

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



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

February 22, 2007

To: Persons on the attached mailing list (by mail and facsimile as indicated)

Re: Motion to Overturn filed by Jeffrey D. Lochore concerning Permit No. WQ0014694001 issued by the Executive Director to Elan Development, L.P. and related filings; TCEQ Docket No. 2007-0012-MWD.

This letter is to notify you that the Texas Commission on Environmental Quality will consider the above-described matter during its public meeting scheduled to begin at **9:30 A.M.** on **Wednesday, March 7, 2007** in Room 201S, Building E, 12100 Park 35 Circle, Austin, Texas 78753. The Movant, Elan Development, L.P., the Executive Director, and the Office of Public Interest Counsel have five minutes each for their oral presentation. The Movant also has three minutes for rebuttal argument.

Copies of the Motion and the related filings, if needed, may be obtained from the Office of Chief Clerk, TCEQ, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087.

If you have any questions about this matter, you may contact Celeste A. Baker, Assistant General Counsel, at 512-239-5527.

Respectfully,

A handwritten signature in cursive script that reads "Derek Seal".

Derek Seal  
General Counsel

### Mailing List

<h:/counsel/baker/letters/07/agendaset/ElanDelevopmentLPmto.set>

Mailing List  
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TCEQ Docket No. 2007-0012-MWD

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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*

January 26, 2007

To: Persons on the attached mailing list (by mail and facsimile as indicated)

Re: Request for Extension of briefing deadlines with regard to the Motion to Overturn filed by Jeffrey D. Lochore concerning Permit No. WQ0014694001 issued by the Executive Director to Elan Development, L.P.; TCEQ Docket No. 2007-0012-MWD.

By letter dated January 25, 2007, Mr. Martin C. Rochelle explains that he has recently been retained as counsel for Elan Development, L.P., the Applicant in this matter. In his letter, Mr. Rochelle requests a one-week extension in the briefing deadlines in order to fully respond to the Motion to Overturn. He further explains that the Executive Director and the Office of Public Interest Counsel do not object to an extension and that his efforts to contact the Movant have not been successful with regard to the extension request.

After review of the letter, I have determined to grant the request for a one-week extension of the briefing deadlines. Accordingly, the Applicant, the Executive Director and the Office of Public Interest Counsel have until **5:00 P.M. on Monday, February 5, 2007**, to file their response briefs in the Office of Chief Clerk. The Movant also has an additional one-week extension of his deadline to file a reply brief to the response briefs. Thus, he may file a reply brief to the response briefs on or before **5:00 P.M. on Tuesday, February 20, 2007**.

As stated in my earlier letter, an original and eleven (11) copies of any response or reply brief must be filed in the Commission's Office of Chief Clerk by the applicable 5:00 p.m. deadline to be considered timely. All response and reply briefs must be addressed to the Attention of the Agenda Docket Clerk and be marked with the TCEQ Docket number provided above. Copies of the response and reply briefs also must be mailed to all other parties no later than the day of filing in the Office of Chief Clerk. At this time, the Motion has not been scheduled for Commission consideration during an open meeting. If the Motion is scheduled for a specific meeting after review of the briefs, you will be notified by subsequent letter from my office.

If you have any questions about this matter, please contact Celeste Baker, Assistant General Counsel, at (512) 239-5527.

Respectfully,

A handwritten signature in black ink that reads "Derek Seal". The signature is written in a cursive, flowing style.

Derek Seal  
General Counsel

### Mailing List

<h:/counsel/baker/letters/07/MTOs/ElanDevelopmentExtrequest.ltr>

Mailing List  
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TCEQ Docket No. 2007-0012-MWD

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Kyle Lucas  
TCEQ Alternative Dispute  
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512/239-0687 FAX 512/239-4015

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

January 25, 2007

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Texas Commission on Environmental Quality  
Commissioners' Offices

Ms. Celeste Baker (MC 101)  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

VIA FACSIMILE  
AND FIRST-CLASS MAIL

Re: Elan Development, LLP's Application to Obtain a Water Quality Permit  
WQ 0014694001; TCEQ Docket No. 2007-0012-MWD (638-49)

Dear Ms. Baker:

Please accept this letter on behalf of my client, Elan Development, L.P., as a request for extension of one week to respond to the Motion to Overturn filed by Little Princess Investment Co. ("Movant") in the above-referenced matter. I have just been retained as counsel for Elan Development, L.P. and would appreciate the granting of this short extension in order to fully respond to the Motion to Overturn.

The Executive Director and Office of Public Interest Counsel do not object to an extension. We have attempted to contact the Movant, and the attorneys referenced in the Movant's Motion. These attorneys report that they do not know the Movant and do not represent the Movant. My efforts to contact the Movant have also been unsuccessful.

My client and I appreciate your consideration of this request. If you have questions concerning this request, please feel free to call on me at your convenience.

Sincerely,



Martin C. Rochelle

MCR/ldp  
63849\ltr070125mcr

cc: Service List  
Mr. Clint Pendleton  
Mr. David Warner  
Mr. David J. Klein

CHIEF CLERKS OFFICE

2007 JAN 29 AM 11:44

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

## CERTIFICATE OF SERVICE

I hereby certify that on this the 25<sup>th</sup> day of January, 2007, a true and correct copy of the foregoing was sent via First Class mail, electronic mail, facsimile, or hand-delivery to the following persons:

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

Mr. Blas Coy (MC 103)  
Texas Commission on Environmental Quality  
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Texas Commission on Environmental Quality  
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Tel: 239-5600  
Fax: 239-0606

Mr. Jeffrey Lochore  
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Porter, Texas 78711-3087  
Tel: 281-354-2550  
Fax: 281-354-6184

  
\_\_\_\_\_  
MARTIN C. ROCHELLE

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



TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

2007 JAN 12 PM 3:58

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

CHIEF CLERK'S OFFICE

January 12, 2007

To: Persons on the attached mailing list (by mail and facsimile as indicated)

Re: Motion to Overturn filed by Jeffrey D. Lochore concerning Permit No. WQ0014694001 issued by the Executive Director to Elan Development, L.P.; TCEQ Docket No. 2007-0012-MWD.

The above-described Motion to Overturn (Motion) was timely received in the Commission's Office of Chief Clerk. The Movant requests the Commission overturn the permit issued to Elan Development, L.P. In his Motion, the Movant raises concerns about the adequacy of the notice in this matter and the absence of a ditch or tributary for the proposed discharge. In the attached letter, he explains that the discharge route crosses the middle of his property. Copies of the Motion and Mr. Lochore's earlier letter dated December 20, 2006, in which he also restates his request for a hearing, may be obtained from the Office of Chief Clerk, TCEQ, Mail Code 105, and P.O. Box 13087, Austin, Texas 78711-3087.

Section 50.139(e) of the Commission's rules authorizes the Commission's General Counsel to extend the time for the Commission to act on a Motion up to 90 days after the date written notice is mailed to the Applicant. Accordingly, this letter shall serve as the order extending the time for the Commission to act on this Motion until **5:00 P. M. on Friday, March 16, 2007.**

The Applicant, the Executive Director, and the Office of Public Interest Counsel are hereby notified that they may file response briefs with regard to the issues raised in the Motion. The response briefs must be filed with the Chief Clerk's Office no later than **5:00 P. M. on Monday, January 29, 2007.** An original and eleven (11) copies of any response brief must be filed in the Commission's Office of Chief Clerk by the 5:00 p.m. deadline to be considered timely. All response briefs should be addressed to the Attention of the Agenda Docket Clerk and be marked with the TCEQ Docket number provided above.

The Movant may file a reply brief to the response briefs on or before **5:00 P.M. on Monday, February 12, 2007.** An original and eleven (11) copies of the reply brief must be filed in the Commission's Office of Chief Clerk by the 5:00 P.M. deadline to be considered timely. The reply brief should also be addressed to the Attention of the Agenda Docket Clerk and be marked with the TCEQ Docket number provided above. Any person filing a response brief or reply brief must mail a copy to all other parties on or before the day that person's brief is filed in the Chief Clerk's Office.

At this time, the Motion has not been scheduled for Commission consideration during an open meeting. If the Motion is scheduled for a specific meeting, you will be notified by subsequent letter from my office. If you have any questions about this matter, please contact Celeste Baker, Assistant General Counsel, at (512) 239-5527.

Respectfully,

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Derek Seal  
General Counsel

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hi:/counsel/baker/letters/07/MTOs/ElanDevelopmentMTOextbrief.ltr

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TCEQ Docket No. 2007-0012-MWD

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