

Mr. Rochelle's Direct Line: (512) 322-5810
E-mail: mrochelle@lglawfirm.com

February 5, 2007

VIA FACSIMILE & HAND DELIVERY

Ms. LaDonna Castañuela, Chief Clerk
Texas Commission on
Environmental Quality
Office of the Chief Clerk, MC-105
12100 Park 35 Circle, Building F
Austin, Texas 78753

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2007 FEB - 5 PM 3:22
CHIEF CLERKS OFFICE

RE: Little Princess's Investment Company's Motion to Overturn Elan Development,
L.P.'s Proposed Water Quality Permit, No. WQ0014694001; TCEQ Docket No.
2007-0012-MWD (638-49)

Dear Ms. Castañuela:

Enclosed for filing are one original and 12 copies of the Applicant Elan Development,
L.P.'s Response to Little Princess's Investment Company's Motion to Overturn in the above-
referenced matter. Please return a file-stamped copy for our records.

Thank you for your time and attention to this matter.

Sincerely,



Martin C. Rochelle

MCR:mb
638\49\ltr070205djk1

Enclosures

cc: Service List

TCEQ DOCKET NO. 2007-0012-MWD

ELAN DEVELOPMENT, L.P.'S
APPLICATION TO OBTAIN A TPDES
PERMIT TO DISCHARGE DOMESTIC
WASTEWATER, PROPOSED PERMIT
NO. WQ0014694001

§
§
§
§
§

BEFORE THE TEXAS COMMISSION
ON
ENVIRONMENTAL QUALITY

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
FEB - 5 PM 3:28
CHIEF CLERK'S OFFICE

APPLICANT ELAN DEVELOPMENT, L.P.'S RESPONSE TO LITTLE PRINCESS'S
INVESTMENT COMPANY'S MOTION TO OVERTURN

To: *The Office of the Chief Clerk of the Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.*

COMES NOW, Elan Development, L.P. ("Applicant" or "Elan"), by and through its undersigned attorneys of record, and files this its Response to Little Princess's Investment Company's ("LPIC") Motion to Overturn in the above-referenced matter with the Office of the Chief Clerk ("OCC") of the Texas Commission on Environmental Quality ("TCEQ" or "Commission"), and for cause would respectfully show the following:

I. INTRODUCTION

In March, 2006, Elan filed an application with the TCEQ to obtain a domestic wastewater discharge permit for Saddleridge Ranch in Montgomery County, Texas (the "Application"), seeking an authorization to discharge treated domestic wastewater at an annual average flow not to exceed 1 million gallons per day. In the Application, Elan identified that the proposed wastewater treatment plant ("WWTP") would be located northeast of the intersection of F.M. 1314 and Calhoun Road. The proposed discharge route identified in the Application calls for treated effluent to exit the WWTP site through a 24" RCP effluent pipe, thence flowing into an onsite drainage channel, thence through a pumped detention pond, thence traveling southeast

through a drainage channel which flows under Old Houston Road through a culvert, thence through a series of drainage ditches, thence to Dry Creek, and thence to Caney Creek, in Segment 1010 of the San Jacinto River Basin.

II. PROCEDURAL HISTORY

The TCEQ received Elan's Application for a Texas Pollutant Discharge Elimination System ("TPDES") on March 6, 2006, and the Executive Director deemed the Application administratively complete on May 31, 2006. In accordance with Title 30 Texas Administrative Code § 39.418 (b)(1), the Notice of Receipt of Application and Intent to Obtain a Water Quality Permit was published by the Applicant on June 21, 2006 in *The Courier*, the newspaper of largest circulation in Montgomery County, Texas. See Attachment "A". Elan also made a copy of its administratively complete Application available for review and copying at the Montgomery County Library, R.B. Tullis Branch, located at 21130 U.S. Highway 59, #K, New Caney, Texas, a public place in Montgomery County, Texas. See Attachment "B". Pursuant to the Commission's applicable notice rules, the Application was available at this library from the first day of newspaper publication of the Notice of Receipt of Application and Intent to Obtain Permit and remained available throughout the comment period and as defined in the published notice. See 30 TEX. ADMIN. CODE § 39.405 (g)(1)(2007).

As to mailed notice for this initial notice, on May 23, 2006, the Water Quality Applications Team received a letter from the engineer for Elan containing a list of landowners that should receive the Notice of Receipt of Application and Intent to Obtain a Water Quality Permit through the mail. See Attachment "C". Specifically, one of the 74 landowners on this mailing list was "Little Princess Investment Co., P.O. Box 1762, Porter, Texas 77365-1762." *Id.* at page 8 (Landowner No. 63). The records of the OCC reflect that mailed notice was provided

to LPIC at the same address, and while the OCC routinely maintains copies of mailed notices that are returned, the OCC's file in this matter does not contain any evidence that the notice to LPIC was returned. *See* Attachment "D", p. 6.

The Commission completed its technical review of the application and prepared a preliminary decision and draft permit on September 14, 2006. Thereafter, Elan published the Executive Director's Notice of Application and Preliminary Decision, in accordance with the Commission's rules. *See* 30 TEX. ADMIN. CODE § 39.419 (b)(2007). On October 6, 2006, Elan published this second notice in *The Courier*, the newspaper of largest circulation in Montgomery County, Texas. *See* Attachment "E". On October 27, 2006, the Applicant also published the notice in *El Sol Newspaper*, a newspaper generally circulated in Harris and Montgomery Counties, Texas, published primarily in the Spanish language. *See* Attachment "F". Pursuant to the Commission's rules regarding public notice of the Application, Elan made a copy of the Application and the Executive Director's Preliminary Decision available for review and copying at the Montgomery County Library, R.B. Tullis Branch, beginning on the first day of this second newspaper publication in *The Courier*, and such documents are still posted today. *See* Attachment "G"; *see also* 30 TEX. ADMIN. CODE § 39.405 (g)(2).

As to the mailed Notice of Application and Preliminary Decision, the records of the TCEQ's OCC indicate that mailed notice was provided to LPIC at the same address as the Notice of Receipt of Application and Intent to Obtain a Permit. *See* Attachment "H", p. 4. Further, the OCC's file for the Application does not contain any evidence that this second notice to LPIC was returned.

The public comment period to request a contested case hearing for the Application closed on November 27, 2006, and no requests for a contested case hearing were filed during this period. On December 4, 2006, over 5 months after the original notice had been provided,

Jeffrey D. Lochore, on behalf of LPIC, submitted a request for contested case hearing. *See* Attachment "I". Since the hearing request was untimely and because Elan met the Commission's substantive requirements to obtain a TPDES permit, the Executive Director issued a Permit to Discharge Waste No. WQ0014694001 (the "Permit") to Elan on December 11, 2006. On January 8, 2007, LPIC also filed a Motion to Overturn the Executive Director's action in granting the Permit. *See* Attachment "J".

Here, Elan requests that the Commission deny LPIC's Motion to Overturn because the Applicant has fully complied with the Commission's procedural and substantive rules to obtain a TPDES permit.

III. ARGUMENT

LPIC's Motion to Overturn the issuance of the Permit should be denied where the Executive Director properly (1) excluded LPIC's untimely request for a contested case hearing; and (2) determined that Elan's Application met the Commission's procedural rules regarding published, mailed, and public notices of the Application, and the agency's substantive requirements concerning issuance of TPDES permits. First, the Commission's rules require that a request for contested case hearing must be filed before the conclusion of the public comment period. 30 TEX. ADMIN. CODE § 55.201 (a)(2007). Here, LPIC's request for a contested case hearing was clearly filed after the conclusion of the public comment period. In LPIC's Motion to Overturn, LPIC admits that its December 1, 2006 (received by the TCEQ on December 4, 2006) request for a contested case hearing was filed late.

Second, despite LPIC's allegations, it is appropriate to conclude that the OCC successfully completed its mailed notice to the landowners identified in the Application. Under the Commission's rules for mailed notice, "[m]ailing is complete upon deposit of the document,

enclosed in a prepaid, properly addressed wrapper, in a post office or official depository of the United States Postal Service.” 30 TEX. ADMIN. CODE § 39.405(c)(2007). Here, LPIC was included in the Applicant’s landowner service list; and, the TCEQ’s public file for the Permit, maintained in the OCC, contains evidence that the Notice of Receipt of Application and Intention to Obtain Permit, as well as the Notice of Application and Preliminary Decision, were mailed to LPIC. Specifically, the TCEQ’s file for the Application contains a list of addresses, generated by the OCC and based upon the Applicant’s list of landowners and other statutory criteria, that is attached to each of the notice documents, identifying the entities that the OCC provided with mailed notices. To this end, LPIC is on the list of addresses for both notices. See Attachment “D” at p. 6 and Attachment “H” at p. 4.

The address for LPIC contained in the OCC’s address lists is accurate, as it is identical to the address listed on LPIC’s letterhead. Compare Attachment “D” at p. 6 and Attachment “H” at p. 4 with Attachment “I” and Attachment “J”. Further, there is no evidence in the OCC’s file for the Application that the mailed notices to LPIC were “returned to sender” by the U.S. Postal Service. LPIC’s actions also demonstrate that the address listed by Elan and used by the OCC, twice, is a valid address. First, nearly a week after the Executive Director provided LPIC with a letter at the “P.O. Box 1762, Porter, Texas 77365” address rejecting LPIC’s untimely request for a contested case hearing, LPIC responded that it rejected the denial. Compare Attachment “K” with Attachment “L”. Second, a few weeks after the OCC mailed notice of the Commission’s final approval of the Application to LPIC at the above-listed address, LPIC filed its Motion to Overturn. Compare Attachment “M” with Attachment “J”. Thus, LPIC’s own actions indicate that the address for LPIC listed by Elan in its Application and then utilized by the OCC in completing the mailed notices for this Application is a correct address for LPIC.

Even if LPIC's allegations are true that it did not receive mailed notice, which Elan disputes, LPIC still received constructive notice of the Application. In conformity with the Commissions' notice rules, Elan made significant expenditures and effort to provide published notices, twice, and maintain a copy of the Application at a public library in Montgomery County, Texas. In its Motion to Overturn, LPIC has not alleged that Elan's notices by publication or the availability of the Application at a public place were deficient. Thus, to grant LPIC's motion on the basis that it had not received adequate notice would ignore LPIC's constructive notice of the Application and render the public notice that TCEQ requires meaningless.

LPIC's other allegations, that there is no ditch or tributary on its land that corresponds to the proposed discharge route in the Application and that there is no drainage channel of any sort on its property, are also without merit. Fatal to these allegations, and attached for the Commission's consideration, are photographs of a culvert running underneath Old Houston Road, part of the discharge route identified in the Application, that clearly reflect a defined channel on the east side of Old Houston Road, which is the location of LPIC's property, pursuant to its contested case hearing request. *See* Attachment "N" (containing photographs) and Attachment "I" (containing LPIC's request for a contested case hearing). Further, the Executive Director also acknowledged appropriateness of the discharge route, which travels through a culvert underneath Old Houston Road continuing to a series of drainage ditches in his staff's Water Quality Technical Memorandum. *See* Attachment "O". Therefore, based upon the procedural history in this matter and the substantive aspects of the Application, the Executive Director had authority and proper grounds to grant Elan the Permit.

III. CONCLUSION

The Executive Director's action in granting the Permit is properly based upon Elan's procedural and substantive adherence with the Commission's rules regarding water quality permits, and therefore his decision should not be overturned. No requests for a contested case hearing were timely filed during the public comment period, and the official TCEQ file for this Application, maintained by the OCC, reflects that LPIC was provided mailed notice at its address, twice, in accordance with the Commission's mailed notice rules. LPIC's other allegation concerning its request for a contested case hearing is also not supported by fact, where a culvert runs under Old Houston Road from Elan's property into a channel on the east side of the road, all as depicted in the Application. The existence of this culvert and channel was considered and recognized by the Executive Director's Water Quality staff in performing its technical review of the Application.

IV. PRAYER

WHEREFORE, PREMISES CONSIDERED, Elan Development, L.P. respectfully requests that the Commissioners of the Texas Commission on Environmental Quality deny Little Princess's Investment Co.'s Motion to Overturn the Executive Director's issuance of Texas Pollutant Discharge Elimination System Permit No. WQ0014694001, and for such other and further relief to which it may be entitled.

Respectfully submitted,

**LLOYD GOSSELINK BLEVINS
ROCHELLE & TOWNSEND, P.C.**

816 Congress Avenue, Suite 1900

Austin, Texas 78701

Phone: (512) 322-5800

Fax: (512) 472-0532



Martin C. Rochelle

State Bar No. 17126500

David J. Klein

State Bar No. 24041257

**ATTORNEYS FOR ELAN DEVELOPMENT,
L.P.**

ELAN DEVELOPMENT, L.P.
TCEQ DOCKET NO. 2007-0012-MWD

CERTIFICATE OF SERVICE

I hereby certify that on this the 5th day of February, 2007, a true and correct copy of the foregoing document was provided by hand delivery, first class mail, or facsimile to the following persons:

Ms. LaDonna Castañuela
Office of the Chief Clerk, MC-105
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
Tel: 239-3300
Fax: 239-3311

Mr. Jeffrey Lochore
Little Princess's Investment Company
P.O. Box 1762
Porter, Texas 78711-3087

Mr. Bob Brush
Texas Commission on Environmental Quality
Office of Legal Services MC-173
P.O. Box 13087
Austin, Texas 78711-3087
Tel: 239-5600
Fax: 239-0606

Mr. Blas Coy
Texas Commission on Environmental Quality
Public Interest Counsel, MC-103
P.O. Box 13087
Austin, Texas 78711-3087
Tel: 239-6363
Fax: 239-6377

Ms. Jodena N. Henneke, Director
Texas Commission on Environmental Quality
Office of Public Assistance, MC-108
P.O. Box 13087
Austin, Texas 78711-3087
Tel: 239-4085
Fax: 239-4007



Martin C. Rochelle

110#53344

TCEQ-OFFICE OF THE CHIEF CLERK
MC-105 Attn: Notice Team
P.O. BOX 13087
AUSTIN, TX 78711-3087

Applicant Name: Elan Development, L.P.
Permit No.: WQ0014694001
Notice of Intent to Obtain Permit

PUBLISHER'S AFFIDAVIT
FOR WATER QUALITY PERMITS

THE STATE OF TEXAS
COUNTY OF TRAVIS

I hereby certify that this is a true and correct copy of a
Texas Commission on Environmental Quality document,
which is filed in the permanent records of the Commission.
Given under my hand and the seal of office on

LaDonna Castaneta FEB 02 2007
LaDonna Castaneta, Chief Clerk
Texas Commission on Environmental Quality

STATE OF TEXAS §
COUNTY OF Montgomery §

Before me, the undersigned authority, on this day personally appeared

Angela Holman, who being by me duly sworn, deposes
(name of newspaper representative)

and says that (s)he is the Legal Clerk
(title of newspaper representative)

of the The Courier; that this newspaper is a newspaper of
(name of newspaper)

largest circulation in Montgomery County, Texas or is
(Name of County)
a newspaper of general circulation in Conroe
(Name of Municipality)

Texas; and that the attached notice was published in said newspaper on the following date(s):

June 21, 2006

Angela Holman
Newspaper Representative's Signature

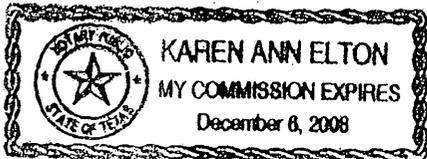
Subscribed and sworn to before me this the 21 day of June,
2006.

(Seal)

Karen Ann Elton
Notary Public in and for the State of Texas

Karen Ann ELTON
Print or Type Name of Notary Public

My Commission Expires Dec 6, 2008



CHIEF CLERKS OFFICE
JUL - 3 PM 2:30
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

NOTICE OF RECEIPT OF APPLICATION AND INTENT TO OBTAIN WATER QUALITY PERMIT

PROPOSED PERMIT NO. WQ0014694001

APPLICATION: Egan Development, L.P., 211 Highland Cross Drive, Suite 101, Houston, Texas 77073, has applied to the Texas Commission on Environmental Quality (TCEQ) for proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014694001 (EPA T.D. No. TX0128651) to authorize the discharge of treated wastewater at a volume not to exceed a daily average flow of 1,000,000 gallons per day. The domestic wastewater treatment facility will be located approximately 4,300 feet east and 1,500 feet north of the intersection of Farm to Market Road 1314 and Calhoun Road in Montgomery County, Texas. The discharge routes from the plant site to an onsite drainage channel, thence to an onsite pumped detention pond facility, thence under Old Houston Road, thence to a drainage ditch, thence to Dry Creek, thence to Carney Creek. TCEQ received this application on March 6, 2006. The permit application is available for review and copying at the Montgomery County Library, R. B. Talley Branch, 21430 H.S. Highway 59, #K, New Caney, Texas.

ADDITIONAL NOTICE: TCEQ's Executive Director has determined the application is administratively complete and will conduct a technical review of the application. After a technical review of the application is complete, the Executive Director may prepare a draft permit and will issue a preliminary decision on the application. Notice of the Application and Preliminary Decision will be published and mailed to those who are on the county-wide mailing list and to those who are on the mailing list for this application. That notice will contain the deadline for submitting public comments.

PUBLIC COMMENT/PUBLIC MEETING: You may submit public comments or request a public meeting on this application. The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. TCEQ will hold a public meeting if the Executive Director determines that there is a significant interest in public interest in the application or if requested by a local legislator. A public meeting is also a contested case hearing.

OPPORTUNITY FOR A CONTESTED CASE HEARING: After the deadline for submitting public comments, the Executive Director will consider all timely comments and prepare a response to all relevant and material, or significant, public comments. Unless the application is directly referred for a contested case hearing, the response to comments and the Executive Director's decision on the application will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application. If comments are received, the mailing will also provide instructions for requesting reconsideration of the Executive Director's decision and for requesting a contested case hearing. A contested case hearing is a legal proceeding similar to a trial in state district court.

TO REQUEST A CONTESTED CASE HEARING, YOU MUST INCLUDE THE FOLLOWING ITEMS IN YOUR REQUEST: your name, address, phone number, applicant's name and proposed permit number, the location and distance of your property, activities relative to the proposed facility, a specific description of how you would be adversely affected by the facility in a way not common to the general public, and the statement: "I/we request a contested case hearing." If the request for contested case hearing is filed on behalf of a group or association, the request must designate the group's representative for receiving future correspondence, identify an individual member of the group who would be adversely affected by the proposed facility, provide the information furnished above regarding the affected member's location and distance from the facility, activity, explain how and why the member would be affected, and explain how the interests the group seeks to protect are relevant to the group's purpose.

Following the close of all applicable comment and request periods, the Executive Director will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

The Commission will only grant a contested case hearing on disputed issues of fact that are relevant and material to the Commission's decision on the application. Further, the Commission will only grant a hearing on issues that were raised in timely filed comments that were not subsequently withdrawn.

MAILING LIST: If you submit public comments, a request for a contested case hearing, or a reconsideration of the Executive Director's decision, you will be added to the mailing list for this specific application to receive future public notices mailed by the Office of the Chief Clerk. In addition, you may request to be placed on: (1) the permanent mailing list for a specific applicant name and permit number, and/or (2) the mailing list for a specific county. If you wish to be placed on the permanent and/or the county mailing list, clearly specify which list(s) and send your request to TCEQ's Office of the Chief Clerk in the address below.

AGENCY CONTACTS AND INFORMATION: All written public comments and requests must be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087. If you need more information about this permit application or the permitting process, please call TCEQ's Office of Public Assistance, Toll Free, 1-800-682-4040. For more information in Spanish, please call at 1-800-682-4040. General information about TCEQ can be found at our web site: www.tceq.state.tx.us.

Further information may also be obtained from Egan Development, L.P. at the address listed above or by calling David Warner, P.E., of Montgomery & Associates, at 281-423-1750.

Small Print: May 11, 2006

DS: June 21, 2006

THE STATE OF TEXAS
COUNTY OF TRAVIS

I hereby certify that this is a true and correct copy of a Texas Commission on Environmental Quality document, which is filed in the permanent records of the Commission. Given under my hand and the seal of office on

LaDonna Castanuela FEB 02 2007
LaDonna Castanuela, Chief Clerk
Texas Commission on Environmental Quality



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Public Notice Verification Form
Water Quality Permit

OCC# _____
(TCEQ use only)

Applicant Name: ÉLAN DEVELOPMENT, L.P.
Site or Facility Name: SADDLERIDGE RANCH WWTP
TCEQ Account Number (if applicable): _____ Permit Number: WQ0014694001
Regulated Entity Number: RN104913454 Customer Number: CN602549495

WATER QUALITY PERMIT NOTICE VERIFICATION

I verify that original tear sheets of the newspaper notices and the requested affidavits have been furnished in accordance with the regulations and instructions of the TCEQ. YES NO

Notice of Receipt of Application and Intent to Obtain Permit (1st Notice):

I verify that a copy of the complete water quality application, and any revisions, were available for review and copying at the public place indicated below throughout the duration of the public comment period. YES NO

Notice of Application and Preliminary Decision (2nd Notice, if applicable):

I verify that a copy of the complete water quality application and draft permit, and any revisions, are available for review and copying at the public place indicated below from the first day after newspaper publication; and

I also verify that the water quality application and draft permit, and any revisions, will remain in the designated public place until either:

- 1) the TCEQ acts on the application; or
- 2) the application is referred to the State Office of Administrative Hearings (SOAH) for hearing.

YES NO

Name and Address of Public Place: B.B. TOLLIS LIBRARY, 21130 U.S. HWY. 59 #K NEW CANEY TX 77357

Signed by:

Title: SENIOR CAD TECHNICIAN

Date: 2-16-06

THE STATE OF TEXAS
COUNTY OF TRAVIS

I hereby certify that this is a true and correct copy of a Texas Commission on Environmental Quality document, which is filed in the permanent records of the Commission. Given under my hand and the seal of office on

FEB 02 2007

LaDonna Castanuela, Chief Clerk
Texas Commission on Environmental Quality



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Public Notice Verification Form
Water Quality Permit

OCC: _____
EPA Case Only

Applicant Name: ELAN DEVELOPMENT, LP.
Site or Facility Name: SADDLERIDGE RANCH, WWTP
TCEQ Account Number (if applicable): N/A Permit Number: WQ0014694001
Regulated Entity Number: RN 10491345A Customer Number: CN602549495

WATER QUALITY PERMIT NOTICE VERIFICATION

I verify that original tear sheets of the newspaper notices and the requested affidavits have been furnished in accordance with the regulations and instructions of the TCEQ. YES NO

Notice of Receipt of Application and Intent to Obtain Permit (1st Notice):

I verify that a copy of the complete water quality application, and any revisions, were available for review and copying at the public place indicated below throughout the duration of the public comment period. YES NO

Notice of Application and Preliminary Decision (2nd Notice, if applicable):

I verify that a copy of the complete water quality application and draft permit, and any revisions, are available for review and copying at the public place indicated below from the first day after newspaper publication; and

I also verify that the water quality application and draft permit, and any revisions, will remain in the designated public place until either:

- 1) the TCEQ acts on the application; or
- 2) the application is referred to the State Office of Administrative Hearings (SOAH) for hearing.

YES NO

Name and Address of Public Place: P.B. TULLIS LIBRARY, 21130 U.S. HWY. 59 #K NEW CANEY, TX 77357

Signed by: *David W. Warner* DAVID W. WARNER, P.E.

Title: PROJECT ENGINEER

Date: 8.16.06

NOTE: THE PAPERWORK HAS BEEN POSTED AT THE ABOVE LISTED LIBRARY SINCE 6-16-06.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
 AUG 21 PM 2:41
 CHIEF CLERKS OFFICE

THE STATE OF TEXAS
COUNTY OF TRAVIS

I hereby certify that this is a true and correct copy of a Texas Commission on Environmental Quality document, which is filed in the permanent records of the Commission. Given under my hand and the seal of office on

LaDonna Castanuela FEB 02 2007

LaDonna Castanuela, Chief Clerk
Texas Commission on Environmental Quality



Montgomery & Associates

CONSULTING ENGINEERS

May 19, 2006

Ms. Kelly Crouch-Elliot
Texas Commission on Environmental Quality
Applications Review and Processing Team (MC-148)
12100 Park 35 Circle, Bldg. F
Austin, Texas 78753

THE STATE OF TEXAS
COUNTY OF TRAVIS

I hereby certify that this is a true and correct copy of a
Texas Commission on Environmental Quality document,
which is filed in the permanent records of the Commission.
Given under my hand and the seal of office on


JAN 31 2007
LeBenna Castanuela, Chief Clerk
Texas Commission on Environmental Quality

RE: Application for Proposed TPDES Permit No. WQ0014694001
(EPA I.D. TX0128651), Élan Development, L.P. (CN602549495)
Response to phone message from Ms. Crouch on 5/15/06

Dear Kelly:

We have added the additional landowners across F.M. 1314, per your request. There are 12 additional affected landowners across F.M. 1314 that have been added to the Exhibit 2 list and drawing. I have attached 4 copies of the revised Exhibit 2 and a 3.5-inch diskette in this package.

If you have any questions regarding our responses or need any additional information, please do not hesitate to contact me at (281) 775-4650 or by email at dwarner@gmont.com. Thank you.

Sincerely,
MONTGOMERY & ASSOCIATES



David W. Warner, P.E.
Project Engineer

Enclosures

cc: File

RECEIVED

MAY 23 2006

Water Quality Applications Team

EXHIBIT 2
AFFECTED LAND OWNERS

NEW PERMIT, ELAN DEVELOPMENT, L.P. – SADDLERIDGE RANCH W.W.T.P.

1
JAMES FIELDS
P.O. BOX 295
CONROE, TX 77305

2
KENNEN LAYNE BYLER
15721 HILL AND DALE TERRACE DR
SPLENDORA, TX 77372

3
ROBERT L REDDEHASE
5211 THIESS RD
HUMBLE, TX 77338

4
JESSIE RUTH CLARK
16652 PAYNE RD
CONROE, TX 77302

5
FRANK L & MARY ANN CANON
25603 PENGUIN ST
MAGNOLIA, TX 77355

6
DARRELL DUDCZAK
7223 NICKABURR CRK
MAGNOLIA, TX 77354

7
FRANK L & MARY ANN CANON
25603 PENGUIN ST
MAGNOLIA, TX 77355

8
JESSIE & CARRIE SUE FARMER
16696 PAYNE RD
CONROE, TX 77302

9
CARRIE S FARMER
16696 PAYNE RD
CONROE, TX 77302

RECEIVED

MAY 23 2006

Water Quality Applications Team

10
DR CJ ETUX PANNZARELLA
900 GRANDBERRY ST
HUMBLE, TX 77338

11
JEWEL SCOTT
4211 CREEK LEDGE
AUSTIN, TX 78731

12
WILLIAM G NEWMAN
18404 OLD HOUSTON RD
CONROE, TX 77302

13
MONTGOMERY COUNTY
400 N SAN JACINTO ST
CONROE, TX 77301-2823

14
BERTRAND PROPERTIES LTD
117 S WIND DR
MONTGOMERY, TX 77356-8235

15
OAKTREE, LTD.
P.O. BOX 603
PORTER, TX 77365

16
PAUL MCQUEEN
18153 FM 1314 RD
CONROE, TX 77302-5911

17
MICHAEL W & JANICE A CURRIER
19886 N STAR DR
PORTER, TX 77365-3042

18
CONROE ISD
SUPERINTENDENT 3205 W DAVIS ST
CONROE, TX 77304-2052

RECEIVED

MAY 23 2006

Water Quality Applications Team

19
MARILYN ABBOTT
PETER MANN 17571 FM 1314 RD
CONROE, TX 77302-4857

20
DELOS ENTERPRISES
504 W LEWIS ST
CONROE, TX 77301

21
DELOS ENTERPRISES
504 W LEWIS ST
CONROE, TX 77301

22
DELOS ENTERPRISES
504 W LEWIS ST
CONROE, TX 77301

23
K MRS EST NELSON
RONALD R LEAHEY 2935 NE 43RD AVE
PORTLAND, OR 97213-1106

24
MARTIN REALTORS
MARTIN TOM PO BOX 603
PORTER, TX 77365-0603

25
RIGOBERTO GONZALES
17234 FM 1314 RD
CONROE, TX 77302-4850

26
J H CARLILE
15092 GREENBOUGH ST
CONROE, TX 77302-5338

27
HARLEY H MILNER
15049 GREENBOUGH ST
CONROE, TX 77302-5339

RECEIVED

MAY 23 2006

Water Quality Applications Team

28

HARLEY H MILNER
15049 GREENBOUGH ST
CONROE, TX 77302-5339

29

MADLINE CAROL OAKS
20585 PIN OAK RD
NEW CANEY, TX 77357

30

MADLINE CAROL OAKS
20585 PIN OAK RD
NEW CANEY, TX 77357

31

15008 ALLENDALE LAND TR
SUSAN BACON TR 636 BELLINGRATH PARK
CONROE, TX 77302-3018

32

SAMUEL E JR & CONSTANCE TROYER
16607 ALDRICH ST
CONROE, TX 77302-5303

33

SAMUEL E JR & CONSTANCE TROYER
16607 ALDRICH ST
CONROE, TX 77302-5303

34

ANTONIO CORONA
11958 MEDICINE BOW CIR
HOUSTON, TX 77067-1116

35

RONALD & PATRICIA FARRELL
16559 ALDRICH ST
CONROE, TX 77302-5301

36

RONALD & PATRICIA FARRELL
16559 ALDRICH ST
CONROE, TX 77302-5301

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MAY 23 2006

Water Quality Applications Team

37
ISMAEL G MATA
20614 SLEEPY HOLLOW LN
SPRING, TX 77388

38
JAMES L CLARK
PO BOX L
NAPLES, TX 75568

39
JAMES L CLARK
PO BOX L
NAPLES, TX 75568

40
CONROE ISD TAX TRUST
3205 W DAVIS ST
CONROE, TX 77304-2052

41
KEYSTONE-GARRETT PROP
PO BOX 1409
CONROE, TX 77305-1409

42
FM1314-OAK TREE, LTD
8150 N CENTRAL EXPRESSWAY
DALLAS, TX 75206

43
STATE OF TEXAS,
GENERAL LAND OFFICE
17000 N. CONGRESS AVENUE
STE. 130
AUSTIN, TEXAS 78701-1495

44
BURNABY PROPERTIES LTD
PO BOX 1406
SPRING, TX 77383-1406

45
WANDA MOORHEAD
PO BOX 413
CONROE, TX 77305-0413

RECEIVED

MAY 23 2006

Water Quality Applications Team

46
DIANA SAUTER
22619 DIANE DR
SPRING, TX 77373-7507

47
JUVENTINO & GREGORIA CAZARES
607 E 26TH ST
HOUSTON, TX 77008-2319

48
TU VAN & KIM H TRAN
17038 GLENEAGLE DR S
CONROE, TX 77385-4614

49
TU VAN & KIM H TRAN
17038 GLENEAGLE DR S
CONROE, TX 77385-4614

50
NELSON C SHEPPARD
8022 12TH FAIRWAY LN
HUMBLE, TX 77346-4503

51
NELSON C SHEPPARD
8022 12TH FAIRWAY LN
HUMBLE, TX 77346-4503

52
JACKIE MADDEN SHORES
15590 VILLAGE WOODS DR
CONROE, TX 77302-6756

53
BARBARA TRAHAN
723 SHENANDOAH DR
SPRING, TX 77381-1043

54
CURTIS M PEACOCK
17858 FM 1314 RD
CONROE, TX 77302-5904

RECEIVED

MAY 23 2006

Water Quality Applications Team

55

CURTIS M PEACOCK
17858 FM 1314 RD
CONROE, TX 77302-5904

56

ANDY E & GARLAND M KEETH
14867 LYRIC RD
CONROE, TX 77302-6751

57

LARRY SR & ANNETTE SKERO
15337 BENNETTE WOODS RD
CONROE, TX 77302-6815

58

SCOTT W GUILLOTE
17806 FM 1314 RD
CONROE, TX 77302-5904

59

SCOTT W GUILLOTE
17806 FM 1314 RD
CONROE, TX 77302-5904

60

TRUITT W THOMAS
PO BOX 7714
HOUSTON, TX 77270-7714

61

MICHAEL FRENCH
5006 SEYMOUR DR
HOUSTON, TX 77032-4620

62

RANDALL & ELAINE TATRO
17728 FM 1314 RD
CONROE, TX 77302-5902

63

LITTLE PRINCESS INVESTMENT CO
PO BOX 1762
PORTER, TX 77365-1762

64

RICHARD LYNCH
PO BOX 657
HYANNIS, MA 02601-0657

RECEIVED

MAY 23 2006

Water Quality Applications Team

65
RICHARD LYNCH
PO BOX 657
HYANNIS, MA 02601-0657

66
RENE W MARTIN,
2442 LAKE VILLAGE DR
KINGWOOD, TX 77339-3649

67
JOHNNY F & JOY A WRIGHT
14809 MCGREGOR RD
CONROE, TX 77302-6625

68
MARIA DEL GLUR
357 LOST CREEK CT N
KEIZER, OR 97303-8100

69
BENTLEY WALTERS
7530 PINETEX DR
HUMBLE, TX 77396-2681

70
NORTHEAST CHURCH OF CHRIST
PO BOX 166
PORTER, TX 77365-0166

71
NORTHEAST CHURCH OF CHRIST
PO BOX 166
PORTER, TX 77365-0166

72
STEVEN JR & SHELLY M POLONSKI
27770 SOUTHLAND DR
SPLENDORA, TX 77372-4413

73
STEVEN M & DONNA G ACORD WICK
18415 OLD HOUSTON RD
CONROE, TX 77302-6135

RECEIVED

MAY 23 2006

Water Quality Applications Team

74

SALOMON & MARGARET HERRERA
19258 TIMBERLAND BLVD
PORTER, TX 77365-6465

RECEIVED

MAY 23 2006

Water Quality Applications Team

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



NOTICE OF RECEIPT OF APPLICATION AND INTENT TO OBTAIN WATER QUALITY PERMIT

PROPOSED PERMIT NO. WQ0014694001

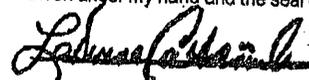
APPLICATION. Elan Development, L.P., 211 Highland Cross Drive, Suite 101, Houston, Texas 77073, has applied to the Texas Commission on Environmental Quality (TCEQ) for proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014694001 (EPA I.D. No. TX0128651) to authorize the discharge of treated wastewater at a volume not to exceed a daily average flow of 1,000,000 gallons per day. The domestic wastewater treatment facility will be located approximately 4,300 feet east and 1,500 feet north of the intersection of Farm-to-Market Road 1314 and Calhoun Road in Montgomery County, Texas. The discharge route is from the plant site to an onsite drainage channel; thence to an onsite pumped detention pond facility; thence under Old Houston Road; thence to a drainage ditch; thence to Dry Creek; thence to Caney Creek. TCEQ received this application on March 6, 2006. The permit application is available for viewing and copying at the Montgomery County Library, R.B. Tullis Branch, 21130 U.S. Highway 59, #K, New Caney, Texas.

ADDITIONAL NOTICE. TCEQ's Executive Director has determined the application is administratively complete and will conduct a technical review of the application. After technical review of the application is complete, the Executive Director may prepare a draft permit and will issue a preliminary decision on the application. **Notice of the Application and Preliminary Decision will be published and mailed to those who are on the county-wide mailing list and to those who are on the mailing list for this application. That notice will contain the deadline for submitting public comments.**

PUBLIC COMMENT / PUBLIC MEETING. You may submit public comments or request a public meeting on this application. The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. TCEQ will hold a public meeting if the Executive Director determines that there is a significant degree of public interest in the application or if requested by a local legislator. A public meeting is not a contested case hearing.

THE STATE OF TEXAS
COUNTY OF TRAVIS

I hereby certify that this is a true and correct copy of a Texas Commission on Environmental Quality document, which is filed in the permanent records of the Commission. Given under my hand and the seal of office on

 FEB 02 2007

LaDonna Castañeda, Chief Clerk
Texas Commission on Environmental Quality

OPPORTUNITY FOR A CONTESTED CASE HEARING. After the deadline for submitting public comments, the Executive Director will consider all timely comments and prepare a response to all relevant and material, or significant public comments. Unless the application is directly referred for a contested case hearing, the response to comments, and the Executive Director's decision on the application, will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application. If comments are received, the mailing will also provide instructions for requesting reconsideration of the Executive Director's decision and for requesting a contested case hearing. A contested case hearing is a legal proceeding similar to a civil trial in state district court.

TO REQUEST A CONTESTED CASE HEARING, YOU MUST INCLUDE THE FOLLOWING ITEMS IN YOUR REQUEST: your name, address, phone number; applicant's name and proposed permit number; the location and distance of your property/activities relative to the proposed facility; a specific description of how you would be adversely affected by the facility in a way not common to the general public; and, the statement "[I/we] request a contested case hearing." If the request for contested case hearing is filed on behalf of a group or association, the request must designate the group's representative for receiving future correspondence; identify an individual member of the group who would be adversely affected by the proposed facility or activity; provide the information discussed above regarding the affected member's location and distance from the facility or activity; explain how and why the member would be affected; and explain how the interests the group seeks to protect are relevant to the group's purpose.

Following the close of all applicable comment and request periods, the Executive Director will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

The Commission will only grant a contested case hearing on disputed issues of fact that are relevant and material to the Commission's decision on the application. Further, the Commission will only grant a hearing on issues that were raised in timely filed comments that were not subsequently withdrawn.

MAILING LIST. If you submit public comments, a request for a contested case hearing or a reconsideration of the Executive Director's decision, you will be added to the mailing list for this specific application to receive future public notices mailed by the Office of the Chief Clerk. In addition, you may request to be placed on: (1) the permanent mailing list for a specific applicant name and permit number; and/or (2) the mailing list for a specific county. If you wish to be placed on the permanent and/or the county mailing list, clearly specify which list(s) and send your request to TCEQ Office of the Chief Clerk at the address below.

AGENCY CONTACTS AND INFORMATION. All written public comments and requests must be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087. If you need more information about this permit application or the permitting process, please call TCEQ Office of Public Assistance, Toll Free, at 1-800-687-4040. Si desea información en Español, puede llamar al 1-800-687-4040. General information about TCEQ can be found at our web site at www.tceq.state.tx.us.

Further information may also be obtained from Elan Development, L.P. at the address stated above or by calling David Warner, P.E., of Montgomery & Associates, at 281-775-4650.

Issuance Date: May 31, 2006

APPLICANT & THEIR CONTACTS DURING APPLICATION PROCESS MAILING LIST FOR NOTICE

Applicant Information

LEGAL NAME OF FACILITY OWNER Elan Development, L.P.
OPERATOR (if required to be co-permittee)
PERMIT MAILING ADDRESS 211 Highland Cross Drive, Suite 101
Houston, Texas 77073-1700

CN602549495

RN104913454

53344

CONTACT INFORMATION

APPLICANT'S REPRESENTATIVE(S) OR CONTACT PERSON DURING APPLICATION PROCESS

David Warner, P.E.
Montgomery & Associates
450 Gears Road, Suite 200
Houston, Texas 77067
Telephone: 281-775-4650
Fax: 281-876-4688

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2004 JUN -5 AM 10:50
CHIEF CLERKS OFFICE

NOTICE TO BE PUBLISHED BY

David Warner, P.E.
Montgomery & Associates
450 Gears Road, Suite 200
Houston, Texas 77067
Telephone: 281-775-4650
Fax: 281-876-4688

MAILING LISTS

FIXED STATE MAILING LIST (by Chief Clerk)

COUNTY MAILING LIST Montgomery

CITY TO BE NOTIFIED Conroe

NOTICE TO GLO YES NO

ADJACENT/DOWNSTREAM LANDOWNERS LIST PLUS INTERESTED PERSONS (N/A for renewals or minor amendments)

LANDOWNER MAILING LIST ATTACHED YES NO

BILINGUAL NOTICE REQUIRED YES NO

NOTIFY FOLLOWING COUNTY JUDGES ONLY IF THEY OFFICIALLY REQUESTED TO BE NOTIFIED OF ALL PERMIT ACTIONS (only applies to facilities with a flow of 5 MGD or greater)

JAMES FIELDS
PO BOX 295
CONROE TX 77305

JESSIE RUTH CLARK
16652 PAYNE RD
CONROE TX 77302

FRANK L & MARY ANN CANON
25603 PENGUIN ST
MAGNOLIA TX 77355

DR CJ ETUX PANNZARELLA
900 GRANDBERRY ST
HUMBLE TX 77338

MONTGOMERY COUNTY
400 N SAN JACINTO ST
CONROE TX 77301-2823

PAUL MCQUEEN
18153 FM 1314 RD
CONROE TX 77302-5911

MARILYN ABBOTT
PETER MANN
17571 FM-1314 RD
CONROE TX 77302-4857

MARTIN REALTORS
MARTIN TOM
PO BOX 603
PORTER TX 77365-0603

HARLEY H MILNER
15049 GREENBOUGH ST
CONROE TX 77302-5339

SAMUEL E JR & CONSTANCE
TRÖYER
16607 ALDRICH ST
CONROE TX 77302-5303

KENNEN LAYNE BYLER
15721 HILL AND DALE TERRACE DR
SPLENDORA TX 77372

FRANK L & MARY ANN CANON
25603 PENGUIN ST
MAGNOLIA TX 77355

JESSIE & CARRIE SUE FARMER
16696 PAYNE RD
CONROE TX 77302

JEWEL SCOTT
4211 CREEK LEDGE
AUSTIN TX 78731

BERTRAND PROPERTIES LTD
117 S WIND DR
MONTGOMERY TX 77356-8235

MICHAEL W & JANICE A CURRIER
19886 N STAR DR
PORTER TX 77365-3042

DELOS ENTERPRISES
504 W LEWIS ST
CONROE TX 77301

RIGOBERTO GONZALES
17234 FM 1314 RD
CONROE TX 77302-4850

MADELINE CAROL OAKS
20585 PIN OAK RD
NEW CANEY TX 77357

ANTONIO CORONA
11958 MEDICINE BOW CIR
HOUSTON TX 77067-1116

ROBERT L REDD
5211 THIESS RD
HUMBLE TX 77338

DARRELL DUDCZ
7223 NICKABURR
MAGNOLIA TX 77355

CARRIE S FARMER
16696 PAYNE RD
CONROE TX 77302

WILLIAM G NEWMAN
18404 OLD HOUSTON RD
CONROE TX 77302

OAKTREE LTD
PO BOX 603
PORTER TX 77365

CONROE ISD
SUPERINTENDENT
3205 W DAVIS ST
CONROE TX 77304-2052

K MRS EST NELSON
RONALD R LEAHEY
2935 NE 43RD AVE
PORTLAND OR 97213-1106

J H CARLILE
15092 GREENBOUGH ST
CONROE TX 77302-5338

SUSAN BACON TR
636 BELLINGRATH PARK
CONROE TX 77302-3018

RONALD & PATRICIA FARRELL
16559 ALDRICH ST
CONROE TX 77302-5301

THE STATE OF TEXAS
COUNTY OF TRAVIS
I hereby certify that this is a true and correct copy of a
Texas Commission on Environmental Quality document,
which is filed in the permanent records of the Commission.
Given under my hand and the seal of office on
FEB 02 2007
Ladonna Castanuela, Chief Clerk
Texas Commission on Environmental Quality

ISMAEL G MATA
20614 SLEEPY HOLLOW LN
SPRING TX 77388

JAMES L CLARK
PO BOX L
NAPLES TX 75568

CONROE ISD TAX TRUST
3205 W DAVIS ST
CONROE TX 77304-2052

KEYSTONE-GARRETT PROP
PO BOX 1409
CONROE TX 77305-1409

FM1314-OAK TREE LTD
8150 N CENTRAL EXPRESSWAY
DALLAS TX 75206

STATE OF TEXAS
GENERAL LAND OFFICE
17000 N CONGRESS AVENUE
STE 130
AUSTIN TEXAS 78701-1495

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SPRING TX 77383-1406

WANDA MOORHEAD
PO BOX 413
CONROE TX 77305-0413

DIANA SAUTER
22619 DIANE DR
SPRING TX 77373-7507

JUVENTINO & GREGORIA CAZARES
607 E 26TH ST
HOUSTON TX 77008-2319

TU VAN & KIM H TRAN
17038 GLENEAGLE DR S
CONROE TX 77385-4614

NELSON C SHEPPARD
8022 12TH FAIRWAY LN
HUMBLE TX 77346-4503

JACKIE MADDEN SHORES
15590 VILLAGE WOODS DR
CONROE TX 77302-6756

BARBARA TRAHAN
723 SHENANDOAH DR
SPRING TX 77381-1043

CURTIS M PEACOCK
17858 FM 1314 RD
CONROE TX 77302-5904

ANDY E & GARLAND M KEETH
14867 LYRIC RD
CONROE TX 77302-6751

LARRY SR & ANNETTE SKERO
15337 BENNETTE WOODS RD
CONROE TX 77302-6815

SCOTT W GUILLOTE
17806 FM 1314 RD
CONROE TX 77302-5904

TRUITT W THOMAS
PO BOX 7714
HOUSTON TX 77270-7714

MICHAEL FRENCH
5006 SEYMOUR DR
HOUSTON TX 77032-4620

RANDALL & ELAINE TATRO
17728 FM 1314 RD
CONROE TX 77302-5902

LITTLE PRINCESS INVESTMENT CO
PO BOX 1762
PORTER TX 77365-1762

RICHARD LYNCH
PO BOX 657
HYANNIS MA 02601-0657

RENE W MARTIN
2442 LAKE VILLAGE DR
KINGWOOD TX 77339-3649

JOHNNY F & JOY A WRIGHT
14809 MCGREGOR RD
CONROE TX 77302-6625

MARIA DEL GLUR
357 LOST CREEK CT N
KEIZER OR 97303-8100

BENTLEY WALTERS
7530 PINETEX DR
HUMBLE TX 77396-2681

NORTHEAST CHURCH OF CHRIST
PO BOX 166
PORTER TX 77365-0166

STEVEN JR & SHELLY M POLONSKI
27770 SOUTHLAND DR
SPLENDORA TX 77372-4413

STEVEN M & DONNA G ACORD
WICK
18415 OLD HOUSTON RD
CONROE TX 77302-6135

SALOMON & MARGARET HERRERA
19258 TIMBERLAND BLVD
PORTER TX 77365-6465

TCEQ-OFFICE OF THE CHIEF CLERK
MC-105 Attn: Notice Team
PO BOX 13087
AUSTIN TX 78711-3087

APPLICANT NAME: ELAN DEVELOPMENT LP
PERMIT NO.: WQ0014694001 CCO#: 53344
NOTICE OF APPLICATION AND PRELIMINARY DECISION

**PUBLISHER'S AFFIDAVIT
FOR ALL APPLICATIONS FOR WATER QUALITY PERMITS
OTHER THAN RENEWALS**

STATE OF TEXAS §
COUNTY OF Montgomery §

CHIEF CLERK'S OFFICE
OCT 17 11:11 AM '06
COMMISSION ON ENVIRONMENTAL QUALITY
TEXAS

BEFORE ME, the undersigned authority, on this day personally appeared Angela Holman, who being by the duly
(name of newspaper representative)

sworn, deposes and says that (s)he is the Legal Clerk
(title of newspaper representative)

of the The Courier; that this newspaper is
(name of newspaper)

regularly published or circulated in Montgomery County/Countries,
Texas;
(same county as proposed facility)

and that the attached notice was published in said newspaper on the following date(s):
October 6, 2006

Subscribed and sworn to before me this the 6 day of October, 2006
by Angela Holman
Newspaper Representative's Signature

~~THE STATE OF TEXAS~~
COUNTY OF TRAVIS
I hereby certify that this is a true and correct copy of a
Texas Commission on Environmental Quality document,
which is filed in the permanent records of the Commission.
Given under my hand and the seal of office on
FEB 02 2007



LaDonna Castanuela
LaDonna Castanuela, Chief Clerk
Texas Commission on Environmental Quality
Karen Ann Elton
Notary Public in and for the State of Texas

Texas Commission on Environmental Quality

NOTICE OF APPLICATION AND PRELIMINARY DECISION FOR TPOES PERMIT FOR MUNICIPAL WASTEWATER NEW

PROPOSED PERMIT NO. WQ0014694001

APPLICATION AND PRELIMINARY DECISION: Egan Development, L.P., 211 Highland Cross Drive, Suite 101, Houston, Texas 77073-1700, has applied to the Texas Commission on Environmental Quality (TCEQ) for a new permit, proposed TPOES Permit No. WQ0014694001, to authorize the discharge of treated domestic wastewater at an annual average flow not to exceed 1,000,000 gallons per day. TCEQ received this application on March 6, 2006.

The facility will be located approximately 4,300 feet east and 1,500 feet north of the intersection of Farm to Market Road 1317 and Calloun Road in Montgomery County, Texas. The treated effluent will be discharged to an on-site drainage channel, thence to a pumped detention pond, thence to a drainage channel which crosses under Old Houston Road, thence to a drainage channel which crosses under Old Creek, thence to Carey Creek in Segment No. 101B of the San Jacinto River Basin. The unclassified receiving water uses are no significant aquatic life uses for the on-site drainage channel, pumped detention pond, drainage channel which crosses Old Houston Road, and series of drainage channels and immediate aquatic life uses for Dry Creek. The designated uses for Segment No. 101B are high aquatic life uses, public water supply and contact recreation.

In accordance with 307.2 and the TCEQ implementation procedures (January 2003) for the Texas Surface Water Quality Standards, an antidegradation review of the receiving water body was performed. A preliminary determination has been made that the existing water quality will not be impaired by this permit action. Numerical antidegradation criteria for protected existing uses will be maintained. A field review has preliminarily determined that no significant degradation of water quality is expected in Dry Creek. The facility is identified as having intermediate aquatic life uses. Existing uses will be maintained and protected. The antidegradation determination shall be reexamined and may be amended if new information is received.

The TCEQ Executive Director has completed the technical review of the application and prepared a final permit. If the permit is approved, it will establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that the permit, as issued, meets all statutory and regulatory requirements. The permit application, Executive Director's preliminary decision, and draft permit are available for review and comment at the Montgomery County Library, R. B. Jullis Branch, 21130 W. Highway 297, P.O. Box 200, New Caney, Texas.

PUBLIC COMMENT, PUBLIC MEETING: You may submit public comments or request a public meeting about this application. The purpose of a public meeting is to provide an opportunity to submit comments or to ask questions about the application. A public meeting is not required. The Executive Director determines the date, time, and location of a public meeting for a completed case hearing.

OPPORTUNITY FOR A CONSIDERED CASE HEARING: After the deadline for submitting public comments, the Executive Director will consider all timely comments and prepare a response to all relevant and material public comments.

Only an applicant or a directly related interested case hearing will respond to comments. Comments will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application. All comments are received by the TCEQ and will also provide instructions for requesting a considered case hearing or reconsideration of the Executive Director's decision. A considered case hearing is a separate final administrative hearing and distribution.

FOR REQUEST FOR A CONSIDERED CASE HEARING, YOU MUST INCLUDE THE FOLLOWING ITEMS IN YOUR REQUEST: your name, address, phone, applicant's name and permit number, the location and distance of your primary activities relative to the facility, a photocopy of a map of how you would be adversely affected by the facility, a way not common to the general public, and the statement of a request for a considered case hearing. If the request for a considered case hearing is filed on behalf of a group or association, the request must designate the group representative to receive future correspondence, identify an individual member of the group who would be adversely affected by the proposed facility or activity, provide the information discussed above regarding the affected member's location and distance from the facility or activity, explain how and why the member would be affected, and explain how the interests the group seeks to protect are germane to the group's purpose.

Only the flow of an applicable comment and only the Executive Director's final decision will be forwarded to the applicant and any request for reconsideration or a considered case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

The Commission will only grant a considered case hearing on disputed issues of fact that are relevant and material to the Commission's decision on the application. Further, all Commission will only grant a hearing on issues that were raised in timely filed comments that were not subject to rebuttal.

EXECUTIVE DIRECTOR ACTION: The Executive Director may issue final approval of the application unless a timely considered case hearing request or request for reconsideration is filed. If a timely hearing request or request for reconsideration is filed, the Executive Director will not issue final approval of the permit and will forward the application and request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

MEETING LIST: If you submit public comments, a request for a considered case hearing or a reconsideration of the Executive Director's decision, you will be added to the mailing list for this specific application to receive future public notices mailed by the Office of the Chief Clerk. In addition, you may request to be placed on: (1) the permanent mailing list for a specific applicant name and permit number, and/or (2) the mailing list for a specific county. If you wish to be placed on the permanent and/or the county mailing lists, clearly specify which lists and send your request to TCEQ Office of the Chief Clerk at the address below.

All written public comments and public meeting requests must be submitted to the Office of the Chief Clerk, MC 405, TCEQ, P.O. Box 13037, Austin, TX 78711-3037, within 30 days from the date of newspaper publication of this notice.

AGENCY CONTACTS AND INFORMATION: If you need more information about this permit application or the permitting process, please call the TCEQ Office of Public Assistance, toll-free at 800-697-2410. For general information and Spanish language assistance, call 800-697-2410. General information about the TCEQ can be found on our web site at www.TCEQ.state.tx.us.

Further information may also be obtained from Egan Development, L.P. at the address listed above or by calling 281-292-7100.

Issued: 09/29/2006 10:45:00 AM

1481730606060000

TCEQ-OFFICE OF THE CHIEF CLERK
MC-105 Attn: Notice Team
PO BOX 13087
AUSTIN TX 78711-3087

APPLICANT NAME: ELAN DEVELOPMENT LP
PERMIT NO.: WQ0014694001 CCO#: 53344
NOTICE OF APPLICATION AND PRELIMINARY DECISION

ALTERNATIVE LANGUAGE PUBLISHER'S AFFIDAVIT

STATE OF TEXAS §

COUNTY OF Montgomery §

BEFORE ME, the undersigned authority, on this day personally appeared Jorge Perez, who being by me duly sworn, deposes and says that (s)he is the Genl Manager of the El Sol Newspaper; that this newspaper is generally circulated in Harris & Montgomery County, Texas and is published primarily in Spanish language; the attached notice was published in said newspaper on the following date(s): 10-27-06

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
CHIEF CLERK'S OFFICE
2006 NOV - 6 PM 2:58

sworn, deposes and says that (s)he is the Genl Manager (title of newspaper representative)

of the El Sol Newspaper (name of newspaper)

generally circulated in Harris & Montgomery County, Texas (same county as proposed facility)

and is published primarily in Spanish language; (alternative language)

the attached notice was published in said newspaper on the following date(s):
10-27-06

Subscribed and sworn to before me this the 30 day of October, 2006,

by Jorge Perez
Newspaper Representative's Signature

(Personalized Seal).

Wesli Collins / Weslianne Collins
Notary Public in and for the State of Texas

TCEQ- 20244. November 28, 2005



THE STATE OF TEXAS
COUNTY OF TRAVIS
I hereby certify that this is a true and correct copy of a Texas Commission on Environmental Quality document, which is filed in the permanent records of the Commission. Given under my hand and the seal of office on FEB 02 2007
LaDonna Castanuela
LaDonna Castanuela, Chief Clerk
Texas Commission on Environmental Quality

Comisión de Calidad Ambiental del Estado de Texas

AVISO DE RECIBO DE LA SOLICITUD Y EL INTENIO DE OBTENER PERMISO PARA LA CALIDAD DEL AGUA PERMISO NO WQ0014694001

SOLICITUD: Plan Development, L.P., 211 Highland Cross Drive, Suite 101, Houston, Texas 77073-4700, ha solicitado a la Comisión de Calidad Ambiental del Estado de Texas (TCEQ) para el propuesto Permiso No. WQ0014694001 (EPA ID No. TX 0082514) del Sistema de Eliminación de Descargas de Contaminantes de Texas (TPDES) para autorizar la descarga de aguas residuales tratadas en un volumen que no sobrepasa un flujo promedio diario de 1,000,000 galones por día.

La planta de tratamiento de aguas residuales domésticas o tratamiento de agua potable está ubicada aproximadamente a 4,300 pies al este y 1,500 pies norte de la intersección de Farm-to-Market Road 1314 y Calhoun Road en Montgomery County, Texas. La ruta de descargas del sitio de la planta a canal de drenaje, después a bombeado a un estaque de detención, después al canal de drenaje cruzando por abajo de Old Houston Road, después a una serie de cunetas de drenaje, después a Dry Creek después a Canev Creek en Segmento No. 1010 de el San Jacinto River Basin. La TCEQ recibió esta solicitud en Marzo 06, 2006. La solicitud para el permiso está disponible para leerla y copiarla en Montgomery County Library R-B Tullis Branch, 21130 U.S. Highway, 59 #K, New Caney, Texas.

AVISO ADICIONAL: El Director Ejecutivo de la TCEQ ha determinado que la solicitud es administrativamente completa y conducirá una revisión técnica de la solicitud. Después de completar la revisión técnica, el Director Ejecutivo puede preparar un borrador del permiso y emitir una Decisión Preliminar sobre la solicitud. El aviso de la solicitud y la decisión preliminar serán publicados y enviado a los que están en la lista de correo de las personas a lo largo del condado que desean recibir los avisos y los que están en la lista de correo que desean recibir avisos de esta solicitud. El aviso dará la fecha límite para someter comentarios públicos.

COMENTARIO PUBLICO / REUNION PUBLICA: Usted puede presentar comentarios públicos o pedir una reunión pública sobre esta solicitud. El propósito de una reunión pública es dar la oportunidad de presentar comentarios o hacer preguntas acerca de la solicitud. La TCEQ realiza una reunión pública si el Director Ejecutivo determina que hay un grado de interés público suficiente en la solicitud o si un legislador local lo pide. Una reunión pública no es una audiencia administrativa de lo contencioso.

OPORTUNIDAD DE UNA AUDIENCIA ADMINISTRATIVA DE LO CONTENCIOSO: Después del plazo para presentar comentarios públicos, el Director Ejecutivo considerará todos los comentarios apropiados y preparará una respuesta a todos los comentarios públicos esenciales, pertinentes o significativos. Avisos que la solicitud ha sido referida directamente a una audiencia administrativa de lo contencioso, la respuesta a los comentarios y la decisión del Director Ejecutivo sobre la solicitud serán enviados por correo a todos los que presentaron un comentario público y a las personas que están en la lista para recibir avisos sobre esta solicitud. Si se recibe un comentario, el aviso también proveerá instrucciones para pedir una reconsideración de la decisión del Director Ejecutivo y para pedir una audiencia administrativa de lo contencioso. Una audiencia administrativa de lo contencioso es un procedimiento legal similar a un procedimiento legal civil en un tribunal de distrito del estado.

PARA PEDIR UNA AUDIENCIA ADMINISTRATIVA DE LO CONTENCIOSO, USTED DEBE INCLUIR EN SU PEDIDO LOS SIGUIENTES DATOS: su nombre, dirección, teléfono, nombre del solicitante, número del permiso, la ubicación y la distancia de su propiedad a la actividad con respecto a la instalación, una descripción específica de la forma como usted será afectado adversamente por el sitio de una manera no común al público en general, la declaración: "Yo u otros, solicitamos una audiencia administrativa de lo contencioso." Si presenta por parte de un grupo o asociación el pedido para una audiencia administrativa de lo contencioso, debe identificar el nombre y la dirección de una persona que representa al grupo para recibir correspondencia en el futuro, debe identificar un miembro del grupo que será afectado adversamente por la planta o la actividad propuesta, debe proveer la información y indicada anteriormente con respecto a la ubicación del miembro afectado y la distancia de la planta o actividad propuesta, debe explicar cómo y por qué el miembro será afectado, como los intereses que el grupo de él proteger son pertinentes al propósito del grupo.

Después de eler el día del pedido, por los pedidos, comentarios, el Director Ejecutivo enviará la solicitud y los pedidos para su consideración o para una audiencia administrativa.



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Public Notice Verification Form
Water Quality Permit

OCC #
53344
(TCEQ use only)

Applicant Name: ELAN DEVELOPMENT LP
Site or Facility Name: SADDLERIDGE RANCH WASTEWATER TREATMENT PLANT
TCEQ Account Number (if applicable): _____ Permit Number: WQ0014694001, WQ0014694001
Regulated Entity Number: RN104913454 Customer Number: CN602549495

WATER QUALITY PERMIT NOTICE VERIFICATION	
I verify that original tear sheets of the newspaper notices and the requested affidavits have been furnished in accordance with the regulations and instructions of the TCEQ.	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
Notice of Receipt of Application and Intent to Obtain Permit (1st Notice): I verify that a copy of the complete water quality application, and any revisions, were available for review and copying at the public place indicated below throughout the duration of the public comment period.	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
Notice of Application and Preliminary Decision (2nd Notice, if applicable): I verify that a copy of the complete water quality application and draft permit, and any revisions, are available for review and copying at the public place indicated below from the first day after newspaper publication; and	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
I also verify that the water quality application and draft permit, and any revisions, will remain in the designated public place until either: 1) the TCEQ acts on the application; or 2) the application is referred to the State Office of Administrative Hearings (SOAH) for hearing.	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
Name and Address of Public Place: <u>R.B. TULLUS LIBRARY, 21130 US. Hwy 59 #K NEW CANEV TX 77357</u>	
Signed by: <u>[Signature]</u> <u>DAVID W. WARNER, P.E.</u>	
Title: <u>PROJECT ENGINEER</u>	Date: <u>10/12/06</u>

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
 CHIEF CLERKS OFFICE
 OCT 17 PM 3:00

THE STATE OF TEXAS
COUNTY OF TRAVIS
I hereby certify that this is a true and correct copy of a Texas Commission on Environmental Quality document, which is filed in the permanent records of the Commission. Given under my hand and the seal of office on
[Signature] FEB 02 2007
LaDonna Castanuela, Chief Clerk
Texas Commission on Environmental Quality



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Public Notice Verification Form
Water Quality Permit

OCC #
53344
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Applicant Name: ELAN DEVELOPMENT LP
Site or Facility Name: SADDLERIDGE RANCH WASTEWATER TREATMENT PLANT
TCEQ Account Number (if applicable): _____ Permit Number: WQ0014694001, WQ0014694001
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WATER QUALITY PERMIT NOTICE VERIFICATION	
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Notice of Application and Preliminary Decision (2nd Notice, if applicable): I verify that a copy of the complete water quality application and draft permit, and any revisions, are available for review and copying at the public place indicated below from the first day after newspaper publication; and I also verify that the water quality application and draft permit, and any revisions, will remain in the designated public place until either: 1) the TCEQ acts on the application; or 2) the application is referred to the State Office of Administrative Hearings (SOAH) for hearing. <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
Name and Address of Public Place: <u>R.B. TULLUS LIBRARY, 21130 US Hwy 59 #K NEW CANEY TX 77357</u>	
Signed by: <u>[Signature]</u> <u>DAVID W. WARNER, P.E.</u>	
Title: <u>PROJECT ENGINEER</u>	Date: <u>10/12/06</u>

CHIEF CLERKS OFFICE
 OCT 17 PM 3:00
 TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

THE STATE OF TEXAS
COUNTY OF TRAVIS

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[Signature] FEB 02 2007

LaDonna Castanuela, Chief Clerk
Texas Commission on Environmental Quality

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



THE STATE OF TEXAS
COUNTY OF TRAVIS

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FEB 02 2007

NOTICE OF APPLICATION AND PRELIMINARY DECISION
FOR TPDES PERMIT FOR MUNICIPAL WASTEWATER TREATMENT
NEW

Labonia DeVanuel
Labonia DeVanuel, Chief Clerk
Texas Commission on Environmental Quality

PROPOSED PERMIT NO. WQ0014694001

APPLICATION AND PRELIMINARY DECISION. Elan Development, L.P., 211 Highland Cross Drive, Suite 101, Houston, Texas 77073-1700, has applied to the Texas Commission on Environmental Quality (TCEQ) for a new permit, proposed TPDES Permit No. WQ0014694001, to authorize the discharge of treated domestic wastewater at an annual average flow not to exceed 1,000,000 gallons per day. TCEQ received this application on March 6, 2006.

The facility will be located approximately 4,300 feet east and 1,500 feet north of the intersection of Farm-to-Market Road 1314 and Calhoun Road in Montgomery County, Texas. The treated effluent will be discharged to an on-site drainage channel; thence to a pumped detention pond; thence to a drainage channel which crosses under Old Houston Road; thence to a series of drainage ditches; thence to Dry Creek; thence to Caney Creek in Segment No. 1010 of the San Jacinto River Basin. The unclassified receiving water uses are no significant aquatic life uses for the on-site drainage channel, pumped detention pond, drainage channel which crosses under Old Houston Road, and series of drainage channels and intermediate aquatic life uses for Dry Creek. The designated uses for Segment No. 1010 are high aquatic life uses, public water supply and contact recreation.

In accordance with §307.5 and the TCEQ implementation procedures (January 2003) for the Texas Surface Water Quality Standards, an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in Dry Creek, which has been identified as having intermediate aquatic life uses. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

The TCEQ Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at the Montgomery County Library, R. B. Tullis Branch, 21130 U.S. Highway 59, #K, New Caney, Texas.

PUBLIC COMMENT / PUBLIC MEETING. You may submit public comments or request a public meeting about this application. The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. TCEQ holds a public meeting if the Executive Director determines that there is a significant degree of public interest in the application or if requested by a local legislator. A public meeting is not a contested case hearing.

OPPORTUNITY FOR A CONTESTED CASE HEARING. After the deadline for submitting public comments, the Executive Director will consider all timely comments and prepare a response to all relevant and material, or significant public comments.

Unless the application is directly referred for a contested case hearing, the response to comments will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application. If comments are received, the mailing will also provide instructions for requesting a contested case hearing or reconsideration of the Executive Director's decision. A contested case hearing is a legal proceeding similar to a civil trial in a state district court.

TO REQUEST A CONTESTED CASE HEARING, YOU MUST INCLUDE THE FOLLOWING ITEMS IN YOUR REQUEST: your name; address, phone; applicant's name and permit number; the location and distance of your property/activities relative to the facility; a specific description of how you would be adversely affected by the facility in a way not common to the general public; and the statement "[I/we] request a contested case hearing." If the request for contested case hearing is filed on behalf of a group or association, the request must designate the group's representative for receiving future correspondence; identify an individual member of the group who would be adversely affected by the proposed facility or activity; provide the information discussed above regarding the affected member's location and distance from the facility or activity; explain how and why the member would be affected; and explain how the interests the group seeks to protect are germane to the group's purpose.

Following the close of all applicable comment and request periods, the Executive Director will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

The Commission will only grant a contested case hearing on disputed issues of fact that are relevant and material to the Commission's decision on the application. Further, the Commission will only grant a hearing on issues that were raised in timely filed comments that were not subsequently withdrawn.

EXECUTIVE DIRECTOR ACTION. The Executive Director may issue final approval of the application unless a timely contested case hearing request or request for reconsideration is filed. If a timely hearing request or request for reconsideration is filed, the Executive Director will not issue final approval of the permit and will forward the application and request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

MAILING LIST. If you submit public comments, a request for a contested case hearing or a reconsideration of the Executive Director's decision, you will be added to the mailing list for this specific application to receive future public notices mailed by the Office of the Chief Clerk. In addition, you may request to be placed on: (1) the permanent mailing list for a specific applicant name and permit number; and/or (2) the mailing list for a specific county. If you wish to be placed on the permanent and/or the county mailing list, clearly specify which list(s) and send your request to TCEQ Office of the Chief Clerk at the address below.

All written public comments and public meeting requests must be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087 within 30 days from the date of newspaper publication of this notice.

AGENCY CONTACTS AND INFORMATION. If you need more information about this permit application or the permitting process, please call the TCEQ Office of Public Assistance, Toll Free, at 1-800-687-4040. Si desea información en Español, puede llamar al 1-800-687-4040. General information about the TCEQ can be found at our web site at www.TCEQ.state.tx.us.

Further information may also be obtained from Elan Development, L.P. at the address stated above or by calling Mr. David Warner, P.E., with Montgomery & Associates at (281) 775-4650.

Issuance Date SEP 14 2006

THE STATE OF TEXAS
COUNTY OF TRAVIS

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Texas Commission on Environmental Quality document,
which is filed in the permanent records of the Commission,
Given under my hand and the seal of office on

Ledema Castanuela, Chief Clerk
Texas Commission on Environmental Quality

Ledema Castanuela
FEB 02 2007

JAMES FIELDS
PO BOX 295
CONROE TX 77305

KENNEN LAYNE BYLER
15721 HILL AND DALE TERRACE DR
SPLENDO A TX 77372

ROBERT L REDD
5211 THIESS RD
HUMBLE TX 77338

JESSIE RUTH CLARK
16652 PAYNE RD
CONROE TX 77302

FRANK L & MARY ANN CANON
25603 PENGUIN ST
MAGNOLIA TX 77355

DARRELL DUDC
7223 NICKABUR
MAGNOLIA TX 77354

FRANK L & MARY ANN CANON
25603 PENGUIN ST
MAGNOLIA TX 77355

JESSIE & CARRIE SUE FARMER
16696 PAYNE RD
CONROE TX 77302

CARRIE S FARMER
16696 PAYNE RD
CONROE TX 77302

DR CJ ETUX PANNZARELLA
900 GRANDBERRY ST
HUMBLE TX 77338

JEWEL SCOTT
4211 CREEK LEDGE
AUSTIN TX 78731

WILLIAM G NEWMAN
18404 OLD HOUSTON RD
CONROE TX 77302

MONTGOMERY COUNTY
400 N SAN JACINTO ST
CONROE TX 77301-2823

BERTRAND PROPERTIES LTD
117 S WIND DR
MONTGOMERY TX 77356-8235

OAKTREE LTD
PO BOX 603
PORTER TX 77365

PAUL MCQUEEN
18153 FM 1314 RD
CONROE TX 77302-5911

MICHAEL W & JANICE A CURRIER
19886 N STAR DR
PORTER TX 77365-3042

CONROE ISD
SUPERINTENDENT
3205 W DAVIS ST
CONROE TX 77304-2052

MARILYN ABBOTT
PETER MANN
17571 FM 1314 RD
CONROE TX 77302-4857

DELOS ENTERPRISES
504 W LEWIS ST
CONROE TX 77301

K MRS EST NELSON
RONALD R LEAHEY
2935 NE 43RD AVE
PORTLAND OR 97213-1106

MARTIN REALTORS
MARTIN TOM
PO BOX 603
PORTER TX 77365-0603

RIGOBERTO GONZALES
17234 FM 1314 RD
CONROE TX 77302-4850

J H CARLILE
15092 GREENBOUGH ST
CONROE TX 77302-5338

HARLEY H MILNER
15049 GREENBOUGH ST
CONROE TX 77302-5339

MADELINE CAROL OAKS
20585 PIN OAK RD
NEW CANEY TX 77357

SUSAN BACON TR
636 BELLINGRATH PARK
CONROE TX 77302-3018

SAMUEL E JR &
CONSTANCE TROYER
16607 ALDRICH ST
CONROE TX 77302-5303

ANTONIO CORONA
11958 MEDICINE BOW CIR
HOUSTON TX 77067-1116

RONALD & PATRICIA FARRELL
16559 ALDRICH ST
CONROE TX 77302-5301

ISMAEL G MATA
20614 SLEEPY HOLLOW LN
SPRING TX 77388

JAMES L CLARK
PO BOX L
NAPLES TX 75568

CONROE ISD TAX TRUST
3205 W DAVIS ST
CONROE TX 77304-2052

KEYSTONE-GARRETT PROP
PO BOX 1409
CONROE TX 77305-1409

FM1314-OAK TREE LTD
8150 N CENTRAL EXPRESSWAY
DALLAS TX 75206

STATE OF TEXAS
GENERAL LAND OFFICE
17000 N CONGRESS AVENUE
STE 130
AUSTIN TEXAS 78701-1495

BURNABY PROPERTIES LTD
PO BOX 1406
SPRING TX 77383-1406

WANDA MOORHEAD
PO BOX 413
CONROE TX 77305-0413

DIANA SAUTER
22619 DIANE DR
SPRING TX 77373-7507

JUVENTINO & GREGORIA CAZARES
607 E 26TH ST
HOUSTON TX 77008-2319

TU VAN & KIM H TRAN
17038 GLENEAGLE DR S
CONROE TX 77385-4614

NELSON C SHEPPARD
8022 12TH FAIRWAY LN
HUMBLE TX 77346-4503

JACKIE MADDEN SHORES
15590 VILLAGE WOODS DR
CONROE TX 77302-6756

BARBARA TRAHAN
723 SHENANDOAH DR
SPRING TX 77381-1043

CURTIS M PEACOCK
17858 FM 1314 RD
CONROE TX 77302-5904

ANDY E & GARLAND M KEETH
14867 LYRIC RD
CONROE TX 77302-6751

LARRY SR & ANNETTE SKERO
15337 BENNETTE WOODS RD
CONROE TX 77302-6815

SCOTT W GUILLOTE
17806 FM 1314 RD
CONROE TX 77302-5904

TRUITT W THOMAS
PO BOX 7714
HOUSTON TX 77270-7714

MICHAEL FRENCH
5006 SEYMOUR DR
HOUSTON TX 77032-4620

RANDALL & ELAINE TATRO
17728 FM 1314 RD
CONROE TX 77302-5902

LITTLE PRINCESS INVESTMENT CO
PO BOX 1762
PORTER TX 77365-1762

RICHARD LYNCH
PO BOX 657
HYANNIS MA 02601-0657

RENE W MARTIN
2442 LAKE VILLAGE DR
KINGWOOD TX 77339-3649

JOHNNY F & JOY A WRIGHT
14809 MCGREGOR RD
CONROE TX 77302-6625

MARIA DEL GLUR
357 LOST CREEK CT N
KEIZER OR 97303-8100

BENTLEY WALTERS
7530 PINETEX DR
HUMBLE TX 77396-2681

NORTHEAST CHURCH OF CHRIST
PO BOX 166
PORTER TX 77365-0166

STEVEN JR & SHELLY M POLONSKI
27770 SOUTHLAND DR
SPLENDORA TX 77372-4413

STEVEN M &
DONNA G-ACORD WICK
18415 OLD HOUSTON RD
CONROE TX 77302-6135

SALOMON & MARGARET HERRERA
19258 TIMBERLAND BLVD
PORTER TX 77365-6465

Little Princess's Investment Company

P.O. Box 1762
Porter, Texas 77365

November 30, 2006

H OPA (713) 354-2550

DEC 06 2006

BY KA

Texas Commission on Environmental Quality
Office of the Chief Clerk MC105
P.O. Box 13087
Austin, Texas 78311-3087

RE: Proposed TPDES Permit
Municipal Wastewater, WQ0014694001
Elan Development L.P.
211 Highland Cross Drive, Suite 101
Houston, Texas 77073-1700

MWD
53344

CHIEF CLERKS OFFICE

NOV REC - 4 PM 2-49

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

Sirs,

I request a contested case hearing on the Elan Development Application, WQ0014694001. I did not receive a notice of application from Elan Development and the discharge route proposed crosses the middle of my property where there is no ditch or tributary, thus creating a "sheetflow" of sewer discharge over much of my property.

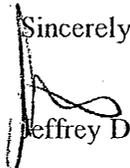
The notice I just got from the utility company that has the water CCN on the lower part of this proposed wastewater facility has a vague description of its location (almost 1.5 miles from my property) and didn't describe the discharge route properly. I refuse to allow sewer discharge to cross my property when there is no drainage channel of any sort on my property, nor any drainage easement.

My name is Jeffrey D. Lochore, Partner in Little Princess Investment Company, owner of 79 acres adjacent to the eastern boundary (my property is on the east side of Old Houston Road) of the Elan Development property. My address is P.O. Box 1762 Porter, Texas 77365, my physical address is 1395 Northpark Drive Kingwood, Texas 77339 and my phone number is 281-354-2550.

My property is approximately 1-mile southeast of the proposed wastewater treatment facility, but directly in the path of the proposed discharge route. I am currently platting my property into residential tracts that will be available for sale early in 2007. This illegal discharge would render several hundred thousand dollars worth of property worthless.

I request a contested case hearing.

Sincerely,


Jeffrey D. Lochore

THE STATE OF TEXAS
COUNTY OF TRAVIS

I hereby certify that this is a true and correct copy of a Texas Commission on Environmental Quality document, which is filed in the permanent records of the Commission. Given under my hand and the seal of office on


FEB 05 2007

LaDonna Castanuela, Chief Clerk
Texas Commission on Environmental Quality

LITTLE PRINCESS'S INVESTMENT CO.

Jeffrey D. Lochore, General Partner
P.O. Box 1762 Porter, Texas 77365
Phone: (281) 354-2550, (281) 354-6184 Fax

January 8, 2007

Express Mail #111830

Ms. LaDonna Castanuela
Texas Commission on Environmental Quality
Office of Chief Clerk MC-105
P. O. Box 13087
Austin, TX 78711-3087

OPA

JAN 11 2007

RE: Motion to Overturn
Elan Development, LP
Permit WQ0014694001

2007-0012-MWD

Dear LaDonna:

This is my official motion to overturn the permit issued to Elan Development, WQ0014694001.

As you are aware, we contested their application late (12/1/06) due to the fact that we were not notified by the applicant during the normal notification period. The applicant's Engineer, David Warner, admitted to me that his property owner's list was not up to date and did not mail me notification. I received my copy from an adjoining property owner late in November and immediately (12/1/06) filed a request for a contested case hearing.

Per your letter of 12/18/06, this is my request to overturn. I am including 11 copies to you plus sending copies to the applicant, the Executive Director's attorney and Public Interest Counsel at the addresses you have listed. I have also attached a copy of my original request for a contested case hearing that spells out why the Commission should review the TCEQ executive director's action.

Sincerely,

Jeffrey D. Lochore

THE STATE OF TEXAS
COUNTY OF TRAVIS
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LaDonna Castanuela
LaDonna Castanuela, Chief Clerk
Texas Commission on Environmental Quality
FEB 05 2007

- cc: M. G. Manners, Elan Development, L.P.
- cc: David Warner, P.E., Montgomery & Associates
- cc: Tom A. Martin, President, Crystal Springs Water Company, Inc.
- cc: Kerrie Qualtrough, Senior Attorney, TCEQ, Environmental Quality
- cc: David U. Akoma, Technical Staff, TCEQ, Water Quality Division, MC-148
- ✓ cc: Ms. Jodena Henneke, Director, TCEQ, Office of Public Assistance, MC-108
- cc: Mr. Blas J. Coy, Jr. Attorney, TCEQ, Public Interest Counsel, MC-103
- cc: Mark Zeppa, Attorney, Austin, Texas
- cc: William Fowler, Attorney, Conroe, Texas

Kathleen Hartnett White, *Chairman*
Larry R. Soward, *Commissioner*
Martin A. Hubert, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

December 12, 2006

Jeffery D. Lochore
Little Princess's Investment Company
P.O. Box 1762
Porter, Texas 77365

Tom Martin
Crystal Springs Water Company, Inc.
P.O. Box 603
Porter, Texas 77365

Re: Proposed TPDES permit, Elan Development, L.P., WQ0014694001

Dear Mr. Lochore and Mr. Martin:

The Executive Director of TCEQ is in receipt of your contested case hearing requests on the above noted permit application. Unfortunately, the requests were not timely filed and the commissioners will be unable to consider them.

Mr. Lochore's request was received by the TCEQ's Office of the Chief Clerk on December 4, 2006 and Mr. Martin's on December 11, 2006. However, the comment period for this permit application ended on November 27, 2006 and the permit was posted for issuance on December 1, 2006. No public comments were received during the comment period.

The comment period began on June 21, 2006 when the applicant published its Notice of Intent to Obtain a Water Quality permit and ended on the date noted above, or 30 days after their Notice of Preliminary Decision was published on October 27, 2006. For your hearing requests to be considered by the commissioners, there must be public comments filed during the comment period and a hearing request filed either during the comment period or within 30 days after the Executive Director issues a written response to the comments received. In this case where no public comments are received during the comment period, there is no additional period of time when a contested case hearing may be requested.

However, to generally address the concerns in your letters, TCEQ's permit does not give the applicant the authorization to use another's property without their consent. When

CHIEF CLERK'S OFFICE

FEB 02 2007

COMMISSION ON ENVIRONMENTAL QUALITY

THE STATE OF TEXAS
COUNTY OF TRAVIS

I hereby certify that this is a true and correct copy of a Texas Commission on Environmental Quality document, which is filed in the permanent records of the Commission. Given under my hand and the seal of office on

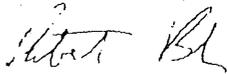
LaDonna Castanuela FEB 02 2007

LaDonna Castanuela, Chief Clerk
Texas Commission on Environmental Quality

deciding to issue a wastewater permit, TCEQ does not consider or adjudicate property right issues. However, it is the responsibility of the applicant to obtain all of the necessary property rights for operation of its proposed facility. In addition, the permit does not limit the ability to seek legal remedies against an applicant regarding any potential trespass, nuisance, or other causes of action in response to activities that may result in injury to human health or property or that interfere with the normal use and enjoyment of property.

If you have any other questions about this matter you may contact me at 512-239-5600.

Sincerely,

A handwritten signature in black ink, appearing to read "Bob Brush". The signature is written in a cursive style with a large initial "B" and "B".

Bob Brush
TCEQ Staff Attorney

Little Princess's Investment Company

MWD
53344

(713) 354-2550

P.O. Box 1762
Porter, Texas 77365

December 20, 2006

Texas Commission on Environmental Quality
Bob Brush
TCEQ Staff Attorney
P. O. Box 13087
Austin, TX 78311-3087

CHIEF CLERKS OFFICE

2007 JAN -3 PM 2:53

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

RE: Request For Hearing
TPDES Permit (Proposed)
Elan Development, LP
WQ0014694001

Dear Mr. Brush:

We reject your denial of our request for a hearing on the Elan Development Permit. I talked to David Warner, Elan Development engineer, who mailed out the notices for public comments. He admitted that his property owners' list was not up to date, did not show us as owners of our 79-acre tract adjoining the Elan Development property and did not mail us a notice.

The TCEQ application requires all property owners that could be affected by this permit to be notified. We were not notified, so we could not protest in a timely manner.

I expect the permit application to be put on hold with a public hearing scheduled as soon as possible.

If I don't get a positive response from you within 10 days, I have instructed my attorney to prepare an injunction/legal action for filing. My property owner rights are being violated. Please reply by January 1, 2007.

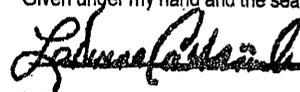
Sincerely,

Jeffrey D. Lochore
Little Princess's Investment Co.

cc: Mark Zeppa, Attorney, Austin, Texas
cc: William Fowler, Attorney, Conroe, Texas
cc: Water Engineers, Inc, Cypress, Texas

THE STATE OF TEXAS
COUNTY OF TRAVIS

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 FEB 02 2007

LaDonna Castanuela, Chief Clerk
Texas Commission on Environmental Quality

P.S. As stated in my first request dated 11/30/06, my name is Jeffrey D. Lochore, Partner in Little Princess's Investment Company, owner of 79 acres adjacent to the eastern boundary of the Elan Development property. My address is P. O. Box 1762, Porter, TX 77365. My physical address is 1395 Northpark Drive, Kingwood, TX 77339.

Kathleen Hartnett White, *Chairman*
Larry R. Soward, *Commissioner*
Martin A. Hubert, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

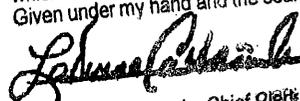
Protecting Texas by Reducing and Preventing Pollution

December 18, 2006

TO: Persons on the attached mailing list.

RE: Elan Development, L.P.
Permit No. WQ0014694001

THE STATE OF TEXAS
COUNTY OF TRAVIS
I hereby certify that this is a true and correct copy of a
Texas Commission on Environmental Quality document,
which is filed in the permanent records of the Commission.
Given under my hand and the seal of office on


LaDonna Castañuela, Chief Clerk
Texas Commission on Environmental Quality
FEB 02 2007

This letter is your notice that the Texas Commission on Environmental Quality (TCEQ) executive director has issued final approval of the above-named application.

You may file a **motion to overturn** with the chief clerk. A motion to overturn is a request for the commission to review the TCEQ executive director's approval of the application. Any motion must explain why the commission should review the TCEQ executive director's action.

A motion to overturn must be received by the chief clerk within 23 days after the date of this letter. An original and 11 copies of a motion must be filed with the chief clerk in person, or by mail to the chief clerk's address on the attached mailing list. On the same day the motion is transmitted to the chief clerk, please provide copies to the applicant, the Executive Director's attorney, and the Public Interest Counsel at the addresses listed on the attached mailing list. If a motion to overturn is not acted on by the commission within 45 days after the date of this letter, then the motion shall be deemed overruled.

Individual members of the public may seek further information by calling the TCEQ Office of Public Assistance, toll free, at 1-800-687-4040.

Sincerely,



LaDonna Castañuela
Chief Clerk

LDC/lg

MAILING LIST
FOR
Elan Development, L.P.
Permit NO. WQ0014694001

FOR THE APPLICANT:

M.G. Manners
Elan Development, L.P.
211 Highland Cross Drive, Suite 101
Houston, Texas 77073

David Warner, P.E.
Montgomery & Associates
450 Gears Road, Suite 200
Houston, Texas 77067

PROTESTANTS/INTERESTED PERSONS:

Tom Martin, President
Crystal Springs Water Company
P.O. Box 603
Porter, Texas 77365

Jeffrey D. Lochore
P.O. Box 1762
Porter, Texas 77365

FOR THE EXECUTIVE DIRECTOR:

Kerrie Qualtrough, Senior Attorney
Texas Commission on Environmental Quality
Environmental Law Division MC-173
P.O. Box 13087
Austin, Texas 78711-3087

David U. Akoma, Technical Staff
Texas Commission on Environmental Quality
Water Quality Division MC- 148
P.O. Box 13087
Austin, Texas 78711-3087

FOR OFFICE OF PUBLIC ASSISTANCE:

Ms. Jodena Henneke, Director
Texas Commission on Environmental Quality
Office of Public Assistance MC-108
P.O. Box 13087
Austin, Texas 78711-3087

FOR PUBLIC INTEREST COUNSEL:

Mr. Blas J. Coy, Jr., Attorney
Texas Commission on Environmental Quality
Public Interest Counsel MC-103
P.O. Box 13087
Austin, Texas 78711-3087

FOR THE CHIEF CLERK:

Ms. LaDonna Castañuela
Texas Commission on Environmental Quality
Office of Chief Clerk MC-105
P.O. Box 13087
Austin, Texas 78711-3087



West Side of Old Houston Road
(Elan Side)



East Side of Old Houston Road
(Alleged LPIC side)



Water Flowing Through Alleged
LPIC Property

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Municipal Permits Team Date: June 2, 2006
Wastewater Permitting Section
Water Quality Division

Thru: *WJB* Charles Bayer, Water Quality Standards Team Peer Review
6/2/06 Water Quality Assessment Section
Water Quality Division

From: *DM* Debbie Miller, Water Quality Standards Team
6/2/06 Water Quality Assessment Section
Water Quality Division

Subject: Elan Development, L.P.; Permit No. 14694-001
New; Application Received: March 6, 2006

THE STATE OF TEXAS
COUNTY OF TRAVIS

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Given under my hand and the seal of office on

 FEB 05 2007

LaDonna Castanuela, Chief Clerk
Texas Commission on Environmental Quality

The discharge route for the above referenced permit is to an on-site drainage channel; thence to a pumped detention pond; thence to a drainage channel which crosses under Old Houston Road; thence to a series of drainage ditches; thence to Dry Creek; thence to Caney Creek in Segment 1010 of the San Jacinto River Basin. The designated uses and dissolved oxygen criterion as stated in Appendix A of the Texas Surface Water Quality Standards (30 TAC §307.10) for Segment 1010 are contact recreation,, public water supply, high aquatic life use, and 5.0 mg/L dissolved oxygen.

Since the discharge is directly to an unclassified water body, the permit action was reviewed in accordance with §307.4(h) and (k) of the 1997 Texas Surface Water Quality Standards and the TCEQ's implementation procedures for the standards. Based on a receiving water assessment and/or other available information, a preliminary determination of the aquatic life uses in the area of the discharge impact has been performed and the corresponding dissolved oxygen criterion assigned.

On-site drainage channel, pumped detention pond, drainage channel which crosses under Old Houston Road, and series of drainage channels; no significant aquatic life use; 2.0 mg/L dissolved oxygen.
Dry Creek; intermediate aquatic life use; 4.0 mg/L dissolved oxygen.

In accordance with §307.5 and the TCEQ implementation procedures (January 2003) for the Texas Surface Water Quality Standards, an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in Dry Creek, which has been identified as having an intermediate aquatic life use. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

The discharge from this permit action is not expected to have an effect on any federal endangered or threatened aquatic or aquatic dependent species or proposed species or their critical habitat. This determination is based on the United States Fish and Wildlife Service's (USFWS) biological opinion on the State of Texas authorization of the Texas Pollutant Discharge Elimination System (TPDES; September 14, 1998; October 21, 1998 update). To make this determination for TPDES permits, TCEQ and EPA only considered aquatic or aquatic dependent species occurring in watersheds of critical concern or high priority as listed in Appendix A of the USFWS biological opinion. The determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion. The permit does not require EPA review with respect to the presence of endangered or threatened species.