

George H. Russell

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31 January 2014

Reference: Office of Public Interest Counsel's Response per the cited TPDES Permit.

SERIOUS AND BLATANT ERRORS AND OMISSIONS AGAINST THE PUBLIC INTEREST AND ON BEHALF OF DISCHARGER OF WASTE WATER ON TO PRIVATE PROPERTY THAT IS NOT "STATE WATER"

1. "Mr. Russell has not provided information that the facility or his property is located in the 100-year flood plain."

THIS STATEMENT IS PATENTLY FALSE.

Exhibit 3 of my 4 November 2013 "Request for Reconsideration..." clearly shows via official flood plain data that perhaps as much as 90% of our properties are in the flood plain and receive the "storm related" discharge of waste water from the Steely Sawmill and associated and adjacent properties.

2. The original permit was granted in error as it was not challenged by the facts on the ground and the FEMA flood maps were not at that time available to the TCEQ or to me.

THEREFORE THE RENEWAL OF AN ORIGINAL PERMIT THAT WAS FATALLY FLAWED IS TOTALLY INAPPROPRIATE.

3. The reason that I requested an aerial inspection which could of course be an inspection of official aerial photos available from the CAD would be to prove that the flawed drawings submitted by Steely that did not show the junk yard, for example were seriously inaccurate and that the TCEQ should demand accuracy in any application for a waste water discharge permit.

It is therefore blatantly obvious that the subject opinion from Rudy Calderon is not based on true facts and is based on an effort to prevent protection of the “Public Interest”.

We hereby pray that factual errors be corrected and that an objective opinion, rather than an opinion based on bias be formulated that would require that Steely cease and desist from depositing waste water on the flood plains of our private properties.

George H. Russell

30 January 2014

To: Stefanie Skogen

Attn: Andrea.Castro@tceq.texas.gov

Subject: TPDES Permit No. WQ0004249000

FATAL FLAWS IN REQUEST FOR RECONSIDERATION ANALYSIS

III. A.

“...it is discharging into water in the state...”

This is patently false: A Steely constructed ditch is nowhere defined in Water Code, Title 2, Subtitle D, Chapter 26, Sub A as water in a man-made ditch for the convenience of a corporation to transport waste water TOWARD and EVENTUALLY INTO “water in the state”.

If Steely’s ditch meets the legal criteria per statute as being “water in the state” in that its sole purpose is to allow waste water during flood events to flood beyond any definition of “water in the state” onto privately owned floodplains, then please provide the relevant statute or deny the permit.

The only time that water is discharged from the Steely waste water pond is during rain events and it is only during rain events that our floodplain received Steely waste water.

Therefore the permit DOES INDEED allow Steely to deposit its waste water beyond any “water in the state” as defined by statute and on to our private flood plains.

Please provide statutory evidence that the TCEQ can permit Steely to discharge waste water onto our flood plain which is virtually the only times that waste water leaves the waste water pond.

Issue 3:

The waste water only leaves the waste water pond and into a ditch during “rainfall events” at which time any recently arrived waste water has had zero time to “settle” or otherwise be processed by the waste water pond or facility.

Therefore the waste water that leaves the pond at the specified times has NOT been treated if it has recently arrived at the pond.

The ditch is NOT “the and banks of a water course” and thus is NOT “water in the state”. It is more correctly described as “waste on private property that will be deposited on the floodplains of private property down stream.”

Issue 4:

The TCEQ contends that just because Steely may have artificially excluded the sawmill associated “junk yard” from the inaccurate drawing submitted that the “junk yard is not part of the facility”.

This little charade is mind boggling and bizarre at best. Please go to the Walker County CAD web site and look at the aerials of the Steely properties that are definitely a part of the sawmill complex and you can see that the waste pond in question is located on two Steely tracts of land, one of which contains parts of the junk yard.

Issue 6:

It is our contention that the nursery and the sawmill are adjoining and essentially a part of the same property since it is under the same ownership even if under a different name.

Issue 8:

It is during “rainfall” events that the waste water is deposited into a ditch and not “state waters” and thence onto our flood plain which is also NOT “state waters”.

Issue 10:

We believe that the entire complex from which water may enter the subject wastewater pond either from a junk yard or second pond or other area of possible pollutants should be a part of the permit application.

Gerrymandering out adjacent potential sources of pollutants that may go into the same waste water pond, owned by the same person or persons, may be clever but we do not believe it to be either ethical or a legitimate part of the original application.

Issue 11:

Once again we believe that the junk yard is on sawmill property.

Issue 13:

The “unnamed ditch” is NOT receiving waters of the state under any legal definition. The first alleged “state water” is Shepherd Creek that runs through two of our properties through our flood plains that are NOT “state water” for a distance of some ½ mile.

Issue 14:

The fact that Steely claimed in its application that its waste water did not flow into Lake Houston is an egregious error in our opinion.

TEXAS OPEN RECORDS ACT REQUEST:

TCEQ Attorney Stefanie Skogen refers to a TCEQ investigator who visited the facility on October 25, 2012.

It is our opinion that the investigator failed to investigate any and all sources of pollution that may be produced or emitted from the Steely facility and adjoining facilities.

Therefore please submit a copy of any report or reports or correspondence, notes or records related to the October 25, 2012 investigation.

Thank you for the opportunity to point out errors and omissions in information from staff that was presented to the Executive Director.

We feel that if the ED had received unbiased and accurate information that he would have ruled otherwise.

We pray hereby that your report be corrected and re-submitted to the ED for re-consideration.

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