

Jon Niermann, *Chairman*  
Emily Lindley, *Commissioner*  
Bobby Janecka, *Commissioner*  
Erin E. Chancellor, *Interim Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

April 17, 2023

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

Re: Application by Steel Dynamics Southwest, LLC; TPDES Permit No. WQ0005283000;  
TCEQ Docket No. 2023-0442-IWD

Dear Ms. Gharis:

Enclosed for filing with the Texas Commission on Environmental Quality is the Executive Director's Response to Hearing Requests and Requests for Reconsideration.

Please do not hesitate to contact me at [Kathy.humphreys@tceq.texas.gov](mailto:Kathy.humphreys@tceq.texas.gov) or (512) 239-2417 if you have any questions. Thank you for your attention to this matter.

Respectfully submitted,

A handwritten signature in cursive script, reading "Kathy J. Humphrey".

Kathy J. Humphrey  
Staff Attorney  
Environmental Law Division

Division Enclosure

Cc: Mailing List

**TCEQ DOCKET NO. 2023-0442-IWD**

<b>APPLICATION BY STEEL DYNAMICS</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
<b>SOUTHWEST, LLC</b>	<b>§</b>	<b>COMMISSION ON</b>
<b>FOR TPDES</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>
<b>PERMIT NO. WQ0005283000</b>	<b>§</b>	

**EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS AND REQUEST FOR  
RECONSIDERATION**

The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Hearing Requests (Response) on the application by Steel Dynamics Southwest, LLC. (SDI), for amended Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0005283000 and on the Executive Director's preliminary decision. The Office of the Chief Clerk receiving hearing requests from: Janet Cumbie, Marlene Davis, Richard O. Gingrich, Jr., Rebecca Hartman, Donna Rosson, Gary William Schubert, and Mariam Schubert.

Attached for Commission consideration is the Executive Director's satellite map.

**I. Description of Facility**

SDI submitted an application to the TCEQ for a major amendment to TPDES Permit No. WQ0005283000 to remove the domestic sewage treatment facility (domestic sewage is routed to the City of Sinton main wastewater treatment facility), to reduce daily average flow from 1.56 million gallons per day (MGD) to 1.2 MGD, to incorporate a constructed wetland into the final effluent discharge pathway, to move Outfall 001 and add new Outfall 101, and to add a second paint and galvanizing line to the plant. The draft permit authorizes the discharge of treated process wastewater, utility wastewater, and previously monitored effluent (PME; treated wastewater via Outfall 101 and coil coating process wastewater via Outfall 201) at a daily average flow not to exceed 1.2 MGD via Outfall 001; and industrial stormwater on an intermittent and flow-variable basis via Outfalls 002, 003, and 004. TCEQ received this application on October 14, 2021.

According to the application, the applicant operates the Sinton Mill, an iron and steel manufacturing and coil coating facility. Direct cooling, indirect cooling, and rinsing will be the primary uses of water throughout the steel plant. Service water

will be obtained primarily from the Mary Rhodes pipeline, with some water supplemented by onsite deep wells and routed to a 50-million-gallon (MG) Service Water Storage Pond. Non-contact cooling water (water that does not make direct contact with the steel being processed) systems will consist of Melt Shop non-contact cooling water, Compact Strip Production non-contact cooling water, Cold Mill non-contact cooling water, and General Plant non-contact cooling water. Non-contact cooling water system blowdown may be used as make-up water for the contact cooling systems. Contact water (comes in direct contact with the steel being processed) systems will consist of Compact Strip Production (Caster) contact water, Compact Strip Production (Rolling Mill) contact water, Laminar contact water, and Cold Mill contact water (reverse osmosis). Make-up water for contact water systems will come from the Service Water Storage Pond and blowdown from other non-contact and contact systems. Reverse osmosis (RO) reject water, system blowdown, and sand filter backwash will be routed to the wastewater treatment system.

The blowdown from the contact and non-contact systems will go to the Equalization (EQ) Tank. The sand filter blowdown and various sumps around the mill will be sent to the Backwash Filter Tank. The oily wastewater from the cold mill will be sent to a holding tank then processed by the Dissolved Air Floatation (DAF) unit. RO reject water will go to the Slag Quench System. For the Slag Quench System, water will be sprayed over the top of hot slag then gravity fed to a Slag Quench Pond (0.33-acre surface area), which will recycle water to and from the Slag Quench Processing Area. This process will be continually repeated and result in no discharge. The Slag Quench Retention Pond will intermittently receive RO reject water, service water, and cooling tower blowdown.

For the EQ Tank, water treatment additives will be added to the EQ Tank. Then the water will be routed to neutralization tanks where a caustic will be added to precipitate metals such as zinc. Then a flocculant will be added as the neutralized water is routed to a clarifier. The treated (clean) effluent from the clarifier will be directed to final polishing sand filters prior to discharging via Outfall 001. The backwash from the polishing sand filter may be routed back to the EQ Tank. The sludge collected from the clarifier will be sent to the filter presses to de-water the sludge, with the solids formed into dry cakes and transported off-site. The liquid from the filter press may be routed back to the EQ Tank. The skimmings from the

thickener will be sent to the DAF unit. The floating oils will be skimmed off the DAF unit and sent to the Used Oil tank for transport off-site.

Domestic wastewater generated at the site will be routed to the Sinton Main Wastewater Treatment Facility, WQ0010055001. Stormwater from drainage area 1, which will include 319 acres of the facility site southeast of the Administrative Building, the western half of the Cold Mill, the southern half of the Hot Mill, roads, rail spurs, offices, the process gas distribution yard, and an undeveloped area, will be routed to Detention Pond 1 (13.4-acre surface area and 323 MG capacity). Stormwater from drainage area 2, which will include 207 acres of the facility site southwest of the Metal Scrap Storage Area, the eastern half of the Cold Mill, the northern half of the Hot Mill, the process gas distribution yard, the electrical substation, roads, rail spurs, offices, and undeveloped area will be routed to Detention Pond 2 (12-acre surface area and 225 MG capacity). Stormwater from drainage area 3, which will include 319 acres of the facility site south of the Slag Processing Area and east of the Metal Scrap Storage Area, the north half of the Railroad Marshalling Yard, the Metal Scrap Storage Area, the Slag Processing Area, roads, rail spurs, and an undeveloped area will be routed to Detention Pond 3 (15-acre surface area and 460 MG capacity). The stormwater detention ponds will be designed using a 25-year storm event.

The facility site is located at 8534 State Highway 89, near Sinton, in San Patricio County, Texas 78387. If the draft permit is issued, the effluent will be discharged via pipe to a constructed wetland (which is not considered water in the state) to Outfall 001 to Ditch 3, thence Ditch 4; or when the constructed wetland is undergoing maintenance the discharge route is via pipe directly to Outfall 001 to Ditch 3, thence to Ditch 4; Outfall 002 to Ditch 1, thence to Ditch 4; and Outfalls 003 and 004 to Ditch 3, thence to Ditch 4; thence all outfalls to Chiltipin Creek; thence to Chiltipin Creek Tidal, thence to Aransas River Tidal in Segment No. 2003 of the San Antonio-Nueces Coastal Basin. The unclassified receiving water uses are minimal aquatic life use for the Ditches (1, 3, and 4), limited aquatic life use for Chiltipin Creek, and high aquatic use for Chiltipin Creek Tidal. The designated uses for Segment No. 2003 are primary contact recreation and high aquatic life use. 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 draft permit includes the following proposed effluent limitations and monitoring requirements. Flows are expressed in million gallons per day (MGD). All pH values are expressed in standard units (SU). Concentration values are expressed in milligrams per liter (mg/L). Mass-based values are expressed as pounds per day (lbs/day). Bacteria values are expressed in colony-forming units (cfu) or most probable number (MPN) per 100 milliliters (cfu or MPN/100 mL). Temperature is expressed in degrees Fahrenheit (°F).

<i>Outfall</i>	<i>Pollutant</i>	<i>Draft Permit Effluent Limitations</i>			
		<i>Daily Avg</i>		<i>Daily Max</i>	
		<i>lbs/day</i>	<i>mg/L</i>	<i>lbs/day</i>	<i>mg/L</i>
001 Initial	Flow, MGD	1.20		3.0	
	Carbonaceous Biochemical Oxygen Demand, 5-day (CBOD <sub>5</sub> )	-	45	-	Report
	Ammonia Nitrogen (NH <sub>3</sub> -N)	-	3	-	Report
	Total Suspended Solids (TSS)	764	-	1,677	-
	Oil and Grease	173	-	574	-
	Temperature	Report °F		Report °F	
	Chromium, total	2.69	-	6.73	-
	Lead, total	0.386	-	0.815	-
	Naphthalene	-	-	0.649	-
	Nickel, total	1.94	-	5.77	-
	Tetrachloroethylene	-	-	0.976	-
	Zinc, total	1.85	-	5.45	-
	Dissolved Oxygen (DO), minimum	3.0 mg/L, minimum			
	pH, standard units (SU)	6.0 SU, minimum		9.0 SU	

<i>Outfall</i>	<i>Pollutant</i>	<i>Draft Permit Effluent Limitations</i>	
		<i>Daily Avg</i>	<i>Daily Max</i>
		<i>mg/L</i>	<i>mg/L</i>
001 Final	Flow, MGD	Report	Report
	Carbonaceous Biochemical Oxygen Demand, 5-day (CBOD <sub>5</sub> )	-	45
	NH <sub>3</sub> -N	-	3.0
	Temperature	-	Report °F
	DO, minimum	3.0, minimum	

<i>Outfall</i>	<i>Pollutant</i>	<i>Draft Permit Effluent Limitations</i>			
		<i>Daily Avg</i>		<i>Daily Max</i>	
		<i>lbs/day</i>	<i>mg/L</i>	<i>lbs/day</i>	<i>mg/L</i>
101 Final	Flow, MGD	1.20		3.0	
	Total Suspended Solids (TSS)	764	-	1,885	-
	Oil and Grease	173	-	617	-
	Chromium, total	2.823	-	7.042	-
	Lead, total	0.386	-	0.815	-
	Naphthalene	-	-	0.649	-
	Nickel, total	1.94	-	5.77	-
	Tetrachloroethylene	-	-	0.976	-
	Zinc, total	2.40	-	7.04	-
	Temperature	Report °F		Report °F	
	pH, standard units (SU)	6.0 SU, minimum		9.0 SU	

<i>Outfall</i>	<i>Pollutant</i>	<i>Draft Permit Effluent Limitations</i>			
		<i>Daily Avg</i>		<i>Daily Max</i>	
		<i>lbs/day</i>	<i>mg/L</i>	<i>lbs/day</i>	<i>mg/L</i>
201	Flow, MGD	Report		Report	
	TSS	17.52	-	21.97	-
	Oil and Grease	14.62	-	14.71	-
	Chromium, total	0.228	-	0.552	-
	Copper, total	0.483	-	1.011	-
	Cyanide, total	0.119	-	0.256	-
	Iron, total	0.931	-	1.903	-
	Zinc, total	0.617	-	1.583	-
	pH, SU	7.5 SU, minimum		10.0 SU	

<i>Outfalls</i>	<i>Pollutant</i>	<i>Draft Permit Effluent Limitations</i>	
		<i>Daily Avg</i>	<i>Daily Max</i>
		<i>mg/L</i>	<i>mg/L</i>
002,	Flow, MGD	Report	Report
003, &	TSS	N/A	100
004	Total Organic Carbon (TOC)	N/A	75
	Oil and Grease	N/A	15
	pH, SU	6.0 SU, minimum	9.0 SU

In addition, freshwater chronic biomonitoring requirements and twenty-four-hour 100% acute biomonitoring requirements are included in the draft permit at Outfall 001 (Initial and Final).

## **II. Procedural Background**

The permit application was received on October 14, 2021, and declared administratively complete on December 9, 2021. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on January 4, 2022, in the *News of San Patricio*. The Notice of Application and Preliminary Decision (NAPD) was published on August 11, 2022, in the *News of San Patricio*. Notice of the public meeting was published on October 13, 2022, in the *News of San Patricio*. The public meeting was held on November 17, 2022, at the San Patricio County Fairgrounds & Event Center, Civic Center Building at 219 West 5<sup>th</sup> Street, Sinton, Texas.

The comment period was extended to the end of the public meeting on November 17, 2022. This application was filed on or after September 1, 2015; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill (HB) 801, 76th Legislature (1999), and Senate Bill (SB) 709, 84th Legislature (2015), both implemented by the Commission in its rules in 30 TAC Chapter 39, 50, and 55. The Texas Legislature enacted Senate Bill 709, effective September 1, 2015, amending the requirements for comments and contested case hearings. This application is subject to those changes in the law.

## **III. The Evaluation Process for Hearing Requests**

House Bill 801 established statutory procedures for public participation in certain environmental permitting proceedings, specifically regarding public notice and public comment and the Commission's consideration of hearing requests. Senate Bill 709 revised the requirements for submitting public comment and the Commission's consideration of hearing requests. The evaluation process for hearing requests is as follows:

### **A. Response to Requests**

The Executive Director, the Public Interest Counsel, and the Applicant may each submit written responses to a hearing request. 30 TAC § 55.209(d).

Responses to hearing requests must specifically address:

- 1) whether the requester is an affected person;
- 2) whether issues raised in the hearing request are disputed;

- 3) whether the dispute involves questions of fact or of law;
- 4) whether the issues were raised during the public comment period;
- 5) whether the hearing request is based on issues raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director 's RTC;
- 6) whether the issues are relevant and material to the decision on the application; and
- 7) a maximum expected duration for the contested case hearing.

30 TAC § 55.209(e)

## **B. Hearing Request Requirements**

In order for the Commission to consider a hearing request, the Commission must first determine whether the request meets certain requirements.

Affected persons may request a contested case hearing. The request must be made in writing and timely filed with the chief clerk. The request must be based only on the requestor's timely comments and may not be based on an issue that was raised solely in a public comment that was withdrawn by the requester prior to the filing of the Executive Director 's RTC. 30 TAC § 55.201(c).

A hearing request must substantially comply with the following:

- 1) give the time, address, daytime telephone number, and where possible, fax number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and where possible, fax number, who shall be responsible for receiving all official communications and documents for the group;
- 2) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public;

- 3) request a contested case hearing;
- 4) list all relevant and material disputed issues of fact that were raised during the public comment period and that are the basis of the hearing request. To facilitate the Commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the executive director's responses to comments that the requestor disputes and the factual basis of the dispute and list any disputed issues of law; and
- 5) provide any other information specified in the public notice of application. 30 TAC § 55.201(d)

**C. Requirement that Requestor be an Affected Person/ "Affected Person" Status**

In order to grant a contested case hearing, the Commission must determine that a requestor is an "affected" person. 30 TAC § 55.203 sets out who may be considered an affected person.

- a) For any application, an affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest.
- b) Except as provided by 30 TAC § 55.103, governmental entities, including local governments and public agencies with authority under state law over issues raised by the application may be considered affected persons.
- c) In determining whether a person is an affected person, all factors shall be considered, including, but not limited to, the following:
  - 1) whether the interest claimed is one protected by the law under which the application will be considered;
  - 2) distance restrictions or other limitations imposed by law on the affected interest;
  - 3) whether a reasonable relationship exists between the interest claimed and the activity regulated;

- 4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
  - 5) likely impact of the regulated activity on use of the impacted natural resource by the person;
  - 6) whether the requestor timely submitted comments on the application which were not withdrawn; and
  - 7) for governmental entities, their statutory authority over or interest in the issues relevant to the application.
- d) In making affected person determinations, the Commission may also consider, to the extent consistent with case law:
- 1) the merits of the underlying application and supporting documentation in the Commission's administrative record, including whether the application meets the requirements for permit issuance;
  - 2) the analysis and opinions of the executive director; and
  - 3) any other expert reports, affidavits, opinions, or data submitted by the executive director, the applicant, or hearing requestor.

30 TAC § 55.203

#### **D. Referral to the State Office of Administrative Hearings (SOAH)**

“When the Commission grants a request for a contested case hearing, the Commission shall issue an order specifying the number and scope of the issues to be referred to SOAH for a hearing.” 30 TAC § 50.115(b). The Commission may not refer an issue to SOAH for a contested case hearing unless the Commission determines that the issue:

- 1) involves a disputed question of fact or a mixed question of law and fact;
- 2) was raised during the public comment period by an affected person whose hearing request is granted; and
- 3) is relevant and material to the decision on the application.

30 TAC § 50.115(c).

#### **IV. Analysis of the Requests**

The Executive Director has analyzed the hearing requests to determine whether they comply with Commission rules, if the requestors qualify as affected persons, what issues may be referred for a contested case hearing, and what is the appropriate length of the hearing.

##### **A. Whether the Requestors Complied with 30 TAC §§ 55.201 (c) and (d)**

The Executive Director received timely hearing requests from Janet Cumbie, Marlene Davis, Richard O. Gingrich, Jr., Rebecca Hartman, Donna Rosson, Gary William Schubert, and Mariam Schubert. Each hearing request received complied with 30 TAC § 55.201(c).

The Executive Director concludes that Janet Cumbie, Marlene Davis, Richard O. Gingrich, Jr., Rebecca Hartman, Donna Rosson, Gary William Schubert, and Mariam Schubert all submitted hearing requests that complied with 30 TAC § 55.201(c).

##### **Hearing requests which meet the requirements of 30 TAC 55.201(d)**

Janet Cumbie, Marlene Davis, Richard O. Gingrich, Jr., Rebecca Hartman, Donna Rosson, Gary William Schubert, and Mariam Schubert submitted timely hearing request. All of the aforementioned hearing requests provided the name, address, and phone number of the person filing the request. They each identify a personal, justiciable interest affected by the application, including a brief explanation of their requestor's location and distance relative to the proposed facility. Janet Cumbie, Marlene Davis, Richard O. Gingrich, Jr., Rebecca Hartman, Gary William Schubert, and Mariam Schubert requested a contested case hearing and raised genuine issues of disputed fact in their hearing requests.

The Executive Director concludes that Janet Cumbie, Marlene Davis, Richard O. Gingrich, Jr., Rebecca Hartman, Gary William Schubert, and Mariam Schubert submitted hearing requests that comply with 30 TAC § 55.201(d).

##### **Hearing requests which do not meet the requirements of 30 TAC 55.201(d)**

Donna Rosson submitted a timely hearing request and raised disputed issues of fact in her hearing request; however, she did not provide the location of her farmland in relation to the facility.

The Executive Director concludes that the hearing request filed by Donna Rosson does not comply with 30 TAC § 55.201(d).

**B. Whether individual requestors meet affected person requirements**

**1. Richard O. Gingrich, Jr.**

According to the information provided by Richard Gingrich, Jr., he is a landowner adjacent to the proposed facility, upstream of the outfall. His hearing request raised general issues relating to impact to the environment; quality of life; drinking water contamination; ground water contamination; general effects on human and animal life; impact to cattle that drink from surface water; and the sufficiency of the Executive Director's antidegradation review, which are issues protected by law and are thus referable. Mr. Gingrich also raised the following issues that are not protected by law and, thus, are not referable: whether the TCEQ should have held a public meeting (a public meeting was held 11/17/22); whether the discharge will cause flooding; what the contamination zone is; whether the discharge will negatively impact air quality, and whether there will be noise from the facility.

Based on his location relative to the outfall Richard O. Gingrich, Jr. did not demonstrate that he has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application not common to members of the general public and is not an affected person.

The Executive Director recommends the Commission find that Richard O. Gingrich, Jr. is not an affected person.

**2. Gary Schubert**

According to the information provided by Gary Schubert, he is a landowner adjacent to the proposed facility, upstream of the outfall. His hearing request raised general issues relating to impact to the environment; quality of life; drinking water contamination; ground water contamination; general effects on human and animal life; and the sufficiency of the Executive Director's antidegradation review; which are issues protected by law and are thus referable. Mr. Schubert also expressed concern over the definitions of pre-existing and existing uses, which is not a referable issue.

Based on his location relative to the discharge route Gary Schubert did not demonstrate that he has a personal justiciable interest related to a legal right, duty,

privilege, power, or economic interest affected by the application not common to members of the general public and is not an affected person.

The Executive Director recommends the Commission find that Gary Schubert is not an affected person.

### **3. Janet Cumbie, Marlene (Frankie) Davis, Miriam Schubert, and Becky Hartmann**

Janet Cumbie, Marlene (Frankie) Davis, Miriam Schubert, and Becky Hartmann submitted a joint hearing request. According to the information they provided they own land adjacent to the proposed facility, upstream of the discharge route. Their hearing request raised general issues relating to impact to the environment; quality of life; drinking water contamination; ground water contamination; and general effects on human and animal life, which are issues protected by law and are thus referable.

Based on their location relative to the discharge route, Janet Cumbie, Marlene (Frankie) Davis, Miriam Schubert, and Becky Hartmann did not demonstrate that they have a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application not common to members of the general public and are not affected persons.

The Executive Director recommends the Commission find that Janet Cumbie, Marlene (Frankie) Davis, Miriam Schubert, and Becky Hartmann are not affected persons.

### **4. Donna Rosson**

According to the information provided by Donna Rosson she has farmland close to Chiltipin Creek; however, she did not identify the location of the property. Her hearing request raised general issues relating to impact to the environment; quality of life; drinking water contamination; ground water contamination; and general effects on human and animal life, which are issues protected by law and are thus referable. Ms. Rosson also expressed concern over flooding, which is not a referable issue.

Donna Rosson did not provide sufficient information to demonstrate that she has a personal justiciable interest related to a legal right, duty, privilege, power, or

economic interest affected by the application not common to members of the general public and is not an affected person.

The Executive Director recommends the Commission find that Donna Rosson is not an affected person.

### **C. Whether Issues Raised are Referable to SOAH for a Contested Case Hearing**

The Executive Director has analyzed issues in accordance with the regulatory criteria. The issues were raised by Richard O. Gingrich, Jr., Gary Schubert, Janet Cumbie, Marlene Davis, Miriam Schubert, Becky Hartmann, and Donna Rosson, who the Executive Director recommends the Commission find are not affected persons. None of the issues were withdrawn. For applications submitted on or after September 1, 2015, only those issues raised in a timely comment by a requester whose request is granted may be referred. The issues raised for this application and the Executive Director's analysis and recommendations follows.

**Issue 1:** Whether the draft permit is protective of the environment. (RTC Response No.1)

- This issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit; however, it was not raised by a person that the Executive Director recommends the Commission find is an affected person. This issue was raised by Richard O. Gingrich, Jr., Janet Cumbie, Marlene Davis, Mariam Schubert, and Becky Hartman. If it can be shown the draft permit does not provide sufficient controls to protect the environment or drinking water, that information would be relevant and material to a decision on the application.

If the Commission finds that Richard O. Gingrich, Jr., Janet Cumbie, Marlene Davis, Mariam Schubert, or Becky Hartman are an affected person, the Executive Director recommends referring this issue to SOAH.

**Issue 2:** Whether the draft permit is protective of cattle that drink from surface water along the discharge route. (RTC Response No. 3)

- This issue involves a disputed issue of fact was raised during the comment period and was not withdrawn; however, it was not raised by a person that the Executive Director recommends the Commission find is an affected

person. This issue was raised by Richard O. Gingrich, Jr., Janet Cumbie, Marlene Davis, Mariam Schubert, and Becky Hartman.

If the Commission finds that Richard O. Gingrich, Jr., Janet Cumbie, Marlene Davis, Mariam Schubert, or Becky Hartman are an affected person, the Executive Director recommends referring this issue to SOAH.

**Issue 3:** Whether the Commission should have held a public meeting (RTC Response No.4)

- This issue involves a question of law, was raised during the comment period and was not withdrawn. This issue was raised by Richard O. Gingrich, Jr. who the Executive Director recommends is not an affected person. The rules provide that only disputed questions of fact or mixed questions of law and fact can be referred to SOAH. 30 TAC § 50.115(c)(1). Moreover, the issue is not relevant because the Office of Chief Clerk held a public meeting in Sinton on November 17, 2022.

The Executive Director recommends not referring this issue to SOAH.

**Issue 4:** Whether “contamination zone” should be defined. (RTC Response No. 7)

- This issue involves a question of law, was raised during the comment period, and was not withdrawn. This issue was raised by Richard O. Gingrich, Jr. The rules provide that only disputed questions of fact or mixed questions of law and fact can be referred to SOAH. 30 TAC § 50.115(c)(1).

The Executive Director recommends not referring this issue to SOAH

**Issue 5:** Whether the draft permit will contribute to flooding. (RTC Response No. 8)

- This is an issue of fact. However, it is not relevant and material to a decision on the application, as TCEQ does not have jurisdiction over flooding relating to wastewater treatment facilities contributing to flooding in the receiving waters. This issue was raised by Richard O. Gingrich, Jr., Janet Cumbie, Marlene Davis, Mariam Schubert, and Becky Hartman who the Executive Director recommends the Commission find are not affected persons.

The Executive Director recommends not referring this issue to SOAH.

**Issue 6:** Whether the draft permit will negatively impact air quality. (RTC Response No. 9)

- This is an issue of fact. However, it is not relevant and material to a decision on the application, as TCEQ does not have jurisdiction air quality when considering the issuance of a TPDES permit. This issue was raised by Richard O. Gingrich, Jr.

The Executive Director recommends not referring this issue to SOAH.

**Issue 7:** Whether the draft permit is protective of groundwater and drinking water. (RTC Response No. 12)

- This issue involves a disputed question of mixed fact, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit; however, however it was not raised by a person that the Executive Director Recommends the Commission find is an affected person. This issue was raised by Richard O. Gingrich, Jr., Janet Cumbie, Marlene Davis, Mariam Schubert, Becky Hartman, and Donna Rosson.

If the Commission finds that Richard O. Gingrich, Jr., Janet Cumbie, Marlene Davis, Mariam Schubert, or Becky Hartman is an affected person, the Executive Director recommends referring this issue to SOAH.

**Issue 8:** Whether the draft permit complies with applicable antidegradation requirements. (RTC Response No. 13)

- This issue involves a disputed question of fact and law, was raised during the public comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. This issue was raised by Richard O. Gingrich, Jr. If it can be shown that the draft permit does not comply with applicable antidegradation requirements, that information would be relevant and material to a decision on the application.

If the Commission finds that Ricard o. Gingrich, Jr. is an affected person, the Executive Director recommends referring this issue to SOAH.

**Issue 9:** Whether TCEQ has the authority and ability to enforce the provisions in the draft permit. (RTC Response No. 14)

- This issue involves a disputed question of fact and law, was raised during the public comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. This issue was raised by Richard O. Gingrich, Jr. If it can be shown that the Executive Director does not have the ability to enforce the permit that information would be relevant and material to a decision on the application.

If the Commission finds that Richard O. Gingrich, Jr. is affected persons, the Executive Director recommends referring this issue to SOAH.

**Issue 10:** Whether the facility will create nuisance noises. (RTC Response No. 17)

- This issue involves a disputed question of fact and law, was raised during the public comment period, and was not withdrawn; however, it is not relevant and material to the issuance of the draft permit. This issue was raised by Richard O. Gingrich, Jr. The Executive Director does not consider the potential impact of noise in the evaluation of a TPDES application.

The Executive Director recommends not referring this issue to SOAH.

### **Request for Reconsideration**

TCEQ's rules provide that the request for reconsideration must expressly state that the person is requesting reconsideration of the executive director's decision and provide reasons why the decision should be reconsidered. 30 TAC § 55.201(e). None of the Requests for Reconsideration meet this standard.

The commission received timely requests for reconsideration from Janet Cumbie, Marlene Davis, Miriam Schubert, Becky Hartmann, Richard O. Gingrich, Jr., and Gary Schubert. All of the requests for reconsideration raised the same issues as were raised in the individuals' Hearing Requests. After reviewing the issues raised in the requests for reconsideration, the Executive Director determined that the issues raised were fully addressed in the Executive Director's Response to Comments and did not find any cause for changing the draft permit. The Executive Director recommends the Commission deny all requests for reconsideration.

## **V. Contested Case Hearing Duration**

If there is a contested case hearing on this application, the Executive Director recommends the duration of the hearing be 180 days from the preliminary hearing to the presentation of a proposal for decision to the Commission.

## **VI. Conclusion**

The Executive Director recommends the following actions by the Commission:

1. The Executive Director recommends that the Commission deny all hearing requests.
2. The Executive Director recommends the Commission deny all Requests for Reconsideration.
3. If referred to SOAH, first refer the matter to Alternative Dispute Resolution for a reasonable period.
4. If referred to SOAH, the Executive Director recommends referring the following timely raised relevant and material issues to SOAH:

**Issue 1:** Whether the draft permit is protective of the environment, quality of life, drinking water, and the cattle industry. (RTC Response No.1)

**Issue 2:** Whether the draft permit will negatively impact cattle that drink from the surface water.

**Issue 7:** Whether the draft permit will adversely impact groundwater and drinking water.

**Issue 8:** Whether the draft permit complies with applicable antidegradation requirements.

**Issue 9:** Whether TCEQ has the authority and ability to enforce the provisions in the draft permit.

Respectfully submitted,

Texas Commission on Environmental Quality

Erin E. Chancellor  
Interim Executive Director

Charmaine Backens, Acting Director  
Office of Legal Services

Guy Henry, Acting Deputy Director  
Environmental Law Division



---

Kathy Humphreys  
Staff Attorney  
Environmental Law Division  
State Bar No. 24006911  
P.O. Box 13087, MC 173  
Austin, Texas 78711-3087  
Phone: (512) 239-3417

REPRESENTING THE  
EXECUTIVE DIRECTOR OF THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

### **CERTIFICATE OF SERVICE**

I certify that on April 17, 2023, the original of the “Executive Director’s Response to Hearing Requests” for TPDES Permit WQ000528300 for Steel Dynamics Southwest, was filed with the TCEQ’s Office of the Chief Clerk, and a copy was served to all persons listed on the attached mailing list via hand delivery, facsimile transmission, inter-agency mail, electronic submittal, or by deposit in the U.S. Mail.



---

Kathy J. Humphreys  
Staff Attorney  
Environmental Law Division  
State Bar No. 24006911

MAILING LIST  
Steel Dynamics Southwest, LLC  
TCEQ Docket No. 2023-0442-IWD; Permit No. WQ0005283000

FOR THE APPLICANT

Dennis Black, General Manager  
Steel Dynamics Southwest, LLC  
8534 Highway 89  
Sinton, Texas 78387

Jon Ritter, Environmental Engineer  
Steel Dynamics Southwest, LLC  
8534 Highway 89  
Sinton, Texas 78387

Tara Ducrest, Environmental Scientist  
Hanson Professional Services, Inc.  
4201 Gollihar Road  
Corpus Christi, Texas 78411

FOR THE EXECUTIVE DIRECTOR

via electronic mail:

Kathy Humphreys, Staff Attorney  
Texas Commission on Environmental  
Quality  
Environmental Law Division, MC-173  
P.O. Box 13087  
Austin, Texas 78711  
[Kathy.humphreys@tceq.texas.gov](mailto:Kathy.humphreys@tceq.texas.gov)

Thomas Starr, Technical Staff  
Texas Commission on Environmental  
Quality  
Water Quality Division, MC-148  
P.O. Box 13087  
Austin, Texas 78711  
[Thomas.starr@tceq.texas.gov](mailto:Thomas.starr@tceq.texas.gov)

Ryan Vise, Deputy Director  
Texas Commission on Environmental  
Quality  
External Relations Division  
Public Education Program, MC-108  
P.O. Box 13087  
Austin, Texas 78711  
[pep@tceq.texas.gov](mailto:pep@tceq.texas.gov)

FOR PUBLIC INTEREST COUNSEL

via electronic mail:

Garrett T. Arthur, Attorney  
Texas Commission on Environmental  
Quality  
Public Interest Counsel, MC-103  
P.O. Box 13087  
Austin, Texas 78711  
[Garrett.arthru@tceq.texas.gov](mailto:Garrett.arthru@tceq.texas.gov)

FOR ALTERNATIVE DISPUTE RESOLUTION

via electronic mail:

Kyle Lucas  
Texas Commission on Environmental  
Quality  
Alternative Dispute Resolution, MC-222  
P.O. Box 13087  
Austin, Texas 78711  
[Kyle.lucas@tceq.texas.gov](mailto:Kyle.lucas@tceq.texas.gov)

FOR THE CHIEF CLERK

via eFilings:

Docket Clerk  
Texas Commission on Environmental  
Quality  
Office of Chief Clerk, MC-105  
P.O. Box 13087  
Austin, Texas 78711

REQUESTER(S)/ INTERESTED PERSON(S)

See attached list.

REQUESTER(S)

Janet Cumbie  
3002 Encino Ave  
Bay City, TX 77414-2748

Marlene Davis  
12322 Blue Water Dr  
Austin, TX 78758-2803

Richard O Gingrich Jr  
PO Box 171  
Sinton, TX 78387-0171

Rebecca Hartmann  
8600 Coppertowne Ln  
Apt 902  
Dallas, TX 75243-8043

Donna Rosson  
2119 Bay Breeze  
Portland, TX 78374-4156

Gary William Schubert  
178 Walter St  
Roslindale, MA 02131-1522

Miriam Schubert  
PO Box 594  
Woodsboro, TX 78393-0594

PUBLIC OFFICIALS - INTERESTED  
PERSON(S)

The Honorable J M Lozano  
State Representative, Texas House of  
Representatives District 43  
1512 Wildcat Dr Ste A Ste 106  
Portland, TX 78374-2840

The Honorable J M Lozano  
State Representative, Texas House of  
Representatives District 43  
PO Box 2910  
Austin, TX 78768-2910

INTERESTED PERSON(S)

Thomas Brunks  
7207 County Road 4287  
Aransas Pass, TX 78336-8952

Heather & Jay Cohea  
11478 State Highway 188  
Sinton, TX 78387-5539

Heather & Jay Cohea  
PO Box 644  
Sinton, TX 78387-0644

Heather Cohea  
662 Silver Creek Rd  
Sinton, TX 78387-5086

Heather Cohea  
11464 State Highway 188  
Sinton, TX 78387-5539

Heather Cohea  
PO Box 644  
Sinton, TX 78387-0644

Mike Culbertson  
3006 Moore Ave  
Portland, TX 78374-3501

B Allen Cumbie  
1514 7Th St  
Bay City, TX 77414-4919

Bryan A French  
Law Office of Bryan French PLLC  
4191 Pirates Bch  
Galveston, TX 77554-8042

Dennis Hagy  
11448 State Highway 188  
Sinton, TX 78387-5539

Mollie Mauch  
PO Box 756  
Goliad, TX 77963-0756

Edmond R McCarthy Jr  
McCarthy & McCarthy Llp  
1122 Colorado St  
Ste 2399  
Austin, TX 78701-2100

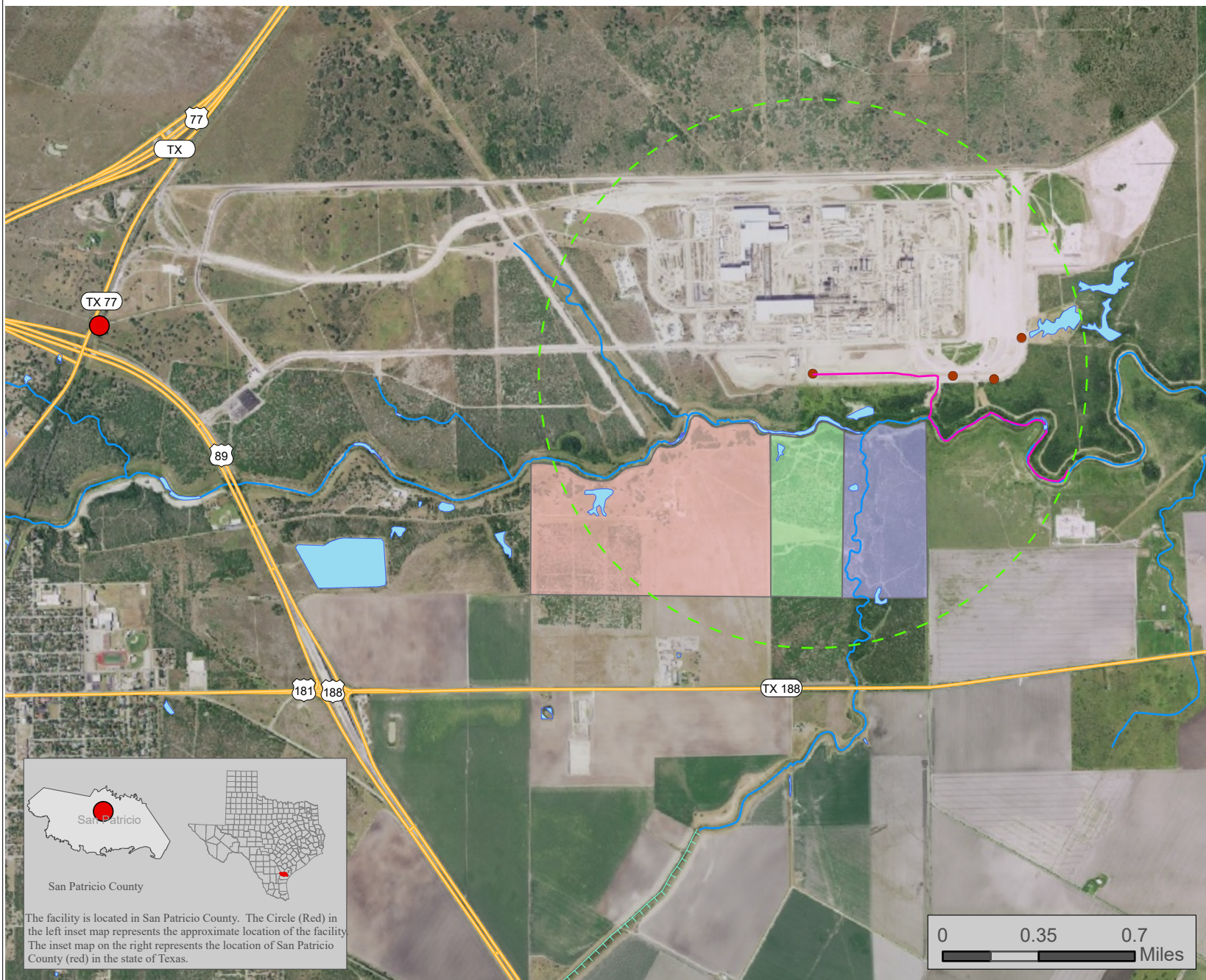
# Steel Dynamics Southwest, LLC -TPDES Permit No. WQ0005283000

Map Requested by TCEQ Office of Legal Services  
for Commissioners' Agenda



*Protecting Texas by  
Reducing and  
Preventing Pollution*

Texas Commission on Environmental Quality  
GIS Team (Mail Code 197)  
P.O. Box 13087  
Austin, Texas 78711-3087  
Date: 3/15/2023  
CRF 0085310  
Cartographer: AlOrtiz



- Wastewater Outfall
- Facility
- - - 1 Mile from Wastewater Outfall 002
- Lot 1
- Lot 2
- Lot 3-6
- Lake/Pond
- Reservoir
- Canal/Ditch
- Stream/River
- Artificial Path

Lot 1: RGRG JR LTD  
Lot 2: Hodges R & Schubert G  
Lot 3: Janet E. Cumbie  
Lot 4: Miriam C. Schubert  
Lot 5: Rebecca S. Hartmann  
Lot 6: Frankie M. Davis

Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information from the applicant and the requestor information from the requestor.

This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. For more information concerning this map, contact the Information Resource Division at (512) 239-0800.



The facility is located in San Patricio County. The Circle (Red) in the left inset map represents the approximate location of the facility. The inset map on the right represents the location of San Patricio County (red) in the state of Texas.

0 0.35 0.7  
Miles