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May 1, 2023

Office of Chief Clerk
ATT: Agenda Docket Clerk
Mail Code 105
TCEQ
P. O. Box 13087
Austin, Texas 78711-3087

RE: Docket No. 2023-0442-IWD
Steel Dynamics Southwest, LLC (Applicant)
Permit No. WQ0005283000
Request(s) filed on Permit NO. WQ0005283000

Dear Chief Clerk, TCEQ,

On behalf of myself, Janet Cumbie, and my sisters, Marlene Davis, Miriam Schubert, and Becky Hartmann, in the matter of TPDES Permit NO. WQ0005283000, we ask that the Commission to grant our Request for Reconsideration and, alternatively, if the Request for Reconsideration is denied we request that the matter be set for a Contested Hearing. We wish to continue to receive any communication at our individual mailing addresses as listed at the end of this document.

We each share a $\frac{1}{4}$ undivided interest in property we own at Hwy 188, Sinton, Texas, 78387, which is listed with the San Patricio Appraisal District as:

Property ID 1030341 – E PT Blk 1 Sec 2 G H Paul of the CFP CO IN SAP RY 65.18 Legal Acres

Property ID 1030416 - ABST 413 D W HODGES SUR 93 AC RES 93 Legal Acres

Property ID 1030259 – ABSST 251 W W SMITH SUR 19.01 Legal Acres

which represents a total of 177.19 Acres.

The property originally purchased by our father and our uncle, which includes property owned by our cousins, Gary Schubert and Rosemary Hodges, expands approximately 3,200 linear feet of the back property line that runs along Chiltipin Creek.



The area indicated by a yellow outline in this picture shows the combined acreage belonging to our cousins and to us in relation to the Steel Dynamic Mill. The property belonging to my sisters and me is to the East of “Oliver Creek”, the water source running through the center of the property.

We Received the Executive Director’s Response to Hearing Requests and Request for Reconsideration. We disagree with the Executive Director of the Commission of TCEQ conclusion that we “are not affected persons.” The Executive Director only presented our property’s location in relation to the discharge site. He did not consider natural circumstances of weather, wind, storm surge and water flow in presence of debris and changing river bed in making his decision in determining whether we are “affected persons”. We understand that if the Commission finds us as affected persons, the Executive Director recommends referring the following issues, numbered by TCEQ, to SOAH:

- Issue #1** Whether the draft permit is protective of the environment.
- Issue #2** Whether the draft permit is protective of cattle that drink from surface water along the discharge route.
- Issue #7** Whether the draft permit is protective of ground water and drinking water.
- Issue #8** Whether the draft permit complies with applicable antidegradation requirements.
- Issue #9** Whether TCEQ had the authority and ability to enforce the provisions in the draft permit

We received the Office of Public Interest Counsel’s Response to Requests for Hearing and Requests for Reconsideration. We agree with the Office of Public Interest Counsel’s conclusion that we “qualify as affected persons”. We further agree with the following:

1. Our concerns about water quality and its related impact to the livestock on our property are interests that are protected by law.
2. As our property is near the Steel Dynamic’s discharge, a reasonable relationship exists between our interests and the Facility’s activity.
3. Our location increases the likelihood that Steel Dynamic’s operations will impact our use of property.
4. Our proximity, in combination with our stated interests, which include but are not limited to leasing our land to tenants for the purpose of raising cattle, demonstrates that we are likely to be affected in a way not common to members of the general public and thus possess personal justiciable interests in this matter.

We also agree with the OPIC that the following issues (numbered by OPIC) are relevant and material and should be recommended to SOAH for a contested case hearing:

1. Whether the Facility and draft permit are adequately protective of water quality, including stormwater runoff and ground water.
2. Whether the Facility and draft permit are adequately protective of human health and animal life, including livestock.
3. Whether the Executive Director’s antidegradation review was adequate, including correct characterization of the existing uses of the receiving waters.
4. Whether the Executive Director adequately considered the Applicant’s compliance history?

We contend that a request for a Contested Hearing is a valid request because as owners with an undivided interest in property directly across Chiltipin Creek from the Steel Dynamics Sinton Mill we are an “affected person” with a “personal justiciable interest” related to a legal right, duty, privilege, power or economic interest which would be affected by the application in a manner not common to the general public.

We received Steel Dynamics Southwest, LLC’s Response to Requests for Reconsideration and for Contested Case Hearing. Based on the Office of Public Interest Counsel’s Conclusion that we “qualify as affected persons”, we present Steel Dynamic’s arguments and our response to those arguments:

1. **Argument:** “Steel Dynamics already has a TPDES Permit issued April, 2021.”

Response: As landowners indicated in the “buffer zone”, the first letter we received regarding the Permit was dated December 9, 2021, and was postmarked December 21, 2023, which indicated there would be outfalls into Chiltipin Creek. As per an article in the Caller Times, dated April 5, 2021, TAPs and Steel dynamics had “recently issued a joint statement announcing a settlement agreement.” The Permit was still being amended as of the letter we received from TCEQ, dated July 29, 2021. Any Permit allowing the discharge of wastewater into Chiltipin Creek, which lies along our northern property line, affects our interests.

2. **Argument:** “Reduce the allowable daily average flow of treated process wastewater Allowed to be discharged to Chiltipin Creek (the “TAP Agreement”)”

Response: Although we support TAP’s efforts to promote responsible water management to secure freshwater inflow, their emphasis is on protecting the whooping cranes and blue crabs. We commend them specifically for filing the Water Quality Complaint against Steel Dynamics citing the Texas Water Code, Chapter 26 Water Quality Control Section Sec. 26.07 (c). However, the Interests and concerns of TAP and any agreements with TAP do not necessarily reflect the full and specific interests and protection of landowners directly adjacent to the Steel Dynamics Mill. The sole income and property usage of the land which we own is leased to tenants for the purpose of raising cattle. The Chiltipin Creek has been the main source of water for the livestock that drink directly from the creek. The likelihood of the cattle and the wildlife, including deer and turkey, present on our property, ingesting the many harmful minerals including “copper, lead, chromium, cyanide, naphthalene, nickel, tetrachloroethylene, zinc”, that remain in the effluent wastewater, is far greater than that for crabs and whooping cranes.

Response: In a press release, dated November 11, 2020, and accessed at <https://www.jimblackburninfo.com> , Jim Blackburn, President of TAP Board of Directors, recommended that one solution be to “go to a zero-discharge wastewater permit and use large ponds or land application”. He continued, “This discharge does not belong in Chiltipin Creek...”. We agree. This discharge does not belong in Chiltipin Creek and propose that TCEQ require Steel Dynamics to implement a zero-discharge wastewater permit.

3. **Argument:** “Commenter owns property...roughly 87 feet upstream of Steel Dynamics’ Outfall 001....”

Response: The current Amendment shows and direct observation revealed wastewater drainage into Chiltipin Creek directly across from our property. (See picture below)



The red mark in this picture shows where the wastewater flowed into the Chiltipin Creek as I observed it in October, 2022, and as it has been positioned until recently. This drainage was flowing into Chiltipin Creek directly across from our property.

Family members who frequent the property and our tenant have reported that the drainage location into Chiltipin Creek has been recently moved approximately 380 feet to the east. The change in location of the outflow of wastewater from Steel Dynamics was observed and documented in December, 2022.



The current relocated placement of the wastewater drainage is at the far right "dot" as indicated in this picture.

We question whether this movement was in response to the complaints made in these proceedings. In viewing maps supplied in this Permit, the change in location of wastewater discharge into Chiltipin Creek at our neighbor's property is not in compliance with this proposed Permit. Does this mean that Steel Dynamics can change locations of wastewater flow into Chiltipin Creek as it meets their needs without consideration of the Permit or of the landowners affected by that change? Our tenant reports that the cattle have access to the creek where the wastewater discharge has been changed and that they drink water from the Chiltipin creek at the new location. Because of the curve in the creek at the spot of the NEW location of wastewater discharge, there is no fencing and therefore no way to prevent the cattle from drinking from that location. Through the years, it has been impossible to construct and maintain fencing on our property line in that area.

Response: Considering natural circumstances of weather, wind, storm surge, rain, increased water flow, presence of debris and changing river bed location, placement of wastewater drainage, “87 feet upstream” does not guarantee there will be no contamination from deposited wastewater.

4. **Argument:** “Commenter does not occupy that property....”

Response: Commenter OWNS that property. We do not have to live on our property to be an “affected person” with a “personal justiciable interest” related to a legal right, duty, privilege, power or economic interest”. We have a tenant who grazes cattle on our property. We and our family members frequent the property to camp, hunt deer, turkey and wild hogs and to enjoy the outdoor beauty of our property in its natural state. We have maintained from the beginning of these proceedings that we have a legal right, privilege and economic interest in the ownership and use of our property. Our primary economic use and concern is for the livestock that are on the property as they consume the water, including the wastewater, in Chiltipin Creek.

5. **Argument:** The comments and request reflect general concerns of the public related to water quality or the environment of a general character. They do not rise to the level of statements of imminent harm or injury personal to the requester or its property that will be suffered if the amendments to the permit are granted.

Response: Water quality as it is drained into the Chiltipin Creek at our property is very SPECIFIC to us. We are requesting higher standards of testing for water quality as a measure of proactivity so that statements of harm or injury can be avoided in the future.

We respectfully ask that the Commission grant our Request for Reconsideration and, alternatively, if the Request for Reconsideration is denied we request that the matter be set for a Contested Hearing. We ask for the opportunity to raise our concerns allowing all other concerned parties involved to have a voice and accountability to the proper procedures, expectations and requirements of the TCEQ and not harm the integrity of this process.

Respectfully Submitted,

Janet Cumbie

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This Request was sent electronically and mailed on May 1, 2023 to:

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www.tceq.texas.gov/goto/efilings

This Request was mailed on May 1, 2023 to the names and addresses below:

For the Applicant

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Jon Ritter, Environmental Engineer
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For the Executive Director

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