

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**AN INTERIM ORDER** concerning the application by Steel Dynamics Southwest, LLC for amended TPDES Permit No. WQ0005283000; TCEQ Docket No. 2023-0442-IWD.

On May 10, 2023, the Texas Commission on Environmental Quality (Commission) considered during its open meeting the requests for hearing and requests for reconsideration concerning the application by Steel Dynamics Southwest, LLC for amended TPDES Permit No. WQ0005283000 in San Patricio County, Texas. The requests for hearing and requests for reconsideration were evaluated under the requirements in the applicable statutes and Commission rules, including 30 Texas Administrative Code Chapter 55. The Commission also considered the responses to the requests for hearing filed by the Executive Director, the Office of Public Interest Counsel and the Applicant; the replies; all timely public comment; and the Executive Director's Response to Comment.

After evaluation of all relevant filings, the Commission determined that Janet Cumbie, Marlene Davis, Miriam Schubert, and Rebecca Hartmann (filing jointly); and Gary Schubert qualified as affected persons and granted their hearing requests. The Commission determined to refer the hearing request of Richard Gingrich, Jr., to the State Office of Administrative Hearings (SOAH) for an affectedness determination. The Commission denied all other hearing requests. The Commission next determined whether the requests for hearing raised disputed issues of fact

or mixed questions of fact and law that were raised by these affected persons during the comment period, and which are relevant and material to the decision on the application. The Commission determined that the following issue met those requirements and directed that the issue be referred to SOAH for contested case hearing:

Issue 1: Whether the draft permit is protective of water quality under the applicable surface water quality standards and the designated uses of the discharge route;

Issue 2: Whether the draft permit is protective of wildlife and livestock in the immediate vicinity of the proposed Facility and the discharge route;

Issue 3: Whether the draft permit is protective of the health of residents in the immediate vicinity of the proposed Facility and the immediate discharge route;

Issue 4: Whether the draft permit is protective of groundwater in the area; and

Issue 5: Whether the Application's antidegradation review was sufficient under the Commission's applicable rules and procedures.

The Commission determined to refer the following additional issues if SOAH determines that Mr. Gingrich's hearing request demonstrated affectedness:

Issue 6: Whether the Applicant's compliance history for the previous five years raises issues regarding the Applicant's ability to comply with the material terms of the permit that warrant altering the terms of the draft permit; and

Issue 7: Whether the draft permit contains adequate monitoring and reporting requirements to demonstrate compliance with its material terms.

The Commission specified that the maximum duration of the contested case hearing shall be 180 days from the date of the preliminary hearing until the proposal for decision is issued by SOAH.

The Commission determined to deny the requests for reconsideration. Finally, the Commission

determined to refer the matter to the Commission's Alternative Dispute Resolution Program to run concurrently with SOAH's scheduling process.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

- 1) The hearing requests of Janet Cumbie, Marlene Davis, Miriam Schubert, and Rebecca Hartmann; and Gary Schubert, are GRANTED;
- 2) The hearing request of Richard Gingrich, Jr., is REFERRED to SOAH for an affectedness determination;
- 3) All other hearing requests are DENIED;
- 4) The following issues are REFERRED to SOAH for a contested case hearing regarding the application:

Issue 1: Whether the draft permit is protective of water quality under the applicable surface water quality standards and the designated uses of the discharge route;

Issue 2: Whether the draft permit is protective of wildlife and livestock in the immediate vicinity of the proposed Facility and the discharge route;

Issue 3: Whether the draft permit is protective of the health of residents in the immediate vicinity of the proposed Facility and the immediate discharge route;

Issue 4: Whether the draft permit is protective of groundwater in the area; and

Issue 5: Whether the Application's antidegradation review was sufficient under the Commission's applicable rules and procedures;

- 5) The following additional issues are REFERRED to SOAH for a contested case hearing if SOAH determines that Mr. Gingrich's hearing request demonstrated affectedness:

Issue 6: Whether the Applicant's compliance history for the previous five years raises issues regarding the Applicant's ability to comply with the material terms of the permit that warrant altering the terms of the draft permit; and

Issue 7: Whether the draft permit contains adequate monitoring and reporting requirements to demonstrate compliance with its material terms;

- 6) The maximum duration of the hearing is SET at 180 days from the date of the preliminary hearing until the date the proposal for decision is issued by SOAH;

- 7) The matter is REFERRED to the Commission's Alternative Dispute Resolution Program to run concurrently with SOAH's scheduling process; and
- 8) The requests for reconsideration are DENIED;
- 9) If any provision, sentence, clause or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

**TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

  
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**Jon Niermann, Chairman**

5/15/23  
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**Date Signed**