/A	N/A	N/A	N/A	N/A
4,4'-DDD	0.0031	0.0031	0.003	0.003	0.004	0.009
4,4'-DDE	0.004	0.004	0.004	0.004	0.005	0.012
4,4'-DDT	0.0039	0.0039	0.004	0.004	0.005	0.011
2,4'-D	70	N/A	N/A	N/A	N/A	N/A
Danitol	5.39	5.44	5.440	5.060	7.44	15.7
1,2-Dibromoethane	0.16	2.13	2.130	1.981	2.91	6.161
m-Dichlorobenzene	473	1445	1445.093	1343.936	1976	4180
o-Dichlorobenzene	600	4336	4336.278	4032.738	5928	12542
p-Dichlorobenzene	75	N/A	N/A	N/A	N/A	N/A

Parameter	*Water and Fish Criterion (ug/L)*	*Fish Only Criterion (ug/L)*	*WLAh*	*LTAh*	*Daily Avg. (ug/L)*	*Daily Max. (ug/L)*
3,3'-Dichlorobenzidine	0.32	0.44	0.440	0.409	0.602	1.273
1,2-Dichloroethane	5	553	553.035	514.323	756	1600
1,1-Dichloroethylene	7	23916	23917.533	22243.305	32698	69177
Dichloromethane	5	5926	5926.380	5511.533	8102	17141
1,2-Dichloropropane	5	226	226.014	210.193	309	654
1,3-Dichloropropene (1,3- Dichloropropylene)	3.4	211	211.014	196.243	288	610
Dicofol	0.076	0.076	0.076	0.071	0.104	0.220
Dieldrin	0.0005	0.0005	0.001	0.000	0.001	0.001
2,4-Dimethylphenol	257	571	571.037	531.064	781	1652
Di-n-Butyl Phthalate	1318	3010	3010.193	2799.479	4115	8706
Dioxins/Furans (TCDD Equivalents)	8.00E-08	8.00E-08	8.001E-08	7.44E-08	1.09E-07	2.31E-07
Endrin	0.2	0.2	0.200	0.186	0.273	0.578
Ethylbenzene	700	7143	7143.458	6643.416	9766	20661
Fluoride	4000	N/A	N/A	N/A	N/A	N/A
Heptachlor	0.0015	0.0015	0.002	0.001	0.002	0.004
Heptachlor Epoxide	0.00074	0.00075	0.001	0.001	0.001	0.002
Hexachlorobenzene	0.0044	0.0045	0.005	0.004	0.006	0.013
Hexachlorobutadiene	6.5	274	274.018	254.836	375	793
Hexachlorocyclohexane (alpha)	0.05	0.093	0.093	0.086	0.127	0.269
Hexachlorocyclohexane (beta)	0.17	0.33	0.330	0.307	0.451	0.955
Hexachlorocyclohexane (gamma) (Lindane)	0.2	6.2	6.200	5.766	8.48	17.9
Hexachlorocyclopentadiene	50	N/A	N/A	N/A	N/A	N/A
Hexachloroethane	27	62	62.004	57.664	84.8	179.3
Hexachlorophene	0.008	0.008	0.008	0.007	0.011	0.023
Lead	1.15	3.83	19.761	18.378	27.0	57.2
Mercury	0.0122	0.0122	0.012	0.011	0.017	0.035
Methoxychlor	0.33	0.33	0.330	0.307	0.451	0.955
Methyl Ethyl Ketone	13932	1500000	1500096	1.40E+06	2.05E+06	4.34E+06
Nickel	332	1140	2429.287	2259.236	3321	7026
Nitrate-Nitrogen (as Total Nitrogen)	10000	N/A	N/A	N/A	N/A	N/A
Nitrobenzene	11	463	463.030	430.618	633	1339
N-Nitrosodiethylamine	0.0037	2.1	2.100	1.953	2.87	6.07
N-Nitroso-di-n-Butylamine	0.119	4.2	4.200	3.906	5.74	12.1
Pentachlorobenzene	1	1	1.000	0.930	1.37	2.892
Pentachlorophenol	1	57	57.004	53.013	77.9	165
Polychlorinated Biphenyls (PCBs)	6.40E-04	6.40E-04	0.001	0.001	0.001	0.002
Pyridine	23	2014	2014.129	1873.140	2754	5825
Selenium	50	N/A	N/A	N/A	N/A	N/A
1,2,4,5-Tetrachlorobenzene	0.65	0.71	0.710	0.660	0.971	2.054
1,1,2,2-Tetrachloroethane	3.2	76	76.005	70.685	104	220
Tetrachloroethylene	5	49	49.003	45.573	67.0	142
Thallium	0.75	1.5	1.500	1.395	2.05	4.339
Toluene	1000	N/A	N/A	N/A	N/A	N/A
Toxaphene	0.0053	0.0053	0.005	0.005	0.007	0.015
2,4,5-TP (Silvex)	7.3	7.6	7.600	7.068	10.4	22.0
1,1,1-Trichloroethane	200	956663	956724	889754	1307938	2767134
1,1,2-Trichloroethane	5	295	295	274	403	853
Trichloroethylene	5	649	649	604	887	1877
2,4,5-Trichlorophenol	1194	2435	2435	2265	3329	7043
TTHM (Sum of Total Trihalomethanes)	80	N/A	N/A	N/A	N/A	N/A
Vinyl Chloride	0.25	24	24.002	22.321	32.8	69.4

CALCULATE 70% AND 85% OF DAILY AVERAGE EFFLUENT LIMITATIONS:

Aquatic Life

Parameter	*70%*	*85%*
Aldrin	1.77	2.15
Aluminum	584	710
Arsenic	215	261
Cadmium	0.399	0.485
Carbaryl	1.18	1.43
Chlordane	0.003	0.004
Chlorpyrifos	0.032	0.039
Chromium (+3)	125	151
Chromium (+6)	8.40	10.2
Copper	8.78	10.7
Cyanide	8.48	10.3
4,4'-DDT	0.0008	0.0010
Demeton	0.079	0.096
Diazinon	0.100	0.122
Dicofol	15.7	19.1
Dieldrin	0.0016	0.0019
Diuron	55.5	67.3
Endosulfan (alpha)	0.044	0.054
Endosulfan (beta)	0.044	0.054
Endosulfan sulfate	0.044	0.054
Endrin	0.0016	0.0019
Guthion	0.008	0.010
Heptachlor	0.003	0.004
Hexachlorocyclohexane (Lindane)	0.063	0.077
Lead	3.433	4.169
Malathion	0.008	0.010
Mercury	1.03	1.25
Methoxychlor	0.024	0.029
Mirex	0.0008	0.0010
Nickel	37.9	46.0
Nonylphenol	5.23	6.35
Parathion (ethyl)	0.010	0.013
Pentachlorophenol	3.44E+00	4.18E+00
Phenanthrene	17.7	21.5
Polychlorinated Biphenyls (PCBs)	0.011	0.013
Selenium	3.96	4.81
Silver (free ion)	4.61	5.60
Toxaphene	0.00016	0.00019
Tributyltin (TBT)	0.019	0.023
2,4,5 Trichlorophenol	50.7	61.6
Zinc	96.9	118

Human Health

Parameter	*70%*	*85%*
Acrylonitrile	3.64	4.42
Aldrin	0.0010	0.0012
Anthracene	N/A	N/A
Antimony	1025	1245
Arsenic	N/A	N/A
Barium	N/A	N/A
Benzene	491	596
Benzidine	0.0019	0.0023
Benzo(a)anthracene	0.316	0.383
Benzo(a)pyrene	0.316	0.383
Bis(chloromethyl)ether	0.421	0.511
Bis(2-chloroethyl)ether	5.04	6.12
Bis(2-ethylhexyl)phthalate	39.2	47.6
Bromodichloromethane	308	374
Bromoform	2082	2528
Cadmium	N/A	N/A
Carbon Tetrachloride	27.8	33.7
Chlordane	0.008	0.009
Chlorobenzene	4978	6044
Chlorodibromomethane (Dibromochloromethane)	229	278
Chloroform	6836	8301
Chromium (+6)	480	583
Chrysene	313	380
Cresols	1896	2302
Cyanide	N/A	N/A
4,4'-DDD	0.003	0.004
4,4'-DDE	0.004	0.005
4,4'-DDT	0.004	0.005
2,4'-D	N/A	N/A
Danitol	5.21	6.32
1,2-Dibromoethane	2.04	2.48
m-Dichlorobenzene	1383	1679
o-Dichlorobenzene	4150	5039
p-Dichlorobenzene	N/A	N/A
3,3'-Dichlorobenzidine	0.421	0.511
1,2-Dichloroethane	529	643
1,1-Dichloroethylene	22888	27793
Dichloromethane	5671	6887
1,2-Dichloropropane	216	263
1,3-Dichloropropene (1,3- Dichloropropylene)	202	245
Dicofol	0.073	0.088
Dieldrin	0.000	0.001
2,4-Dimethylphenol	546	664
Di-n-Butyl Phthalate	2881	3498
Dioxins/Furans (TCDD Equivalents)	7.66E-08	9.30E-08
Endrin	0.191	0.232
Ethylbenzene	6836	8301
Fluoride	N/A	N/A
Heptachlor	0.001	0.002
Heptachlor Epoxide	0.0007	0.0009
Hexachlorobenzene	0.004	0.005
Hexachlorobutadiene	262	318
Hexachlorocyclohexane (alpha)	0.089	0.108
Hexachlorocyclohexane (beta)	0.316	0.383

Parameter	*70%*	*85%*
Hexachlorocyclohexane (gamma) (Lindane)	5.93	7.21
Hexachlorocyclopentadiene	N/A	N/A
Hexachloroethane	59.3	72.1
Hexachlorophene	0.008	0.009
Lead	18.9	23.0
Mercury	0.012	0.014
Methoxychlor	0.316	0.383
Methyl Ethyl Ketone	1.44E+06	1.74E+06
Nickel	2325	2823
Nitrate-Nitrogen (as Total Nitrogen)	N/A	N/A
Nitrobenzene	443	538
N-Nitrosodiethylamine	2.01	2.44
N-Nitroso-di-n-Butylamine	4.02	4.88
Pentachlorobenzene	0.957	1.162
Pentachlorophenol	54.6	66.2
Polychlorinated Biphenyls (PCBs)	6.12E-04	7.43E-04
Pyridine	1927	2340
Selenium	N/A	N/A
1,2,4,5-Tetrachlorobenzene	0.679	0.825
1,1,2,2-Tetrachloroethane	72.734	88.3
Tetrachloroethylene	46.9	56.9
Thallium	1.44	1.74
Toluene	N/A	N/A
Toxaphene	0.005	0.006
2,4,5-TP (Silvex)	7.27	8.83
1,1,1-Trichloroethane	915556	1111747
1,1,2-Trichloroethane	282	343
Trichloroethylene	621	754
2,4,5-Trichlorophenol	2330	2830
TTHM (Sum of Total Trihalomethanes)	N/A	N/A
Vinyl Chloride	23.0	27.9

ATTACHMENT B

TCEQ INTRAAGENCY TRANSMITTAL MEMO

DATE: October 4, 2013

TO: FINAL DOCUMENTS TEAM LEADER
OFFICE OF THE CHIEF CLERK
BUILDING F, MC-105

FROM: STEFANIE SKOGEN
ENVIRONMENTAL LAW DIVISION
BUILDING A, MC-173

Attached: Executive Director's Response to Comment

Application Information:
Program Area (Air, Water, or Waste): **Water**
Registration No. **WQ0004249000**
Name: **Steely Lumber Co., Inc.**
CID Item #: **85675**

OCC Action Required (check applicable boxes)
Date stamp and return copy to above-noted ELD Staff Attorney and

FOR ALL PROGRAM AREAS: (required only when changes needed to official agency mailing list)

☐ Update the mailing list in your file with the attached contact names and addresses.
Include corrected or additional names and addresses for mailing list.

FOR WASTE & WATER:

☒ Send Response to Comments Letter which solicits hearing requests and requests for reconsideration to the mailing list in your files.
For Waste and Water, this would occur in all circumstances when comments have been received for 801 applications.

Or

☐ Send Response to Comments Letter and Motion to Overturn Letter which solicits motions to overturn to the mailing list in your files.
For Waste and Water this may occur when all comments have been withdrawn for 801 applications or when comments are received for applications that will not be set for agenda.

FOR AIR (NSR only):

☐ Send RTC with response to comments letter which solicits contested case hearing requests and requests for reconsideration to the mailing list in your files.
For Air NSR applications, this would occur only when there are pending contested case hearing requests (except no-increase renewals).

☐ Set for commission agenda and send RTC with agenda setting letter.
This would occur when there are pending contested case hearing requests on a no-increase renewal and technical review is complete.

☐ Hold until a commission agenda date is requested and then send RTC with the Agenda Setting Letter.
For Air applications, this would occur when there are pending hearing requests on a no-increase renewal; but technical review is NOT complete.
If this box is checked, ED staff must call the OCC Agenda Team Leader to arrange a specific agenda date.

☐ Place RTC in File - no further action required by OCC.
For Air NSR applications, this would occur when the matter is uncontested but comments were received, APD will send a copy with MTO letter.

☐ Other Instructions: _____

TPDES Permit No. WQ0004249000

APPLICATION BY STEELY LUMBER CO., INC. TO RENEW TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM (TPDES) PERMIT NO. WQ0004249000	§ § § § §	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director (ED) of the Texas Commission on Environmental Quality (Commission or TCEQ) files this Response to Public Comment on Steely Lumber Co., Inc.'s application to renew TPDES Permit No. WQ0004249000 and the ED's preliminary decision. As required by title 30, section 55.156 of the Texas Administrative Code, before a permit is issued, the ED prepares a response to all timely, relevant, and material, or significant comments. The Office of the Chief Clerk timely received three comment letters from George H. Russell. This response addresses all such timely public comments received, whether or not withdrawn. For more information about this permit application or the wastewater permitting process, please call the TCEQ Public Education Program at 1-800-687-4040. General information about the TCEQ can be found on the TCEQ web site at www.tceq.texas.gov.

I. BACKGROUND

A. Facility Description

Steely Lumber applied to the TCEQ to renew TPDES Permit No. WQ0004249000 to authorize the discharge of wet decking wastewater, utility wastewater, and stormwater runoff on an intermittent and flow variable basis through Outfall 001. The effluent limit in the proposed permit based on a thirty-day average is 4 milligrams per liter (mg/L) dissolved oxygen. The effluent limits in the proposed permit based on a thirty-day maximum are 60 mg/L total suspended solids, 15 mg/L oil and grease, 15 mg/L ammonia (as nitrogen), report chemical oxygen demand, and 35 mg/L carbonaceous biochemical oxygen demand (five-day). The facility is located at 1405 Southwood Drive, approximately 1.5 miles east of the intersection of U.S. Highway 75 and Southwood Drive, and approximately 2.5 miles southeast of the City of Huntsville, Walker County, Texas 77340. The effluent is discharged to an unnamed ditch, then to Shepherd Creek, then to Winters Bayou, then to East Fork San Jacinto River in Segment No. 1003 of the San Jacinto River Basin. The designated uses for Segment No. 1003 are primary contact recreation, high aquatic life, and public water supply.

B. Procedural Background

The TCEQ received the application on December 10, 2012, and declared it administratively complete on December 18, 2012. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on December 20, 2012, in The

Huntsville Item. ED staff completed the technical review of the application on April 26, 2013, and prepared a draft permit. The Notice of Application and Preliminary Decision for a Water Quality Permit (NAPD) was published on July 4, 2013, in The Huntsville Item. The public comment period ended on August 5, 2013. This application was administratively complete on or after September 1, 1999. Therefore, it is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

C. Access to Rules, Statutes, and Records

- Secretary of State web site for all Texas administrative rules: www.sos.state.tx.us.
- TCEQ rules in title 30 of the Texas Administrative Code: www.sos.state.tx.us/tac (select "View the current *Texas Administrative Code*" on the right, then "Title 30 Environmental Quality").
- Texas statutes: www.statutes.legis.state.tx.us.
- TCEQ web site: www.tceq.texas.gov (for downloadable rules in Adobe portable document format, select "Rules," then "Download TCEQ Rules").
- Federal rules in title 40 of the Code of Federal Regulations: www.epa.gov/lawsregs/search/40cfr.html.
- Federal environmental laws: www.epa.gov/lawsregs/laws/index.html.

Commission records for this application are available for viewing and copying at the TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, First Floor (Office of the Chief Clerk), until the TCEQ takes final action. The application for this facility has been available for viewing and copying at the Walker County Courthouse, 1100 University Avenue, Huntsville, Texas 77340 since publication of the NORI. The proposed permit and Fact Sheet and ED's Preliminary Decision have been available for viewing and copying at the same location since publication of the NAPD.

If you would like to file a complaint about the facility concerning its compliance with provisions of its permit or TCEQ rules, you may call the TCEQ Environmental Complaints Hot Line at 1-888-777-3186 or the TCEQ Region 12 Office directly at 1-713-767-3500. Citizen complaints may also be filed by sending an e-mail to cmplaint@tceq.texas.gov or online at the TCEQ web site (select "Reporting," then "Make an Environmental Complaint"). If the facility is found to be out of compliance, it may be subject to enforcement action.

II. COMMENTS AND RESPONSES

Comment 1

George H. Russell expressed concern regarding the health and welfare of aquatic species, such as microorganisms and fish, that will be hatching and living in and ingesting any chemicals in the water along the discharge route. He expressed the same concern for non-aquatic species, such as invertebrates and mammals, that may ingest the treated effluent along the discharge route. He noted the Red-Cockaded Woodpecker, which resides in the Sam Houston National Forest, as a species of special concern. He

also stated that he has seen no scientific proof that the treated effluent would do zero harm to native life forms, including microorganisms.

Response 1

The proposed permit was developed in accordance with the Texas Surface Water Quality Standards to be protective of human health, water quality, and the environment provided Steely Lumber operates and maintains the facility according to TCEQ rules and the proposed permit's requirements. According to title 30, section 307.6(b)(4) of the Texas Administrative Code, "Water in the state must be maintained to preclude adverse toxic effects on aquatic life, terrestrial life, livestock, or domestic animals, resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three." The proposed permit was drafted to ensure that Steely Lumber's discharges will preclude such adverse toxic effects from occurring through compliance with the effluent limits and other requirements contained in the proposed permit.

The discharge from this permit action is not expected to have an effect on any federal endangered or threatened aquatic or aquatic-dependent species or proposed species or their critical habitat. This determination is based on the U.S. Fish and Wildlife Service's biological opinion on the State of Texas authorization of the TPDES (September 14, 1998; October 21, 1998, update). To make this determination for TPDES permits, the TCEQ and U.S. Environmental Protection Agency only considered aquatic or aquatic-dependent species occurring in watersheds of critical concern or high priority as listed in Appendix A of the U.S. Fish and Wildlife Service's biological opinion. The determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion. The proposed permit does not require EPA review with respect to the presence of endangered or threatened species.

Calculations of water quality-based effluent limits for the protection of aquatic life and human health are presented in Appendix A of the Statement of Basis/Technical Summary and ED's Preliminary Decision. Aquatic life criteria established in Table 1 and human health criteria established in Table 2 of section 307.6 are incorporated into the calculations as well as recommendations in the Water Quality Assessment Team's Interoffice Memorandum dated January 9, 2013. The TCEQ's practice for determining significant potential is to compare the reported analytical data from the facility against percentages of the calculated daily average water quality-based effluent limit. Permit limits are required when analytical data reported in the application exceeds 85% of the calculated daily average water quality-based effluent limit. Monitoring and reporting is required when analytical data reported in the application exceeds 70% of the calculated daily average water quality-based effluent limit.

While October 26, 2012, analytical data provided by Steely Lumber to the TCEQ Region 12 Office on December 6, 2012, did not demonstrate a significant potential to exceed the water quality-based effluent limits calculated in Appendix A of the Statement of Basis/Technical Summary and ED's Preliminary Decision, the data provided was only part of the data required by the application and was for only one sampling event. Steely Lumber stated that it was unable to conduct additional sampling events because

discharges at Outfall 001 are intermittent and driven by stormwater, and there were no discharges at Outfall 001 that Steely Lumber was able to sample after it submitted its October 26, 2012, data. Therefore, Other Requirements Nos. 10 and 11 were included in the proposed permit, which require Steely Lumber to submit analytical data after permit issuance. Based on a technical review of the submitted analytical results, TCEQ staff may initiate a permit amendment to include additional effluent limits, monitoring requirements, permit conditions, or a combination of these measures to make the permit more protective of aquatic life and human health.

Comment 2

George H. Russell asked that the TCEQ test the water in Shepherd Creek both now and in the future, including taking samples during times of heavy discharge from the facility as well as during times of drought.

Response 2

It is not a standard TCEQ practice to take the types of samples requested by Mr. Russell. If a person believes Steely Lumber has discharged effluent in a manner that is in violation of its permit, the person may contact the TCEQ Region 12 Office using the contact information listed in section I.C above. During their investigation of the complaint, the regional inspector can take samples in Shepherd Creek if deemed necessary. Steely Lumber currently collects samples at Outfall 001 where effluent exits Steely Lumber's storage and settling pond prior to discharging to the unnamed ditch.

Comment 3

George H. Russell stated that he has not granted Steely Lumber an easement to discharge treated effluent across his properties and asked if the TCEQ has any record of previous owners of his properties doing so. He stated that the stream is non-navigable and, therefore, is not a public stream. He asked if the TCEQ issues a discharge permit even when the applicant has no legal right to release effluent onto a particular private property.

Response 3

TPDES permits establish terms and conditions that are intended to provide water quality pollution control as directed by federal and state statutes and the Texas Administrative Code. Specifically, the proposed permit states the following on page 1:

> The issuance of this permit does not grant to the permittee the right to use private or public property for conveyance of wastewater along the discharge route described in this permit. This includes, but is not limited to, property belonging to any individual, partnership, corporation, or other entity. Neither does this permit authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations. It is the responsibility of the permittee to acquire property rights as may be

necessary to use the discharge route.[1]

According to section 5.012 of the Texas Water Code, the TCEQ is the agency primarily responsible for "implementing the constitution and laws of this state relating to the conservation of natural resources and the protection of the environment." Section 26.121 of the Texas Water Code prohibits the discharge of waste or pollution into or adjacent to water in the state without authorization from the Commission. To implement this requirement, section 26.027 of the Texas Water Code gave the TCEQ the authority to issue TPDES permits for the discharge of waste or pollution into or adjacent to water in the state. "Water in the state" is defined broadly in section 26.001(5) of the Texas Water Code and includes both navigable and non-navigable watercourses. Historically, Texas courts have held that water in a watercourse is the property of the State held in trust for the public.2 Accordingly, the TCEQ is authorized to permit the discharge of treated effluent into water in the state.

The Texas Court of Appeals considered whether the flow of treated effluent from a city's wastewater treatment facility caused a taking of or damage to downstream landowners' property in Domel v. City of Georgetown.3 In that case, downstream landowners Ethel and Norman Domel sued the City of Georgetown, alleging that the value of their property was diminished by the City's discharge of treated effluent into an intermittent stream that crossed their land.4 The questions before the court were whether the stream on the Domels' property was a watercourse owned by the State and whether the City of Georgetown's discharge of treated effluent into that stream on their property pursuant to a state-issued permit was a constitutional taking absent flooding or violations of the City's permit.5 The court held that "[the State] does not need title to use the bed and banks of a watercourse for their defined purpose of transporting water," and "the State has the right to use the channel of the watercourse to meet its constitutionally mandated duty to conserve and develop the State's water resources."6 The court also considered the language that is on the first page of every TPDES permit (quoted above in this response) and determined that the City did not need additional authority to use the watercourse for the discharge of treated effluent.7

Because the State is authorized to use the bed and banks of a watercourse to transport water and the TCEQ has authority to authorize a discharge of treated effluent to water in the state through a TPDES permit, the applicant for a TPDES permit does not need permission from downstream landowners to use the watercourse running through their properties. Therefore, Steely Lumber did not need to obtain an easement across the properties now owned by George H. Russell before discharging treated effluent into the watercourse that passes across his properties.

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[1] *Accord* 30 TEX. ADMIN. CODE § 305.122(c) and (d), *available at* http://www.sos.state.tx.us/tac/index.shtml (discussing authorizations and rights not granted by the permit).
[2] Goldsmith & Powell v. State, 159 S.W.2d 534, 535 (Tex. Civ. App.–Dallas 1942).
[3] Domel v. City of Georgetown, 6 S.W.3d 349 (Tex. App.–Austin 1999).
[4] *Id.* at 350.
[5] *Id.*
[6] *Id.* at 358.
[7] *Id.* at 361.

The ED notes that he was not able to locate any TCEQ record of previous landowners granting Steely Lumber an easement to discharge treated effluent across the properties now owned by George H. Russell.

Comment 4

George H. Russell asked what the chemical composition is of Steely Lumber's wet decking wastewater. He also asked how alpha-pinenes, turpentines, and other volatiles associated with pine trees impact aquatic life.

Response 4

According to Steely Lumber's application, sources of wet decking water include stormwater, well water (when necessary), steam condensate, and boiler blowdown. All these sources are commingled in a storage pond and used as wet decking water. Water in the storage pond would be sampled at the frequency required in the proposed permit with adherence to regulations in 40 C.F.R. part 429, subparts I and K. Part 429 contains the regulations that apply to timber products processing, with subparts I and K regulating wet storage and sawmills and planning mills, respectively. The effluent limits in the proposed permit were developed in accordance with these regulations, which were written specifically for discharges from Steely Lumber's type of facility and activities. According to title 30, section 307.6(b)(4) of the Texas Administrative Code, "Water in the state must be maintained to preclude adverse toxic effects on aquatic life, terrestrial life, livestock, or domestic animals, resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three." The proposed permit was drafted to ensure that Steely Lumber's discharges will preclude such adverse toxic effects from occurring through compliance with the effluent limits and other requirements contained in the proposed permit.

Comment 5

George H. Russell asked what tests have been conducted to determine what chemicals are associated with Steely Lumber's utility wastewater.

Response 5

Material safety data sheets submitted in the renewal application were used to identify chemicals present in Steely Lumber's boiler blowdown, a component of its utility wastewater. The submitted information indicated that additives with the following chemical trade names are present in Steely Lumber's boiler blowdown: ANCOTREAT 1270, ANCO-OX 1030, and ANCOSTEAM 2040. ANCOTREAT 1270 is an aqueous solution containing sodium polyphosphate, synthetic polymers, and phosphonates. ANCO-OX 1030 is an aqueous solution containing catalyzed sodium bisulfate and sodium lignosulfonate. ANCOSTEAM 2040 is an aqueous solution containing morpholine and cyclohexylamine.

Under the existing permit, Steely Lumber was required to provide test results for the pollutants discharged through Outfall 001 listed in Table 1 of the existing permit. Steely Lumber provided the results for one round of sampling conducted on October 26, 2012, to the TCEQ Region 12 Office on December 6, 2012. The full results are available at the TCEQ's Central Records office, but examples of pollutants detected in Steely Lumber's commingled discharge, which included utility wastewater, wet decking water, and stormwater, in that test include total aluminum, total barium, and total zinc.

The proposed permit requires Steely Lumber to sample and analyze treated effluent discharged through Outfall 001 for the pollutants listed in Tables 1 and 2 in Attachment 2 to the proposed permit. The analysis would be used to determine what chemicals are associated with Steely Lumber's commingled discharge. Steely Lumber must complete the analysis within ninety days of permit issuance or within sixty days of sample collection, whichever occurs earlier. Analytical data collected at Outfall 001 during any sampling event within 365 days prior to permit issuance may be used for compliance with this requirement. Once ED staff receive and technically review the analytical results, they may initiate a permit amendment to include additional effluent limits, monitoring requirements, or permit conditions, or a combination of these measures.

Comment 6

George H. Russell asked what the pH is of the wastewater from all sources and how they will impact the pH of Shepherd Creek.

Response 6

Steely Lumber's self-reported pH data submitted from December 2007 through December 2012 shows that the pH of the treated effluent ranged from 6.57 to 7.62. These values fall within the effluent limits in both the existing permit and proposed permit that require the pH to be neither less than 6.0 nor greater than 9.0. The effluent limits for pH in the proposed permit are required by 40 C.F.R. § 429.101. If Steely Lumber continues to comply with the pH requirements, the treated effluent should not have a negative impact related to pH on Shepherd Creek.

Comment 7

George H. Russell asked whether Steely Lumber is in compliance with the U.S. Environmental Protection Agency's effluent limitation guidelines.

Response 7

The discharge of wastewater associated with the wet storage of unprocessed wood (i.e., wet decking) is regulated under 40 C.F.R. part 429, subpart I. Steely Lumber's sawmill operations are regulated under 40 CFR part 429, subpart K. Under these subparts' requirements, Steely Lumber cannot discharge debris, and its treated effluent's pH must be within the range of 6.0 to 9.0. Consistent with the requirement

detailed in subpart K that there shall be no discharge of process wastewater pollutants into navigable waters, Other Requirements No. 2 in the proposed permit forbids the discharge of process wastewater. Process wastewater is defined in Other Requirements No. 1.b to provide additional clarity. As stated in Response 6, Steely Lumber has been meeting its existing permit's pH requirements. If Steely Lumber also is refraining from discharging debris and process wastewater, the company is in compliance with the U.S. Environmental Protection Agency's effluent limitation guidelines. Steely Lumber does not have any pending violations at the TCEQ related to discharging debris and process wastewater.

Comment 8

George H. Russell asked if the TCEQ has inspected Steely Lumber's facility to determine if there are any hazardous chemicals onsite, such as those associated with treated (creosote, chromated copper arsenate, pressure treatment) materials.

Response 8

The proposed permit pertains to the discharge of treated wastewater, not the regulation of chemicals stored onsite at Steely Lumber's facility. Steely Lumber was required to disclose in its application which pollutants it will be discharging under the proposed permit. Failure to disclose a pollutant would subject Steely Lumber to enforcement action. Such failures could be discovered during the TCEQ's periodic inspections of the facility. Citizens also may report suspected permit violations using the contact information listed in Section 1.C above.

Comment 9

George H. Russell asked if the TCEQ has conducted an aerial inspection or studied aerial photographs to determine if the facility has any dump sites, junk piles, or other debris that could pollute stormwater runoff.

Response 9

It is not a standard TCEQ practice to perform aerial inspections and study aerial photographs. The TCEQ has not performed any aerial inspections in relation to Steely Lumber's facility.

III. CHANGES MADE TO THE PROPOSED PERMIT IN RESPONSE TO COMMENT

The ED did not make any changes to the proposed permit in response to public comment.

Respectfully submitted,

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Zak Covar, Executive Director

Robert Martinez, Director
Environmental Law Division

By: Stefanie Skogen

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ATTACHMENT C

The TCEQ is committed to accessibility.
To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.

Compliance History Report

PUBLISHED Compliance History Report for CN600786719, RN103015566, Rating Year 2011 which includes Compliance History (CH) components from September 1, 2006, through August 31, 2011.

Customer, Respondent, or Owner/Operator: CN600786719, Steely Lumber Co., Inc. **Classification:** SATISFACTORY **Rating:** 0.25

Regulated Entity: RN103015566, STEELY LUMBER WWTF **Classification:** SATISFACTORY **Rating:** 0.25

Complexity Points: 0 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 1405 SOUTHWOOD DR HUNTSVILLE, TX 77340-2479, WALKER COUNTY

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

AIR NEW SOURCE PERMITS PERMIT 25850
AIR NEW SOURCE PERMITS ACCOUNT NUMBER WA0052S
PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 40669
WASTEWATER PERMIT WQ0004249000
WASTEWATER EPA ID TX0123421
STORMWATER PERMIT TXR05Q403
AIR EMISSIONS INVENTORY ACCOUNT NUMBER WA0052S

Compliance History Period: September 01, 2006 to August 31, 2011 **Rating Year:** 2011 **Rating Date:** 09/01/2011

Date Compliance History Report Prepared: January 30, 2013

Agency Decision Requiring Compliance History: Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.

Component Period Selected: December 10, 2007 to January 30, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Satya Dwivedula **Phone:** (512) 239-3548

Site and Owner/Operator History:

1) Has the site been in existence and/or operation for the full five year compliance period?	YES
2) Has there been a (known) change in ownership/operator of the site during the compliance period?	NO
3) If YES for #2, who is the current owner/operator?	N/A
4) If YES for #2, who was/were the prior owner(s)/operator(s)?	N/A
5) If **YES**, when did the change(s) in owner or operator occur?	N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:
N/A

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	January 10, 2008	(632655)
Item 2	January 14, 2008	(677587)
Item 3	January 20, 2008	(756453)
Item 4	April 03, 2008	(696367)

Item 5	April 07, 2008	(696369)
Item 6	January 20, 2009	(756454)
Item 7	January 29, 2009	(756452)
Item 8	September 07, 2009	(930891)
Item 9	December 14, 2009	(820398)
Item 10	September 02, 2010	(875861)
Item 11	September 03, 2010	(883458)
Item 12	October 11, 2010	(883459)
Item 13	December 15, 2010	(898234)
Item 14	January 13, 2011	(887794)
Item 15	January 31, 2011	(930890)
Item 16	May 02, 2011	(939963)
Item 17	May 09, 2011	(1005461)
Item 18	June 20, 2011	(947374)
Item 19	January 11, 2012	(992612)
Item 20	March 26, 2012	(1005462)
Item 21	April 23, 2012	(1012025)
Item 22	October 29, 2012	(1048971)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1 Date: 05/29/2008 (654721) CN600786719

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)

Description: Failure to maintain adequate pH monitoring and calibration records and sample storage refrigerator logs.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)

Description: Failure to properly preserve samples.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.4

Description: Failure to perform the Carbonaceous Biochemical Oxygen Demand (CBOD) analysis.

2 Date: 08/10/2010 (869881) CN600786719

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

3 Date: 01/31/2012 (1005460) CN600786719

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

4 Date: 12/18/2012 (1050946) CN600786719

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
ELMR, No. 1 PERMIT

Description: Failed to maintain compliance with the permitted effluent limits.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
MRR, No. 7(c) PERMIT
Description: Failed to provide notification of any effluent violation which deviates from the permitted effluent limitation by more than 40%.
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
OR, No. 10 PERMIT
Description: Failed to complete Table 1.
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.7(d)
MRR, No. 1 PERMIT
Description: Failed to submit the discharge monitoring reports (DMRs) as required.

F. Environmental audits:

G. Type of environmental management systems (EMSs):
N/A

H. Voluntary on-site compliance assessment dates:
N/A

I. Participation in a voluntary pollution reduction program:
N/A

J. Early compliance:
N/A

Sites Outside of Texas:
N/A

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Compliance History Report

PUBLISHED Compliance History Report for CN600786719, RN103015566, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN600786719, Steely Lumber Co., Inc. **Classification:** SATISFACTORY **Rating:** 0.80

Regulated Entity: RN103015566, STEELY LUMBER WWTF **Classification:** SATISFACTORY **Rating:** 0.80

Complexity Points: 14 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 1405 SOUTHWOOD DR HUNTSVILLE, TX 77340-2479, WALKER COUNTY

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

AIR NEW SOURCE PERMITS PERMIT 25850
AIR NEW SOURCE PERMITS ACCOUNT NUMBER WA0052S
PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 40669
WASTEWATER PERMIT WQ0004249000
WASTEWATER EPA ID TX0123421
STORMWATER PERMIT TXR05Q403
AIR EMISSIONS INVENTORY ACCOUNT NUMBER WA0052S

Compliance History Period: September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

Date Compliance History Report Prepared: November 20, 2013

Agency Decision Requiring Compliance History: Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.

Component Period Selected: December 10, 2007 to January 30, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Tim Janke **Phone:** (512) 239-4685

Site and Owner/Operator History:

1) Has the site been in existence and/or operation for the full five year compliance period? YES
2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3) If **YES** for #2, who is the current owner/operator? N/A
4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:
N/A

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	January 10, 2008	(632655)
Item 2	January 14, 2008	(677587)
Item 3	January 20, 2008	(756453)
Item 4	April 03, 2008	(696367)

Item 5	April 07, 2008	(696369)
Item 6	January 20, 2009	(756454)
Item 7	January 29, 2009	(756452)
Item 8	September 07, 2009	(930891)
Item 9	December 14, 2009	(820398)
Item 10	September 02, 2010	(875861)
Item 11	September 03, 2010	(883458)
Item 12	October 11, 2010	(883459)
Item 13	December 15, 2010	(898234)
Item 14	January 13, 2011	(887794)
Item 15	January 31, 2011	(930890)
Item 16	May 02, 2011	(939963)
Item 17	May 09, 2011	(1005461)
Item 18	June 20, 2011	(947374)
Item 19	January 11, 2012	(992612)
Item 20	March 26, 2012	(1005462)
Item 21	April 23, 2012	(1012025)
Item 22	October 29, 2012	(1048971)
Item 23	November 19, 2012	(1070103)
Item 24	December 12, 2012	(1070104)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1 Date: 01/31/2012 (1005460) CN600786719
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

2 Date: 03/31/2012 (1070102) CN600786719
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

3 Date: 12/18/2012 (1050946) CN600786719
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
ELMR, No. 1 PERMIT
Description: Failed to maintain compliance with the permitted effluent limits.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
MRR, No. 7(c) PERMIT
Description: Failed to provide notification of any effluent violation which deviates from the permitted effluent limitation by more than 40%.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
OR, No. 10 PERMIT
Description: Failed to complete Table 1.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.7(d)
MRR, No. 1 PERMIT
Description: Failed to submit the discharge monitoring reports (DMRs) as required.

F. Environmental audits:

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

Published *Compliance History Report for CN600786719, RN103015566, Rating Year 2013 which includes Compliance History (CH) components from December 10, 2007, through January 30, 2013.*

I. Participation in a voluntary pollution reduction program:
N/A

J. Early compliance:
N/A

Sites Outside of Texas:
N/A