

Ellie Guerra

From: PUBCOMMENT-OCC
Sent: Monday, March 6, 2023 4:06 PM
To: PUBCOMMENT-WQ; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number WQ0005283000

RFR

From: jehc51@swbell.net <jehc51@swbell.net>
Sent: Monday, March 6, 2023 4:00 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0005283000

REGULATED ENTY NAME STEEL DYNAMICS SOUTHWEST

RN NUMBER: RN110750965

PERMIT NUMBER: WQ0005283000

DOCKET NUMBER:

COUNTY: SAN PATRICIO

PRINCIPAL NAME: STEEL DYNAMICS SOUTHWEST LLC

CN NUMBER: CN605646041

FROM

NAME: Janet Cumbie

EMAIL: jehc51@swbell.net

COMPANY:

ADDRESS: 3002 ENCINO AVE
BAY CITY TX 77414-2748

PHONE: 9792411595

FAX:

COMMENTS: Janet Cumbie 3002 Encino Avenue Bay City, Texas 77414 979-241-1595 Re: Request for Reconsideration of Director's Decision re: WQ0005283000 of Feb.7, 2023 To Whom It May Concern: I make this request for reconsideration of the Director's Decision of February 7, 2023, in the matter of WQ0005283000, on behalf of myself and my sisters, Marlene Davis, Miriam Schubert and Becky Hartmann. I make this request for failure of the Director of Texas Commission on Environmental Quality (TCEQ) to comply with the mandate of Rule 307.6(b)(4). Subsection 307.6(b)(4) is

titled "General provisions." And reads: "Water in the state must be maintained to preclude toxic adverse 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." I believe that this subsection is the only one in Chapter 307 that even mentions livestock. Clearly TCEQ has authorized the discharge of potentially toxic substances into the Chiltipin Creek. The Director's response indicates that there are no criteria or standards that would relate to livestock or wildlife. The Director says that there are standards that apply to aquatic life and argues that standards that apply to aquatic life should give some protection to cattle. The Director's response may suggest that the Director, TCEQ, and Steel Dynamics for their own reasons ignored the existence of easily visible, potentially affected cattle and do not choose to consider Section 307.6(b)(4). The comparison of standards for cattle to standards for aquatic life is unreasonable and to accept the Director's conclusion that somehow the protection provided to aquatic life is going to protect cattle or other livestock is not logical. The Steel Dynamic Mill that is across the Chiltipin creek from our property has affected the pristine presence of the only brush land in the area. It is dumping waste water from the plant into the Chiltipin Creek immediately adjacent to our property. The existence of wildlife on our property, the source of our family's enjoyment has been compromised. It is our concern that if stricter standards are not applied to the waste water, the source of our income from the property, leasing our land for cattle grazing, will also be affected. There are standards for water ingested by people. The water that the cattle consume should be protected at the higher human standard which is the standard that I am asking that TCEQ apply in this permit. For these reasons I Request that the Director's Decision be Reconsidered.

WQ
126116

Debbie Zachary

From: PUBCOMMENT-OCC
Sent: Friday, September 9, 2022 9:10 AM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0005283000

H

From: jehc51@swbell.net <jehc51@swbell.net>
Sent: Thursday, September 8, 2022 9:02 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0005283000

REGULATED ENTY NAME STEEL DYNAMICS SOUTHWEST

RN NUMBER: RN110750965

PERMIT NUMBER: WQ0005283000

DOCKET NUMBER:

COUNTY: SAN PATRICIO

PRINCIPAL NAME: STEEL DYNAMICS SOUTHWEST LLC

CN NUMBER: CN605646041

FROM

NAME: Janet Cumbie

EMAIL: jehc51@swbell.net

COMPANY:

ADDRESS: 3002 ENCINO AVE
BAY CITY TX 77414-2748

PHONE: 9792411595

FAX:

COMMENTS: Texas Commission on Environmental Quality Request for a Contested Case Hearing Permit No. WQ0005283000 Steel Dynamics Southwest, LLC Sinton Mill 8534 Highway 89, Sinton, Texas 78387 From: Janet Cumbie 3002 Encino Avenue Bay City, Texas 77414 979-241-1595 I have obtained permission from the following listed landowners and am submitting this request on behalf of Janet Cumbie, Marlene Davis, Miriam Schubert and Becky Hartmann. We are sisters who each own a ¼ undivided interest in 177.19 acres of land in San Patricio County bordered

by Hwy. 188 to the South and Chiltipin Creek to the North and is directly across from the Sinton Mill. We represent four (4) of the fifteen (15) recipients of the "Notice of Application and Preliminary Decision for TPDES Permit for Industrial Wastewater" sent July 29, 2022. Hodges R. and Schubert G., CO EXE, Estate of Celestine M. Schubert also received this letter. This entity represents our cousins, Gary Schubert and Rosemary Hodges, who own 177.18 acres to the west of our property, when joined with our property makes up 354.37 acres that has been operated as one unit since purchased by our parents in the early 1960's. We Request a Contested Case Hearing. We would be adversely affected with the effluence of waste water from the Steel Mill into the Chiltipin Creek because of its effect on Livestock. The sole income and property usage of the land which we own has been leased to tenants for the purpose of raising cattle for approximately 20 years. The Chiltipin Creek has been the main source of water for the livestock. List of Disputed Issues of Fact: 1. Steel Dynamics has not shown evidence of testing for toxicity to Livestock. Testing indicated has been for aquatic life and contact recreation only. 2. Is effluent emissions by Steel dynamics toxic to Cattle? If so, to what degree? Does daily ingestion of waste water effect general well-being, including fertility, of cattle? 3. Steel Dynamics has not taken in consideration Livestock as a pre-existing use. What is the standard for protecting and maintaining existing uses for livestock? We have read and Agree with the research and concerns stated by our cousin, Gary Schubert, in his communication and "Request for Contested Case Hearing". The untouched nature of this property in its natural state has been a source of income, recreation and enjoyment to our family for years. Our purpose in requesting this hearing is to do all we can to protect our investment. Janet Cumbie Miriam Schubert 3002 Encino Avenue P. O. Box 594 Bay City, Texas 77414 Woodsboro, Texas 78393 979-241-1595 361-785-5603 Marlene Davis Becky Hartmann 12322 Blue Water Drive 8600 Coppertowne Ln. #902 Austin, Texas 78758 Dallas, Texas 75243 512-836-3174 361-688-986

I am Janet Cumbie. I live in Bay City, Texas. My sister, Miriam Schubert, is here and she lives in Woodsboro. My comments represent me, my sister, Miriam, and our other two sisters, Marlene Davis of Austin and Becky Hartmann of Dallas.

We each own a ¼ undivided interest in approximately 177 acres of land in San Patricio County bordered by Hwy. 188 to the South and Chiltipin Creek to the North and is directly across from the Steel Dynamics Sinton Mill. We represent four (4) of the fifteen (15) recipients of letters from TCEQ. Our cousins, Gary Schubert and Rosemary Hodges, are also here. They own approximately the same acreage to the west of our property, which, when joined with our property makes up 354 acres that has been operated as one unit since purchased by our parents in the early 1960's.

We have observed that waste water from Steel dynamics is being deposited directly into the Chiltipin Creek across from our property.

We are adversely affected with the effluence of waste water from the Steel Mill into the Chiltipin Creek because of its effect on livestock. The sole income and property usage of the land which we own has been leased to tenants for the purpose of raising cattle for approximately 20 years. The Chiltipin Creek has been and still is a main source of water for the cattle raised on our property and in times of drought it is their only source of water. We are presenting this as evidence that the Chiltipin Creek has been in existing use for drinking water for cattle from our property for 20 years.

Our concerns and the reasons we requested this hearing are:

1. TCEQ has not shown evidence of testing for toxicity to livestock. Testing indicated has been for aquatic life and contact recreation only.
2. TCEQ has not taken in consideration livestock as a pre-existing use.
3. TCEQ has not indicated a standard for protecting cattle and considering cattle in issues of "existing use".

We are requesting that testing be done to determine

- A. if the effluent emissions by Steel Dynamics is toxic to Cattle and to what degree.
- B. If daily ingestion of waste water effects the general well-being, including fertility, of cattle.

We Agree with the research and concerns stated by our cousin, Gary Schubert, in his communications

The untouched nature of this property in its natural state has been a source of income and enjoyment to our family for years. Our purpose in making these requests is to do all we can to assure that our source of income from this property is protected.

Janet Cumbie
3002 Encino Avenue
Bay City, Texas 77414
979-241-1595

Miriam Schubert
P. O. Box 594
Woodsboro, Texas 78393
361-785-5603

Marlene Davis
12322 Blue Water Drive
Austin, Texas 78758
512-836-3174

Becky Hartmann
8600 Coppertowne Ln. #902
Dallas, Texas 75243
361-688-986

RECEIVED
NOV 17 2022
AT PUBLIC MEETING

TCEQ Registration Form

November 17, 2022

Steel Dynamics Southwest, LLC

Proposed Amendment to TPDES Permit No. WQ0005283000

PLEASE PRINT

Name: Janet Cumbie

Mailing Address: 3002 Encino Ave.

Physical Address (if different): _____

City/State: Bay City, Tx Zip: 77414

This information is subject to public disclosure under the Texas Public Information Act

Email: jehc51@swbell.net

Phone Number: (979) 241-1595

• Are you here today representing a municipality, legislator, agency, or group? Yes No
If yes, which one? _____

Please add me to the mailing list.

I wish to provide formal *ORAL COMMENTS* at tonight's public meeting.

I wish to provide formal *WRITTEN COMMENTS* at tonight's public meeting.

(Written comments may be submitted at any time during the meeting)

Please give this form to the person at the information table. Thank you.

Ellie Guerra

From: PUBCOMMENT-OCC
Sent: Monday, March 6, 2023 2:42 PM
To: PUBCOMMENT-WQ; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Response to the Decision of the Executive Director
Attachments: TCEQ Executive Director response 3-6-2023.docx

H
RFR

From: CHIEFCLK <chiefclk@tceq.texas.gov>
Sent: Monday, March 6, 2023 2:25 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: FW: Response to the Decision of the Executive Director

From: rog62267@aol.com <rog62267@aol.com>
Sent: Monday, March 6, 2023 2:14 PM
To: CHIEFCLK <chiefclk@tceq.texas.gov>
Cc: rog62267@aol.com
Subject: Response to the Decision of the Executive Director

**Richard O. Gingrich Jr.
P.O. Box 171
11510 State Highway 188
Sinton, Texas 78387
361-537-1629
Rog62267@aol.com**

March 6, 2023

**Office of the Chief Clerk,
MC 105
TCEQ
P.O. Box 13087
Austin, Texas 78711-3087**

RE: Permit NO. WQ0005283000

Dear Laurie Gharis, Chief Clerk, TCEQ,

I would like this letter to serve as my notice and request for the Executive Director to reconsider the decision made concerning the Steel Dynamics Southwest, LLC TPDES PERMIT NO. WQ0005283000. I request a contested hearing.

I am an affected party, as I own and live on 572 acres of land bordering the Southern boundary of the plant. Steel Dynamics and I both own to the centerline of Chiltipin Creek.

This action and response, sends a clear message that Steel Dynamics Southwest LLC and the TCEQ have failed to consider the fact that us neighboring landowners, use the groundwater for everyday survival, that these pollutants released into the creek will ultimately leach into our drinking water. We use this water for our everyday lives: drinking, cooking, bathing and for watering our livestock and crops. We consume wild game that drinks water from the Chiltipin Creek. I just do not understand how the negative impacts to those around this plant are not being considered in such a risky operating proposal.

At the public hearing, I strongly asked a question of storm water runoff from the plant being measured that went into the creek and never received a satisfactory answer. Inspecting the SDI site on google earth, it is clearly evident that rainwater gets into the "Steel Dynamics made" ditch on the West side of the plant without going through any type of measurement or treatment plant and flows directly into the Chiltipin Creek. One can see excavation marks in several spots. There is no way to make myself or my neighbors comfortable about our drinking water, knowing that toxins are free flowing onto our private property and will be leaching down into our groundwater. (yes we own to the centerline of Chiltipin Creek)

I realize that there are no standards set for this type of situation, but should not all parties involved (TCEQ and STEEL DYNAMICS) consider the protection of its neighbors and choose to focus on the highest standards that relate to human consumption. WHY TAKE THE UNNECESSARY OF CONTAMINATING OUR GROUND WATER? SHOULD NOT COMMON SENSE BE USED IN THIS SITUATION? THERE ARE NEIGHBORS AROUND THIS PLANT! Using a small marine organism as the basis for telling us the water will be ok for human consumption just seems wrong. WHY NOT SET THE BASIS FOR THIS PERMIT TO HUMAN STANDARDS? This should have been done initially when applying for this permit.

Did the Executive Director consider SDI's track record for environmental compliance in the other states that it operates these steel mills? My personal opinion is that the public information regarding this information has been ignored.

The decision the Executive Director has made solidifies a huge negative impact for my property as well as that of my neighbor's property. It hugely devalues our property. It also leaves us with a feeling and anxiety over how this permit approval will damage our personal health and safety.

This wastewater permit is not the only issue we have concerning Steel Dynamics. The air quality permit should be reviewed, as we have been breathing fumes and odors, and having material blow onto our property from its operations for a few months as well.

I feel as a born, true Texan, that myself, my family and my friends and neighbors should be guaranteed the right to clean water to live and make a living. We should not always carry the burden of regulation, The TCEQ should protect us by not letting a large corporation have control of the situation and tell us that its ok for us to drink the water affected by their toxic releases!

Sincerely,

Richard O. Gingrich Jr.

**Affected party to Steel Dynamics Southwest, LLC
Sinton, Texas**

Debbie Zachary

From: PUBCOMMENT-OCC
Sent: Friday, September 9, 2022 1:26 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0005283000

H
PM

From: rog62267@aol.com <rog62267@aol.com>
Sent: Friday, September 9, 2022 1:17 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0005283000

REGULATED ENTY NAME STEEL DYNAMICS SOUTHWEST

RN NUMBER: RN110750965

PERMIT NUMBER: WQ0005283000

DOCKET NUMBER:

COUNTY: SAN PATRICIO

PRINCIPAL NAME: STEEL DYNAMICS SOUTHWEST LLC

CN NUMBER: CN605646041

FROM

NAME: Richard O Gingrich, JR

EMAIL: rog62267@aol.com

COMPANY:

ADDRESS: PO BOX 171
SINTON TX 78387-0171

PHONE: 3615371639

FAX:

COMMENTS: In lieu of some new information recently discovered, and the fact that I have a significant interest in this case, as I am a direct neighbor of this facility, I am requesting a contested hearing be held. As my family and I live on this property, I feel that we should have a voice in these matters. I would appreciate the opportunity to voice my concerns. I

had already requested a public meeting, but I feel that the contested hearing is the correct approach. Sincerely, Richard O. Gingrich Jr.

TCEQ Registration Form

November 17, 2022

Steel Dynamics Southwest, LLC

Proposed Amendment to TPDES Permit No. WQ0005283000

PLEASE PRINT

Name: Richard O. Gingria Jr.

Mailing Address: PO Box 171

Physical Address (if different): 11510 Hwy 188

City/State: Sinton Texas Zip: 78387

This information is subject to public disclosure under the Texas Public Information Act

Email: rog62267@aol.com

Phone Number: (361) 537-1629

- Are you here today representing a municipality, legislator, agency, or group? Yes No

If yes, which one? _____

Please add me to the mailing list.

I wish to provide formal *ORAL COMMENTS* at tonight's public meeting.

I wish to provide formal *WRITTEN COMMENTS* at tonight's public meeting.

(Written comments may be submitted at any time during the meeting)

Please give this form to the person at the information table. Thank you.

Richard Oliver Gingrich Jr.
P.O. Box 171
Sinton Texas, 78387
361-537-1629
Rog62267@aol.com

RECEIVED

NOV 17 2022

AT PUBLIC MEETING

November 17, 2022

My name is Richard Gingrich. I live on the South border of Steel Dynamics Inc., on the Chiltipin Creek. I live there with my wife Rosie and our 13-year-old daughter Olivia. Counting ourselves and two previous owners our land has been lived on, farmed and ranched for well over 50 years. We have lived here long before SDI arrived in Sinton Texas. I share over two miles of property line with Steel Dynamics that includes the Chiltipin Creek, which will serve as a delivery and filtering mechanism for SDI's fluid outflow and runoff of the entire 2,500-acre SDI site.

The attitude of SDI and many environmental groups towards this permit and the concerns of this plant are not focused on the most important thing. That important subject everyone seems to ignore is Human Life! The number one priority of everyone involved should be how this water disposal affects human life and the quality of that life. The testing and data used for this permit approval process should be tested and administered to the HUMAN STANDARD tier 3, not a Tier one (minnows, water lice, frogs) Do not get me wrong, I want our bays and our estuaries kept safe from destruction as I enjoy sportfishing and nature as much as anyone else but keeping our groundwater safe from toxic substances should be the primary focus. If that is achieved than everything else down the line should be protected.

When this process started, I became self-informed that we were genuinely affected by this plant and its intentions when I found the property map that showed my property and property of my neighbors in a one-mile buffer zone map, that was included in SDI's initial TCEQ application. Not one SDI official has ever reached out to me about anything pertaining to the buffer zone or our groundwater safety in general. I called the provided phone number which listed Jon Ritter as the contact but received no call back. At that point in the Spring of 2022, I decided to start looking for third party testing labs to sample and test my drinking water. I had samples drawn on my drinking water and had it tested. I also had a thirty-day air quality, sound and ground vibration test performed here on my property. I also had

water and soil from the floor of Chiltipin Creek sampled and tested. I am in possession of solid base line data for the tests that I had performed due to my concerns about this plant.

It is imperative that we have clean water to sustain our way of living on our property! We rely on our water for drinking, cooking, washing our clothes, bathing and watering our pets and livestock. It is Paramount that TCEQ make and keep my family and my neighbors and our groundwater the main focus of any outcome decided by this meeting.

We should be SDI's top priority. It is clear that we are not. Putting that one-mile buffer around our property without letting us know, or asking permission to do it, Not testing to tier three standards nor letting us know the implication of having this monstrous plant in my front yard. Even adding a large galvanizing plant which is a huge risk for our water supply in the event of an upset. All of this done, with not even a whisper from Steel dynamics.

Through my research of this permit request, I find it hard to believe that the city of Sinton, San Patricio County and TCEQ would allow this type of facility to be built near residential homes, considering the residents health will be jeopardized.

This facility will be treating water that contains deadly toxins, and unknown and unmentioned toxic compounds formed during the steel making process. These toxins are cancer causing, cause birth defects and have been the cause for young girls and women to suffer reproductive harm resulting in hysterectomies' being performed on them. Leaving them barren for life!!Note I introduced earlier I have a 13-year-old daughter. I am way past concerned!!!!!!!

These toxic substances include copper, iron, zinc, nickel, lead, chromium, benzene, tetrachloroethylene, cyanide and mercury just to name a few. There are many more deadly products involved with this plant. All these products will leach into and contaminate our groundwater!

Dust and dirt from this plant and its laydown yards has been blowing large amounts of dirt on our property. Fumes and smoke having strong odors from the burning of materials on the East side of the plant area settle on our land. The toxins and heavy metals in this material will also leach into our groundwater. How is this tabulated in your release estimates? How much

storm water is not measured that goes into the large man-made ditches that run on the West side of the plant dumping into Chiltipin Creek? The deluges of rain we have had surely overflow the scrap yards and the area of Levy Steel Mill Services. I am sure SDI has no idea how much pollution they are releasing off of these areas due to rain or wind. I have photos and video to support my claim that it is way above the suggested amounts in this permit.

According to SDI's permit application, by its own admission, answers that the wastewater ponds are either clay lined, or synthetic material lined. These are both susceptible to having releases that will let these deadly toxins leach into our groundwater. The permit is also marked that no leak detection is installed, nor are there any ground water monitoring wells drilled or being sampled. It is amazing that even these actions are not required in a time where fresh clean water is becoming a hot topic for our area due to the droughts we have been enduring.

Reading and looking up various internet information regarding SDI's environmental history and performance has really concerned me. This company has a long history of breaking environmental laws regarding drinking water. There is a list of continued violations and fines. According to the EPA "Echo" site (Enforcement and compliance history online), as recently as 2021 SDI broke the federal clean water act at their Butler Indiana facility and received a \$3,475,000,00 penalty. These are not random or single occurrences. They are ongoing. With all the information discovered and available to us, how can we trust SDI to keep our drinking water safe? We cannot! We must stay diligent in making sure our water is protected!

For the record, we never asked to be Steel Dynamics neighbor and do not want to be the "that" family across the creek from them. We used to have lots of wildlife, clean fresh air to breathe and no worries about water contamination. Their presence and the processes performed on their site create noise, odors, runoff, health concerns, discharges and wind carried particles that based on recent violations at other Steel Dynamic facilities indicate their willingness to pay fines, as opposed to adhering to the standards set by agencies like the TCEQ and EPA and going above and beyond those standards to protect our water, our air, our land and our life!

Thank you for your time.

Richard O. Gingrich Jr.

WQ
126116

Richard O. Gingrich Jr.
P.O. Box 171
Sinton, Texas 78387
361-537-1629
Rog62267@aol.com

August 22, 2022

Office of the Chief Clerk,
MC 105
TCEQ
P.O. Box 13087
Austin, Texas 78711-3087

REVIEWED P.M.
AUG 26 2022
by GCW

2022 AUG 25 AM 9:48
CHIEF CLERKS OFFICE
TEXAS COMMISSION
ON ENVIRONMENTAL
QUALITY

RE: Permit NO. WQ0005283000

To whom it may concern,

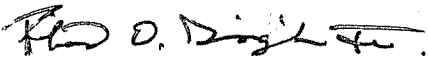
I am writing this letter in response to the application filed on behalf of Steel Dynamics Southwest, LLC. As an affected party due to my personal residences' proximity to the plant, I do have concerns about this permit and the affects it will have on my property, Chiltipin Creek, our drinking water supply (water wells), and our personal health and safety. I am requesting that a public meeting be held for our concerns to be heard.

Since the construction of this facility and its start up of operations, my family and I live with the near constant and daily noise pollution of train horns, crane horns, rumbling of the plant, heavy equipment working noise, wet blast that occurred June 29, 2022. The ditches initially built during the initial construction phase of the plant have altered the flow of the creek and have had a negative impact on the flow of water and erosion along both banks of Chiltipin Creek.

These are just a few of my concerns regarding this permit for Steel Dynamics Southwest, LLC. As an impacted party to this plant being constructed at its current location, I would like to know what is being released at the current time and what projections are in the future with these additional requests.

I appreciate your looking into my concerns.

Sincerely,



Richard O. Gingrich Jr.
11510 Hwy 188
Sinton, Texas 78387

Richard O. Gingrich Jr.
P.O. Box 171
Sinton, TX 78387

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CHIEF CLERKS OFFICE

2007 AUG 25 AM 9:48

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

Office of the Chief Clerk
MC 105
TCEQ
P.O. Box 13087
Austin, TX 78711-3087

Debbie Zachary

From: PUBCOMMENT-OCC
Sent: Friday, September 9, 2022 1:23 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0005283000

PM
H

From: drossonjr@yahoo.com <drossonjr@yahoo.com>
Sent: Friday, September 9, 2022 10:23 AM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0005283000

REGULATED ENTY NAME: STEEL DYNAMICS SOUTHWEST

RN NUMBER: RN110750965

PERMIT NUMBER: WQ0005283000

DOCKET NUMBER:

COUNTY: SAN PATRICIO

PRINCIPAL NAME: STEEL DYNAMICS SOUTHWEST LLC

CN NUMBER: CN605646041

FROM:

NAME: Donna Rosson

EMAIL: drossonjr@yahoo.com

COMPANY:

ADDRESS: 2119 BAY BREEZE
PORTLAND TX 78374-4156

PHONE: 3612221212

FAX:

COMMENTS: Steel Dynamics has requested an amendment to their wastewater permit from TCEQ. WQ0005283000. The original was agreed upon by Aransas Project and other concerned environmental groups. This amendment will undo much of that. We have farmland close to Chiltipin Creek and we need your help in protecting it and the groundwater. This amendment will affect the Aransas River Tidal and the San Antonio-Nueces River Tidal with high aquatic life stated

in the permit. Many people's livelihoods will be negatively affected as well as the wildlife. I am asking for a PUBLIC MEETING and an independent environmental review. I would also ask for a Contested Case hearing as I believe we have significant interest in possible contaminants to Chiltipin Creek and the tidal basins. We need your help on this very serious issue!!! Thank you

TCEQ Registration Form

November 17, 2022

Steel Dynamics Southwest, LLC

Proposed Amendment to TPDES Permit No. WQ0005283000

PLEASE PRINT

Name: Donna Rosson

Mailing Address: 2119 Bay Breeze

Physical Address (if different): _____

City/State: Portland, TX Zip: 78374

This information is subject to public disclosure under the Texas Public Information Act

Email: drossonjr@yahoo.com

Phone Number: (361) 222-1212

• Are you here today representing a municipality, legislator, agency, or group? Yes No

If yes, which one? _____

Please add me to the mailing list.

I wish to provide formal *ORAL COMMENTS* at tonight's public meeting.

I wish to provide formal *WRITTEN COMMENTS* at tonight's public meeting.

(Written comments may be submitted at any time during the meeting)

Please give this form to the person at the information table. Thank you.

**AFFIDAVIT IN SUPPORT OF REQUEST FOR
RECONSIDERATION OF DECISION OF EXECUTIVE
DIRECTOR OF THE TEXAS COMMISSION OF ENVIRONMENTAL**

QUALITY of February 7, 2023

Relative to TPDES Permit No. WQ0005283000

TCEQ DOC

MAR 07 2023

By Gcw

RFR

My name is Gary Wm. Schubert, I am requesting reconsideration of the decision of the Executive Director relating to WQ0005283000 dated February 7, 2023. For reasons which I will explain below I am making this request in the form of an affidavit. The following is based upon my own personal knowledge, and on information and my belief as explained herein.

1. I attended the public hearing in this matter that took place on November 17, 2022, in Sinton, Texas. The time allotted for oral presentation changed. Due to a reduction in anticipated time I and others had to change our approach. I decided to try to pick some points and rely on my written comments for the rest. A female TCEQ (Texas Commission of environmental Quality) staffer said this was okay. I said things in both the informal and formal parts of the public hearing. I don't think the informal part was recorded. I am not sure in which part of the public hearing that some of the matters I write of occurred. During the informal portion I actually gained a better understanding of some of the steps in the processing of requests for TCEQ action. In particular I gained a better knowledge of the affidavits allowed by TCEQ In this affidavit I will refer to things I said in both parts of the public hearing. In retrospect I should have kept more detailed notes during the hearing. I apologize if I refer to something that I said but that was not recorded, but I assure you that I said it.
2. Attached to this Affidavit is Exhibit A which is a copy of my public comment to the TCEQ filed and verified on September 10, 2022. Exhibit A is hereby incorporated by reference as part of this affidavit.
3. I state the following information about my education and prior employment because it is relative to my knowledge of and belief of matters stated in this affidavit.
4. I graduated from Northeastern University School of Law in Boston, Massachusetts in 1974. I graduated from Boston University School of Law in 1978 with a Master of Laws in Taxation.

5. I took many other courses at Boston University and the Harvard University Extension School which are probably not relevant. From 2006 – 2014 I took a number of graduate level classes in Mathematics at the Harvard University Extension School. Two of these courses could be considered relevant to the formation and content of my opinions in this matter. They are: *Biostatistics* and *Medical Detectives*. (I would add that the *Medical Detectives* course and the book ***Spillover: Animal Infections and the Next Human Pandemic*** by David Quammen helped me truly understand viruses, the COVID-19 pandemic, and the recommendations health officials made for dealing with it.)
6. Starting in 2007 until the Covid lockdown in March of 2021 I worked three days a week at Tech Boston Academy, a Boston Public School. I taught small classes and then focused on tutoring students required to take state tests in Biology and Mathematics in order to graduate from high school. Although I did other things for the last 12 years I was at Tech Boston Academy I focused mostly on preparing students to take and pass the Biology and Mathematics MCAS tests.
7. Some of my students asked me if they would ever use the math they were struggling to grasp. I told them some things they would never use unless they became math teachers. I told them honestly that I used skills to prepare for trial that I learned in High School plane geometry. I also told them that the ability to solve math problems would help them in many ways. I gave them examples of math they used every day without realizing it. I have always found the skills I learned doing math from high school through my final course at Harvard helpful in analyzing, organizing, and evaluating many different kinds of problems.
8. For 28 years I worked as an Assistant District Attorney in the Suffolk County District Attorney's Office in Boston, Massachusetts. From 1986 until 2003 I was assigned to the Special Prosecutions Unit of that office. During that time period I acted as the Designated Assistant District Attorney for a number of court authorized wiretaps. As Designated Assistant District Attorney I was authorized by the District Attorney to seek a wiretap warrant. I would then work with investigating officers to ensure that they had collected enough information to justify a wiretap warrant. An investigating officer was not permitted to seek a wiretap warrant directly. An Assistant District Attorney had to read the proposed affidavit to see that it met statutory requirements then I would go with the investigating officers to a Superior court Judge to seek a warrant. At that time the investigating officer would swear to the truth of his affidavit. Then I would have to swear that I had read the investigators affidavit, that I had reviewed it and that it appeared to meet all statutory requirements. On some occasions investigators sought and obtained warrants to intercept facsimile communications (faxes). Before the advent of "smart phones" I was involved in

intercepting "beeper" communications. Interception of voice communications, fax transmissions, and "beeper" communications all required intercept warrants for which I had to verify that the supporting affidavits were in appropriate form and based upon sufficient information to support the proposed intercept warrants. It was the general goal to execute search warrants for physical evidence at the end of the court authorized interceptions. These "normal" search warrants did not legally require my participation but since they were part of an investigation I would still vet the search warrant applications and arrange/coordinate an investigating officer to meet with a judge. On many occasions an investigating officer would seek me out to review a proposed search warrant application and supporting affidavit. This may or may not have been an investigation that I was previously aware of.

9. In addition to Massachusetts state cases I was, on two occasions appointed as a Special Assistant United States Attorney to work on joint investigations. In one instance federal wiretap warrants were sought and obtained. In the other instance state wiretaps were used to support federal prosecutions. As a result I also became aware of the requirements for affidavits in support of federal wiretap warrants and search warrants.
10. Sometimes investigators from other states needed to obtain search warrants related to out of state investigations. If a warrant was needed in the Suffolk County area out-of-state investigators would seek out the Special Prosecutions Unit for assistance in "proofing" affidavits for Massachusetts search warrants. This provided information about procedures in other jurisdictions.
11. Many of the matters I handled were investigatory in nature. As a result, I developed the approach and attitude of a detective. I truly enjoyed following a trail of evidence where ever it led. In one case a detective who now teaches criminal law courses in college said to me "you're a better detective than I am." In that case I was better too.
12. I have also produced and used affidavits for personal business. In my written comments I related an incident in which I was challenged by an employee of the San Patricio Appraisal District about the presence of cattle on our Sinton property. I actually presented a sworn affidavit with a statement of facts and copies of Google Earth printouts showing the presence of cattle. These photo printouts were attached and incorporated by reference into the affidavit.
13. Based upon my experiences I understand an affidavit in support of some proposition needs to be sworn subject to the pains and penalties of perjury. (I

know from personal experience that the term *affiant* is used to refer to the person providing the contents of and swearing to an affidavit.) If the information provided is beyond the affiant's personal knowledge, he/she should indicate the source of his/her information; specificity as to the source is generally expected. The affidavit should contain facts or reasons which support the conclusion that the information is accurate, how it might be documented, and how and where it confirmation could be located if necessary. If a source is actually named the information supplied is generally given more weight or credence than if the information comes from an anonymous source. (Search warrant affidavits often need to be based upon information from anonymous sources. If their identity is revealed such sources can be subject to physical repercussions up to and including their murder. In the case of anonymous sources an investigator is required to indicate why the information from a particular anonymous source should be believed. Sometimes the anonymous source gives detailed information or has given information that led to an arrest or to another fruitful search.)

13. I have encountered or helped edit affidavits of hundreds of pages. Such affidavits start with the relevant core of facts supported by attached exhibits that are incorporated into the affidavit by reference. Producing such affidavits is far simpler than it may seem. A friend who is now a retired Boston Police Officer has often joked that "only one search warrant affidavit was ever written and that the rest have been copies." There is a great deal of truth in that joke. I have seen investigators make comparisons to prior affidavits as they prepare a new one. I have made comparisons between affidavits that have been ruled legally sufficient with affidavits that investigators have sought assistance in proof reading and/or editing.

14. Based upon what I encountered in reviewing the documents provided at the Sinton Public Library and conversations that I had at the public meeting with employees from TCEQ it appeared to me that what are considered affidavits by TCEQ often would not meet the standards that are required and used in other situations. They definitely would not meet the standards that I have used or I have seen used by other affiants in other situations. Ironically my sense was not that information necessary to meet the standards by TCEQ and/or Steel Dynamics did not exist. It seemed to me to be more a matter of "too much trouble" because people did not realize that the time it would take was not nearly as onerous as it appeared.

15. In my years as a prosecutor, I found that most people do not want to lie. They particularly don't want to lie if they know that they are to give sworn testimony or

to make sworn affidavits. This is one reason behind the requirement for affidavits in many situations. If an affidavit is not sworn or gives information that is not verifiable in some way then it is of little evidentiary value. This does not mean the information given is false. It does mean the information provided does not meet the standard required for evidentiary reliability for certain legal purposes.

16. At the public hearing in Sinton on November 17th, 2022, I related an incident that happened to me. I happened to meet a detective that I had known from years back. Somehow the conversation turned to an observation that he had made of two people who were significant in their field of crime. This observation was of no immediate value but one of those things that while of no immediate value but might be in the future. I asked the detective if he documented the meeting. He said no. I responded then it didn't happen. I did not doubt that the meeting had happened but since he hadn't documented the meeting it was as if it hadn't happened. Until he documented the event no one but me would even know about the matter. The failure to document is not unusual in the matter of the Steel Dynamics Mill. I would make the same offer of general advice and/or assistance in affidavit preparation that I intend to make to Dennis Black. But TCEQ staff can probably and should probably get it elsewhere.

17. When on November 17th, 2022, I actually realized the true evidentiary value of some of the affidavits that TCEQ was using I was reminded of two things from my past. If a search warrant was issued (although in my experience almost all no judge would issue) based on TCEQ quality affidavits then evidence seized would almost certainly be suppressed. Any results obtained or maintained by TCEQ quality affidavits, as I understood that quality to be on November 17th, 2022, would be in peril. Orders issued relying on such affidavits could well be deemed *void ab initio* (void from the start) and plants such as Steel Dynamics could be subject to immediate closure orders. I was also reminded of a "major mess" created in the criminal court system of Massachusetts resulting in the dismissal or overturn of thousands of criminal convictions. Then by amazing coincidence that case appeared in the news again. Most of the "mess" involved a woman named Annie Dookhan who worked as an analyst of drugs for criminal prosecution purposes. At some point a police officer who knew her asked her to change an analysis to help his prosecution of someone. She did so for one case. Then she did it for many, many, more cases. Finally it was determined that none of her work for a period of years could be relied upon. As a result over 20000 case had to be dismissed. It appears that she did this first to help one police officer and then she did it too many times thereafter for any of her work to be trusted. I do not think she did it for any type of monetary gain. In this

instance TCEQ might be taking the role of Annie Dookhan by accepting what appear to me to be legally deficient affidavits. This could mean that any decision taken by TCEQ based upon a deficient affidavit could be deemed null and void. (The reader can Google Annie Dookhan for a deeper and better understanding of the "mess.")

18. During the informal session at the Public Hearing of November 17, 2022, I had a conversation with some of the TCEQ legal staff. From my conversation with them I told them what they were using as affidavit was unlike any I had ever seen. I said that in my world these were not affidavits. At the hearing I had occasion to introduce myself to Dennis Black. I had spoken to Mr. Black by phone a couple of times in September. I am not sure but I think he must have handed me his affidavit because I did see it at the public hearing. I think he did this because he was aware of my conversation with TCEQ staff about the affidavits used. I didn't examine Mr. Black's affidavit in any detail. I think I handed it back to Mr. Black. There is no big secret about how to do this. Write a new affidavit and find a way to put in everything. This will become a template. It should be written in a way that will allow for future cut and paste, or probably more accurately, cut and replace. (Then there would only be one Steel Dynamics affidavit and the rest would be copies.) In the short run it will take longer, but in the long run it will be much easier and shorter.
19. I stated to more than one interested party that it was my goal to try to get TCEQ and Steel Dynamics to use different and better affidavits. Seeing unintentional bad work bothers me, good work benefits everyone. When things are fine who cares, but with my life experience as a prosecutor for almost thirty years I am well aware that things don't always go well and my life experience suggests that TCEQ could very easily have its own "mess" at some point in the future. One of my legal mentors was a man that always thought about what could go wrong and tried to plan accordingly. I too always try to plan ahead and I always encourage others to do the same.
20. I was not satisfied with the director's response in Response 1. I think that decision relating to this matter needs to be reconsidered. I know enough biology (and I am sure that most of my high school students did to) to realize that a test for toxicity of Steel Dynamic's effluent (or any other effluent) on water fleas and fathead minnows (or aquatic life) by physically exposing them to the effluent is really not probative relative to its toxicity to cattle. Not only are they very different animals but their interactions with water are totally different. Water Fleas and Fathead Minnows (and aquatic life) swim in water. Cattle drink or ingest water. It may be safe for cattle to wade in the Chiltipin Creek but not safe

to drink the water. This cannot be determined without testing. This past summer our tenant's cattle were only getting water from the Chiltipin Creek. Our tenant's cattle will still always gravitate toward the Creek where the greenest grass can always be found. Cattle ingest water. It is reasonable to assume that some harmful particulate matter might collect inside cattle over a period of time. This would seem to necessitate periodic testing. A test for toxicity to aquatic life swimming around in water is not an appropriate test for that water's toxicity to cattle that drink it. To think otherwise seems to me to be a willful avoidance of the obvious. I have long felt that every cattleman's association in Texas has an interest in this matter. I am certainly sure many cattlemen would find the Director's current approach to Sec 307.6(b)(4) to be troubling. The normal procedure when there is no test standard (criteria) is to use the next higher standard if there is one. (I think I knew that before I ever got involved with the Steel Dynamics Mill). The next higher test is the human test. It is not the human test for safe wading and fishing but the human test for drinking the water. Do the employees of Steel Dynamics drink the effluent? Do TCEQ staff drink the Steel Dynamics effluent?.

21. I would offer the following relative to the appropriate action that should be taken relative to the applicable standard for cattle in this matter. I spoke to Dennis Black two times before I came down to Texas to attend the public hearing on November 17th, 2022. Our first conversation occurred in the afternoon of September 12, 2022. Mr. Black called me on my cell phone because I had left that number as my contact phone. I relayed the information I had received to my sister and my cousins the Hartmann sisters. This was the Monday after I had filed my initial comments. We spoke for a period of 30-60 minutes. He only initially only identified himself as an employee of Steel Dynamics. I let the information I had received from Mr. Black percolate among my cousins and my sister. After a couple of weeks I tried to reach Mr. Black again, but he and he did not call me back. I left messages a couple of times. At some point I left a message using my home phone. I remember this call because I received it on our home phone which I don't often use. We had a conversation of some minutes I told him that I would be away for most of October. I believe it was in this conversation that Mr. Black indicated that Steel Dynamics used the human standard at their Sinton Mill. I stated in words to the effect that "I don't know if you got to the end of my comments but I asked for the application of the human standard". I said that since TCEQ had no standards for cattle it was my understanding you move to the next higher standard. I said words to the effect that in the present situation that "the rule" was to move up to the next higher

standard which in this case would be the human standard. I said "that is what's supposed to happen isn't it." He answered in the affirmative.

22. Before writing my initial comments, attached as Exhibit A, I specifically looked for something in the regulations that could be interpreted as a protection for cattle. I found nothing. I was aware that there were protections for aquatic life. They did not seem relevant to protections off cattle. In this vein I will state that in my conversations with Dennis Black he stated that Steel Dynamics used the human standard and that he thought there was probably some study that might be applicable to cattle that might satisfy my concerns. There was another gentleman from Steel Dynamics at the public hearing who stated something similar to what Mr. Black had told me. Some of the staff from TCEQ stated that they employed the human standard. If the effluent from Steel Dynamics is safe for humans to drink on a steady basis it is probably safe for cattle.
23. I read through all the rules found in Chapter 307 many times in order to understand that the true statutory definition of *existing use* is not to be found as stated in Response 19. (See paragraph 27 below.) I found no protections for cattle either overt or hidden as described in the Director's response. I think his comment that protection for aquatic animals would somehow spill over to cattle is a case of wishful thinking. I am willing to be convinced that the effluent from Steel Dynamics is safe for cattle to drink. So far all I get from TCEQ and Steel Dynamics is a response that is effectively "we think the water is safe for cattle to drink because of something written somewhere." I do not doubt that people believe this to be true, but the response still equals "we think the water is safe for cattle to drink because of something written somewhere." This ultimately means that there are no such protections or "we aren't going to look for it." Either way it is as if no such protections exist.
24. Steel Dynamics chose to open their mill across from our (I, my sister, and my cousins as listed in Exhibit A) land. Cattle were there before Steel Dynamics arrived on the scene. Cattle were present there when TCEQ was first contacted by Steel Dynamics. The burden is on Steel Dynamics and TCEQ to produce evidence that supports their belief that the Chiltipin Creek water is safe to drink. There may be something written somewhere but right now it is as if it never existed.
25. If the appropriate human standard indicates that the water/effluent from Steel Dynamics is safe for people to drink then it ought to be safe for cattle to drink. To date we have not received any indication of this.

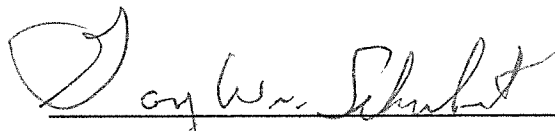
26. I have often told people that if they wanted to understand my impression of TCEQ's view of cattle then imagine TCEQ as a B movie vampire, then imagine cattle as a cross or garlic or a silver bullet or whatever else is harmful to vampires, and then imagine watching TCEQ cringing in fear. Nothing that I have read in the Responses to Comments has changed that impression. I fully understand that TCEQ has an almost existential fear of cattle. I also understand why.

27. I have very strong feelings about the way the term existing use is used by TCEQ. When I first saw the words *existing use* I saw the words in a notice letter. I did not see them in italics. I looked to see if there was a reference to some statutory definition. There was none. (I have encountered such references in many statutory schemes. I have even had occasion to use such reference for a definition in things that I have written.) There was no such reference. Looking for a definition of existing use I found it at Texas Administrative Code Sec. 307.3 (a) (26). I found the word *attained* (emphasis added) in that section, but again there was no cross-reference. *Attained* was not defined in either Sec. 307.3 (a) 26. I later discovered Sec. 307(a)(4) which defines *Attainable use* (emphasis added). Reading the definition of *attainable use* (emphasis added) I clearly saw a connection to existing use. The word *attained* is not defined in Sec 307(a) (4). Sec. 307(a)(4) however did contain a reference to "standards implementing procedures." I found those standards in Sec. 307.9. Upon beginning that section I realized that it consisted of three full pages of text. (A definition of not even two full lines had grown to three full pages of technical prose.) Condensing those 3 pages beyond belief it appeared to me that an existing use had transformed into a water quality standard at a particular point in time. In looking at old published notices for hearings and its use in other situations I found that the term existing use was often presented in a context consistent with a normal dictionary usage of the words existing and use. Every ounce and fiber of my body and every bit of my life experience tells me that this is not an accident. I believe that every notice hearing using that term is negligently, if not intentionally, deceptive. It is deceptive because TCEQ is not consistent in its use. I pointed that out in my initial comments and it appears that no one want to deal with the implications which could be, to say the least, significant.

28. There is reason to believe that the affidavits and/or information provided by Steel Dynamics and the TCEQ staff in support of a change in permitting did not attain the standard of legal reliability to support a change in the current permit. Despite wishful thinking that Sec. 703.6(4) did not exist it does exist. And it still reads "Water in the state must be maintained to preclude adverse toxic effects

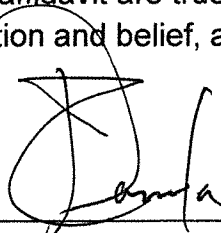
on aquatic life, terrestrial life, livestock, or domestic animals, resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three." I, and most other people, would find issuing a permit to allow the waters of any stream, river, lake, in Texas to receive potentially poisonous effluent without any testing for its affects on cattle would be doing exactly the opposite of the mandate of Sec. 703.6(4). These were cattle that could have been viewed from the Steel Dynamics Mill. They could also be seen by me in Boston via Google. Earth. I believe that the implications of what I wrote in paragraph 27 and in my comments about the varying use of the term existing use should make the initial newspaper notice void because make the initial notice was in fact misleading, Then there is the question about testing cattle for protection from potentially poisonous toxins. There are no testing criteria or standards for cattle. In this situation it is the practice to move up to the next higher standard (if there is one) and use that for testing. If the human standard for drinking water really can be met that probably solves the matter. If it can't be met then the waste water permit under which Steel Dynamics is operating should be suspended because TCEQ would be doing exactly the opposite of the mandate of Sec. 703.(6)(4)

On this the 2nd day of March, 2023, I Gary Wm. Schubert, do herby make oath and affidavit subject to the pains and penalties of perjury that the content of this affidavit are based upon my own personal knowledge, except where indicated to be based on information and belief and as to those matters I believe they are true.



Gary Wm. Schubert

Then personally appeared before me on this the 2nd day of March, 2023, the said Gary Wm. Schubert and made oath and affidavit, subject to the pains and penalties of perjury, that the contents of the above affidavit are true of his own knowledge, except were indicated to be based upon information and belief, and as to those matters that he believes them to be true.



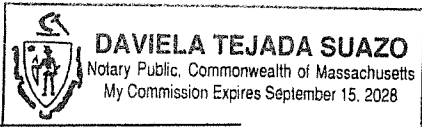

Notary Public, Commonwealth of Massachusetts

Exhibit A

From: donotreply@tceq.texas.gov

Sent: Saturday, September 10, 2022 11:42 AM

To: garywschubert@hotmail.com

Subject: TCEQ Confirmation: Your public comment on Permit Number WQ0005283000 was received.

REGULATED ENTITY NAME STEEL DYNAMICS SOUTHWEST

RN NUMBER: RN110750965

PERMIT NUMBER: WQ0005283000

DOCKET NUMBER:

COUNTY: SAN PATRICIO

PRINCIPAL NAME: STEEL DYNAMICS SOUTHWEST LLC

CN NUMBER: CN605646041

FROM

NAME: Gary William Schubert

EMAIL:

COMPANY:

ADDRESS: 178 WALTER ST
ROSLINDALE MA 02131-1522

PHONE: 6172165359

FAX:

COMMENTS: Request for a Hearing My sister and I now own property that has been in our family for over 60 years. The value of that property has been unfairly and unnecessarily diminished. The land is located in San Patricio County, Texas. I, Gary Schubert; my sister Rosemary Hodges; and my cousins Janet Cumbie, Rebecca Hartmann, Marlene Davis, and Miriam Schubert have together leased this land for twenty years for the pasturing of cattle. The ability to continue to do this affects our income and could even affect our property tax classification. Some of the damage is due to uncertainty that can be minimized. These are my comments and request for a hearing (note that I will be unavailable in October 2022 and request that the hearing be scheduled after that). I make this request for a hearing consistent with the Notice dated July 29, 2022. I make this request to better understand the process of a Tier 1 review and to make public comment. The people listed above have property rights that existed before Steel Dynamics made any application for a permit. That property right was the ability to provide our

Ex. A

tenants, and ourselves, with unpolluted water for livestock. I believe that property right has been damaged and continues to be damaged by actions of the executive director. I do not doubt the executive director's sincerity in his belief that he has made an adequate Tier 1 review. I just as sincerely believe that he has not done a sufficient Tier 1 review. I will explain below.

Introduction: My name is Gary Schubert. Since September of 1971 I have lived in Boston, Massachusetts. Before that I lived in Woodsboro, Texas. I own an undivided half interest in some of the land potentially affected by the Notice. I still own other property in Texas and periodically visit it. Ownership of Our Sinton Land (OSL): I, Rosemary Hodges, and my four cousins, the Hartmann sisters (Miriam Schubert, Marlene Davis, Janet Cumbie, and Rebecca Hartmann) will be further referenced as we six. We six together operate 354.37 acres directly across the Chiltipin Creek from Sinton Steel Dynamics. My father, William W. Schubert, and my uncle Frank W. Hartmann, Jr. bought their land early in the 1960s. I will refer to the 354.37 acres as OSL in the future. OSL is bordered to the north by the Chiltipin Creek and to the south by State Highway 188. There are fences on the east side and the west side. My father bought the land on the west and my uncle Frank bought the land on the east. The two sides differ in size by a fraction of an acre. My sister and I jointly own the western side and the Hartmann sisters likewise own the eastern side.

Water Usage of the Chiltipin Creek for Cattle Began in 1871: The waters of the Chiltipin Creek were first used for watering cattle no later than 1871. In that year it was a northern boundary of a ranch property that was first operated as a partnership and then as a corporation from 1880 to 1930. The Chiltipin Creek not only served as a boundary, but also as a source of water for those years. We six have done the same for the last twenty years. The ability to water cattle in the Chiltipin Creek was and is a thing of value. It was used to promote the business of the ranch property. The Chiltipin Creek is today still a northern boundary of OSL and a source of water for cattle. This was and is an actual usage. Landowners with property adjacent to the Chiltipin Creek have had the right to use water from the Chiltipin Creek to water their cattle since 1871. That right is normally considered a form of property. Since this usage predates any application by Steel Dynamics I will call it a "real prior existing water usage" (RPEWU). Under these circumstances anything other than finding the existing use of the Creek for Tier 1 purposes is watering cattle is a venture into unreality. Such a finding using one of today's popular adjectives would be for a "fake existing use."

Tier 1 and more: The Notice indicates that a Tier 1 review was done. If so it was based on incomplete information and/or in error if any usage other than RPEU was used for Tier 1 purposes. We currently have a tenant, Mollie Mauch Gayle, who has been leasing our land since April 1, 2011, for the pasturing of cattle. Before that it was leased by my cousin Wayne Schubert for the same purpose for at least 10 years. Thus for at least the last twenty years the water of the Chiltipin Creek on OSL has been used for the watering of cattle. My sister and I have been paying a reduced agricultural tax rate specifically because it was being used for raising cattle. (I am sure the same is true for others.) In 2017 our request for a continued agricultural classification was questioned by a representative from the San Patricio Appraisal District. He said he had never seen any cows when he drove by on his way to work. I was able to convince him with photographs from Google Earth that there actually were cattle on our property. If such an examination was done for a Tier 1 evaluation, cattle should have been seen. No fence would be seen blocking off access to the Creek. This should have given rise to the inference that cattle could access the Creek for watering purposes. If the executive director still feels compelled to deny the reality of the cattle usage for Tier 1 purposes, he is then violating the mandate of Rule § 307(b)(4) that the waters of the state "...must be maintained to preclude adverse toxic effects on... livestock." (emphasis added) The present order does exactly the opposite of that mandate.

Other Chemicals with Possible Effects on Cattle: I looked through the materials left at the Sinton Public Library at the direction of the executive director. I began looking for items that might be relevant to cattle, but not for toxicity. I wasn't looking for toxicity in general. I was looking for items that might specifically indicate that ingestion was a problem. I generally focused on the Data Safety Sheets. I noted NALCO TRAC113 could react with certain amines and produce cancer-

Ex. A

causing agents: NALCO 77352 Rinse Mouth if swallowed, do not induce vomiting Harmful to Aquatic life; Nalco Water Perma Clean PC-11 – Toxic if swallowed or inhaled, Toxic if swallowed; STABREX ST 70 Toxic to Aquatic life, NALCO Water Tri-ACTTM1820 Suspected of damaging fertility or the unborn child; and ControBrom Tri-ACTTM 1820 Harmful if swallowed. These are some of the materials that cattle are currently being exposed to in Steel Dynamic effluent. Present Order as a Violation of §307(b)(4): There was testing done to determine the toxicity of chemicals and other material as relates to water bugs and minnows. Accepting for the moment that these tests did not show significant toxicity, they still did not relate to their toxicity to cattle that actually drink water from the Creek on a continuing basis. Cows don't swim in the water or fish. They drink water on a daily basis. And they can be expected to accumulate any harmful materials ingested over a period of time. This will generally require periodic retesting. Unless and until some testing for toxicity to livestock can be performed it cannot be known whether the 1,200,000 daily gallons of effluent do or do not have any adverse toxic effects on cattle. Previous testing on water bugs and minnows was just not relative to the toxicity of material in cows. To permit the continued release of effluent when it will obviously be ingested by cattle without any effort to determine its toxicity to cattle is unacceptable. RPEWU vs. Existing Uses: What I call RPEU and "existing uses" are really different things. The first would be considered a form of existing property. The second is a purely statutory creation to make people believe that their property rights are safe. The statutory creation, because it does not give actual specific notice that it is a taking of property, is, and would be found to be, ineffective in eliminating RPEWU. It could be fairly argued, and I do, that since the Rules and Regulations do not even acknowledge the existence of RPEWU, then RPEWU is in no way subject to any Rules and Regulations. RPEWU is in effect totally outside the Rules and Regulations framework. (As strange as it may seem that is actually what the authors of the current Rules and Regulations intended. I will leave it at that.) Input from our Tenant: On August 18, 2022, I asked Ms. Gayle what was the current source of water for her cattle. She said that the only source of water for her cattle was the Chiltipin Creek. She then said then that her cattle would gravitate to the Creek because "the grass was always greener there." If cattle were physically near the creek and they were thirsty they would drink water from the Creek. Ms. Gayle's current lease began over four years ago. Then, as now, she was using the naturally flowing water of the Chiltipin Creek for her cattle. This was something we had provided her with for years in the past. We expected to be able to provide it and she expected to receive it. The executive director's actions arbitrarily changed that RPEWU. The cattle were always there. That usage did not change. That usage was also prior in time to the application of Steel Dynamics. No notice was ever given alerting to effects on cattle. Since the TCEQ does not acknowledge existence of something that really existed this makes any order impinging on it null from the start. I could go to court and ask that the initial order be reversed and the Steel Mill shut down. I am not asking that, what I am asking for is rationality. I am asking that the court order testing be done to determine the toxicity of the current effluent on cattle. I am aware that there are no current standards for that. In that situation, the next closest existing standard is usually the next choice. The Human Health Criteria of Rule §307.6(d)(2)(A) would be a good place to look.

Based on TCEQ rule Section 1.10(h), the TCEQ General Counsel has waived the filing requirements of Section 1.10(c) to allow the filing of comments, requests, or withdrawals using this online system. The General Counsel also has waived the requirements of Section 1.10(e) so that the time of filing your electronic comments or requests is the time this online system receives your comments or requests. Comments or requests are considered timely if received by 5:00 p.m. CST on the due date.

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173 WALTER STREET
ROSLINDALE, MA 02131

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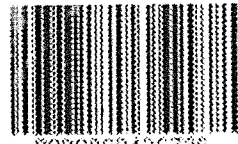
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Debbie Zachary

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Subject: FW: Public comment on Permit Number WQ0005283000

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From: garywschubert@hotmail.com <garywschubert@hotmail.com>
Sent: Saturday, September 10, 2022 10:43 AM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0005283000

REGULATED ENTY NAME STEEL DYNAMICS SOUTHWEST

RN NUMBER: RN110750965

PERMIT NUMBER: WQ0005283000

DOCKET NUMBER:

COUNTY: SAN PATRICIO

PRINCIPAL NAME: STEEL DYNAMICS SOUTHWEST LLC

CN NUMBER: CN605646041

FROM

NAME: Gary William Schubert

EMAIL: garywschubert@hotmail.com

COMPANY:

ADDRESS: 178 WALTER ST
ROSLINDALE MA 02131-1522

PHONE: 6172165359

FAX:

COMMENTS: Request for a Hearing My sister and I now own property that has been in our family for over 60 years. The value of that property has been unfairly and unnecessarily diminished. The land is located in San Patricio County, Texas. I, Gary Schubert; my sister Rosemary Hodges; and my cousins Janet Cumbie, Rebecca Hartmann, Marlene Davis, and Miriam Schubert have together leased this land for twenty years for the pasturing of cattle. The ability to continue to do this affects our income and could even affect our property tax classification. Some of the damage is due to uncertainty

that can be minimized. These are my comments and request for a hearing (note that I will be unavailable in October 2022 and request that the hearing be scheduled after that). I make this request for a hearing consistent with the Notice dated July 29, 2022. I make this request to better understand the process of a Tier 1 review and to make public comment. The people listed above have property rights that existed before Steel Dynamics made any application for a permit. That property right was the ability to provide our tenants, and ourselves, with unpolluted water for livestock. I believe that property right has been damaged and continues to be damaged by actions of the executive director. I do not doubt the executive director's sincerity in his belief that he has made an adequate Tier 1 review. I just as sincerely believe that he has not done a sufficient Tier 1 review. I will explain below.

Introduction: My name is Gary Schubert. Since September of 1971 I have lived in Boston, Massachusetts. Before that I lived in Woodsboro, Texas. I own an undivided half interest in some of the land potentially affected by the Notice. I still own other property in Texas and periodically visit it. Ownership of Our Sinton Land (OSL): I, Rosemary Hodges, and my four cousins, the Hartmann sisters (Miriam Schubert, Marlene Davis, Janet Cumbie, and Rebecca Hartmann) will be further referenced as we six. We six together operate 354.37 acres directly across the Chiltipin Creek from Sinton Steel Dynamics. My father, William W. Schubert, and my uncle Frank W. Hartmann, Jr. bought their land early in the 1960s. I will refer to the 354.37 acres as OSL in the future. OSL is bordered to the north by the Chiltipin Creek and to the south by State Highway 188. There are fences on the east side and the west side. My father bought the land on the west and my uncle Frank bought the land on the east. The two sides differ in size by a fraction of an acre. My sister and I jointly own the western side and the Hartmann sisters likewise own the eastern side.

Water Usage of the Chiltipin Creek for Cattle Began in 1871: The waters of the Chiltipin Creek were first used for watering cattle no later than 1871. In that year it was a northern boundary of a ranch property that was first operated as a partnership and then as a corporation from 1880 to 1930. The Chiltipin Creek not only served as a boundary, but also as a source of water for those years. We six have done the same for the last twenty years. The ability to water cattle in the Chiltipin Creek was and is a thing of value. It was used to promote the business of the ranch property. The Chiltipin Creek is today still a northern boundary of OSL and a source of water for cattle. This was and is an actual usage. Landowners with property adjacent to the Chiltipin Creek have had the right to use water from the Chiltipin Creek to water their cattle since 1871. That right is normally considered a form of property. Since this usage predates any application by Steel Dynamics I will call it a "real prior existing water usage" (RPEWU). Under these circumstances anything other than finding the existing use of the Creek for Tier 1 purposes is watering cattle is a venture into unreality. Such a finding using one of today's popular adjectives would be for a "fake existing use."

Tier 1 and more: The Notice indicates that a Tier 1 review was done. If so it was based on incomplete information and/or in error if any usage other than RPEU was used for Tier 1 purposes. We currently have a tenant, Mollie Mauch Gayle, who has been leasing our land since April 1, 2011, for the pasturing of cattle. Before that it was leased by my cousin Wayne Schubert for the same purpose for at least 10 years. Thus for at least the last twenty years the water of the Chiltipin Creek on OSL has been used for the watering of cattle. My sister and I have been paying a reduced agricultural tax rate specifically because it was being used for raising cattle. (I am sure the same is true for others.) In 2017 our request for a continued agricultural classification was questioned by a representative from the San Patricio Appraisal District. He said he had never seen any cows when he drove by on his way to work. I was able to convince him with photographs from Google Earth that there actually were cattle on our property. If such an examination was done for a Tier 1 evaluation, cattle should have been seen. No fence would be seen blocking off access to the Creek. This should have given rise to the inference that cattle could access the Creek for watering purposes. If the executive director still feels compelled to deny the reality of the cattle usage for Tier 1 purposes, he is then violating the mandate of Rule § 307(b)(4) that the waters of the state "...must be maintained to preclude adverse toxic effects on... livestock." (emphasis added) The present order does exactly the opposite of that mandate.

Other Chemicals with Possible Effects on Cattle: I looked through the materials left at the Sinton Public Library at the direction of the executive director. I began looking for items that might be relevant to cattle, but not for toxicity. I wasn't looking for toxicity in general. I was looking for items that might specifically indicate that ingestion was a problem. I generally focused on the Data Safety Sheets. I noted NALCO TRAC113 could react with certain amines and produce cancer-causing agents: NALCO 77352 Rinse Mouth if swallowed, do not induce vomiting Harmful to Aquatic life; Nalco Water Perma Clean PC-11 – Toxic if swallowed or inhaled, Toxic if swallowed; STABREX ST 70 Toxic to Aquatic life, NALCO Water Tri-ACTTM1820 Suspected of damaging fertility or the unborn child; and ControBrom Tri-ACTTM 1820 Harmful if swallowed. These are some of the materials that cattle are currently being exposed to in Steel Dynamic effluent.

Present Order as a Violation of §307(b)(4): There was testing done to determine the toxicity of chemicals and other material as relates to water bugs and minnows. Accepting for the moment that these tests did not show significant toxicity, they still did not relate to their toxicity to

cattle that actually drink water from the Creek on a continuing basis. Cows don't swim in the water or fish. They drink water on a daily basis. And they can be expected to accumulate any harmful materials ingested over a period of time. This will generally require periodic retesting. Unless and until some testing for toxicity to livestock can be performed it cannot be known whether the 1,200,000 daily gallons of effluent do or do not have any adverse toxic effects on cattle. Previous testing on water bugs and minnows was just not relative to the toxicity of material in cows. To permit the continued release of effluent when it will obviously be ingested by cattle without any effort to determine its toxicity to cattle is unacceptable.

RPEWU vs. Existing Uses: What I call RPEU and "existing uses" are really different things. The first would be considered a form of existing property. The second is a purely statutory creation to make people believe that their property rights are safe. The statutory creation, because it does not give actual specific notice that it is a taking of property, is, and would be found to be, ineffective in eliminating RPEWU. It could be fairly argued, and I do, that since the Rules and Regulations do not even acknowledge the existence of RPEWU, then RPEWU is in no way subject to any Rules and Regulations. RPEWU is in effect totally outside the Rules and Regulations framework. (As strange as it may seem that is actually what the authors of the current Rules and Regulations intended. I will leave it at that.)

Input from our Tenant: On August 18, 2022, I asked Ms. Gayle what was the current source of water for her cattle. She said that the only source of water for her cattle was the Chiltipin Creek. She then said then that her cattle would gravitate to the Creek because "the grass was always greener there." If cattle were physically near the creek and they were thirsty they would drink water from the Creek. Ms. Gayle's current lease began over four years ago. Then, as now, she was using the naturally flowing water of the Chiltipin Creek for her cattle. This was something we had provided her with for years in the past. We expected to be able to provide it and she expected to receive it. The executive director's actions arbitrarily changed that RPEWU. The cattle were always there. That usage did not change. That usage was also prior in time to the application of Steel Dynamics. No notice was ever given alerting to effects on cattle. Since the TCEQ does not acknowledge existence of something that really existed this makes any order impinging on it null from the start. I could go to court and ask that the initial order be reversed and the Steel Mill shut down. I am not asking that, what I am asking for is rationality. I am asking that the court order testing be done to determine the toxicity of the current effluent on cattle. I am aware that there are no current standards for that. In that situation, the next closest existing standard is usually the next choice. The Human Health Criteria of Rule §307.6(d)(2)(A) would be a good place to look.

TCEQ Registration Form

November 17, 2022

Steel Dynamics Southwest, LLC

Proposed Amendment to TPDES Permit No. WQ0005283000

PLEASE PRINT

Name: GARY W. SCHUBERT

Mailing Address: 178 WALTER ST, ROSLINDALE, MA 02131

Physical Address (if different): _____

City/State: BOSTON, MA Zip: 02131

This information is subject to public disclosure under the Texas Public Information Act

Email: garywschubert@hotmail.com

Phone Number: (617) 216-5359

• Are you here today representing a municipality, legislator, agency, or group? Yes No

If yes, which one? _____

Please add me to the mailing list.

I wish to provide formal *ORAL COMMENTS* at tonight's public meeting.

I wish to provide formal *WRITTEN COMMENTS* at tonight's public meeting.

(Written comments may be submitted at any time during the meeting)

Please give this form to the person at the information table. Thank you.