

2007 AUG 17 PM 4: 20

In the Matter of the Application of	§	Before the
Elmer Jack Parks d.b.a. Jack Parks	§	Texas Commission On
Dairy for TPDES Permit No.	§	CHIEF CLERKS OFFICE
WQ0003590000	§	Environmental Quality

Executive Director's Response to Motions to Overturn the Executive Director's Return of TPDES Permit Application WQ0003590000 for Failure to Correct Application Deficiencies

The Executive Director (ED) of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to the Motion to Overturn (MTO) the ED's decision to return the TPDES permit application of Elmer Jack Parks, d.b.a. Jack Parks Dairy (Parks) for a Concentrated Animal Feeding Operation (CAFO) permit no. WQ0003590000 as provided by Title 30 of the Texas Administrative Code (30 TAC) Section (§) 281.19(b) for failure to correct application deficiencies. The MTO was filed by Jackson Walker L.L.P. on behalf of the applicant Elmer Jack Parks (Parks).

I. SUMMARY OF THE ED'S ANALYSIS OF PARKS' MTO

After three years, four notices of deficiencies (NODs), numerous meetings and phone conversations, the ED returned Parks' application for a dairy permit in the Bosque River watershed. According to the attachments in Parks' own MTO, the ED told Parks at least three times that there were major deficiencies in the application and the ED would return the application under 30 TAC § 281.19(b) if the deficiencies were not resolved. At no time did Parks ever exercise his option to request that the Commission determine the sufficiency of the application as allowed by 30 TAC § 281.19(b). Now, Parks has another opportunity under 30 TAC § 50.139 to challenge the ED's decision by filing this MTO. Again, Parks misses his opportunity to demonstrate that the application is sufficient. While he makes arguments about the process on page 10 of his MTO, he makes no

attempt to show that the deficiencies listed in the ED's July 20, 2007 letter returning the application are wrong. Even after the information submitted over 60 days late is considered, deficiencies still remain. Therefore, the ED recommends that the Commission deny the MTO and uphold the ED's decision to return the application.

II. TCEQ CAFO PERMITTING

TCEQ rules require a water quality authorization for livestock or poultry operations that confine or stable animals for a total of 45 days or more within a 12-month period and the confinement areas do not sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season. See 30 TAC § 321.32(3). An Animal Feeding Operation (AFO) becomes a CAFO when a certain number of animals are confined. A dairy becomes a CAFO when it confines 200 milking head. Additionally, there are special requirements in 30 TAC § 321.42 for dairies located in a major sole-source impairment zone, including the requirement of obtaining an individual CAFO permit. Currently, dairies in the Bosque River watershed are the only dairies that must obtain an individual permit under § 321.42. Dairies in other parts of the state are typically regulated under a general permit.

A typical dairy CAFO will confine its milking cows in pens and milk them two to three times daily. The waste from the cows is collected in retention control structures (RCS). Discharges are not allowed from RCSs, unless there is a rainfall event that exceeds a 25-year, 10-day event.¹ If such an event occurs, CAFO permits authorize a discharge of waste from RCSs, if necessary. However, if a permittee does not properly maintain or operate its RCSs and an overflow occurs due to *any* size rainfall event, the discharge is considered unauthorized and would subject a permittee to TCEQ enforcement action.

¹ This provision is part of the new CAFO rules, approved in July, 2004. This size RCS only applies to CAFOs in major sole-source impairment zones. The size rainfall event that meets the threshold at this location is 11.9 inches. Other CAFOs are required to size their ponds for a 25-year, 24-hour rain event. A 25-year, 10-day rain event is approximately 60% more than a 25-year, 24-hour rain event.

CAFOs may also land apply waste on land management units (LMUs) or on third party fields if certain requirements are met. One of those requirements is that the waste is applied at agronomic rates. Run-off from LMUs or third party fields where the waste has been properly applied at agronomic rates is considered agricultural storm water run-off by the Clean Water Act. 33 U.S.C. § 1362(14). Agricultural storm water run-off is considered a non-point source that is not regulated under the Clean Water Act. However, if waste is not applied at agronomic rates or certain application practices are not followed, then run-off from LMUs and third party fields do not meet the agricultural exemption under the Clean Water Act and are considered point source discharges. In those circumstances, discharges from LMUs or third party fields would be treated as unauthorized discharges and be subject to TCEQ enforcement action.

In order to draft a permit, the ED requires sufficient technical information from an applicant. The application must include information regarding the acreage of LMUs, area of pens, and the location of water in the state, in addition to other pertinent information. This information is necessary in order for the ED to determine whether the size of the RCS structures is adequate. This information provides the basic foundation to perform an evaluation of other parts of the application, such as the nutrient management plan (NMP). Without technically complete and consistent information in the application, the ED cannot make a recommendation on whether a permit should be issued.

III. PARKS APPLICATION PROCEDURAL HISTORY

The permit application was determined to be administratively complete on September 21, 2004. During technical review, the ED found that the information submitted in the application was insufficient. Subsequently, ED staff met with the consultant for Parks on December 16, 2005 in an attempt to resolve the technical deficiencies. On March 14, 2006, ED staff sent Parks a notice of deficiency (NOD) summarizing what needed to be included in an updated technical packet and requesting the revised technical information within 30 days (See Parks MTO Exhibit C). The deadline came and went with no response. On October 27, 2006, ED staff sent another NOD to Parks, which stated that he missed the deadline without responding. The ED warned him that under

the authority of 30 TAC § 281.19(b), the ED would return the application if the complete and accurate information was not received within 30 days (See Parks MTO Exhibit D).

In response to the October 27, 2006 NOD, Parks submitted updated technical information on November 27, 2006. ED staff again reviewed this information and again concluded there were major deficiencies. On December 4, 2006, ED staff sent yet another NOD to Parks outlining the deficiencies and warning Parks that the application would be returned under § 281.19(b) if complete and accurate information was not received in 30 days (See Parks MTO Exhibit E). In response to this NOD, Parks submitted additional information on January 2, 2007. ED staff reviewed this information and again concluded there were major deficiencies. On March 28, 2007, ED staff sent its last NOD letter to Parks outlining the remaining issues with the application and giving Parks yet another opportunity to correct the deficiencies or the application would be returned under § 281.19(b) (See Parks MTO Exhibit F).

In response to the March 28, 2007 NOD, Parks again submitted more information on April 11, 2007, and the ED staff determined that there were still unresolved deficiencies. After three NODs and untold phone conversations and meetings in excess of two years, Parks was unable to provide the ED with a technically complete application.

In each NOD, the ED informed Parks that the application would be returned under 30 TAC § 281.19(b). At no time did Parks ever disagree with the ED or seek to have the issue determined by the commission under § 281.19(b). Finally, after repeated attempts to obtain accurate and complete information to process the permit application failed, the ED decided to return the application. Subsequent to the decision by the ED to return the application, but prior to the actual return, Parks submitted additional information on June 12 and June 14, 2007. The application was returned on June 20, 2007 (See Parks MTO Exhibit I).

IV. EXECUTIVE DIRECTOR'S ACTIONS UNDER 30 TAC § 281.19(b)

Parks argues that the ED prematurely denied his right to a determination of the sufficiency of the necessary technical data. Parks cites 30 TAC § 281.19(b), which allows an applicant the option of having this question referred to the commission for a decision "instead of having the application returned."

Pursuant to 30 TAC § 281.19(a), the technical review period begins with the completion of the initial review period and continues for a period of time not to exceed 75 working days. However, if the ED finds deficiencies in the application, requests information from the applicant, and then receives the information from the applicant within the prescribed time period, the ED will complete processing of the application within the technical review period extended by the number of days required for the additional data. Generously assuming that the technical review period started the day the first NOD was sent to Parks on December 16, 2005, the technical review period for Parks should have ended in early April, 2006. Nevertheless, for another full year ED staff continued to work with Parks attempting to get the information necessary to prepare a draft permit. After at least two years, this effort was not successful.

A plain reading of the § 281.19(b) indicates an applicant must ask for this referral *before* the return of the application. If the application has been returned the option no longer exists for an applicant to do something "instead of having the application returned." Parks was told that the ED would return the application under § 281.19(b) and Parks missed his opportunity to request a Commission hearing on the technical sufficiency of his application before the application was returned.

The ED sent three NODs to Parks after failing to obtain the complete and accurate technical information necessary to properly review the permit application. The NODs were dated October 27, 2006 (Exhibit D of Parks MTO), December 4, 2006 (Exhibit E of Parks MTO), and March 28, 2007 (Exhibit F of Parks MTO). Each of those letters put Parks on notice his application was subject to return and referred him to 30 TAC § 281.19(b). If Parks believed as is stated in his MTO that the

application was technically complete and accurate, then that was the time period available for him to request a hearing on that issue. Parks argues that the ED and other members of the TCEQ charged with the technical review of the permit application "should have provided Parks with sufficient opportunity to exercise this option" prior to his application being returned. The ED informed Parks that he was considering return of the application under § 281.19(b) and cited Parks to this rule at least three times. Either Parks did not read the rule or he chose not to avail himself of this option. Parks cannot now claim that the ED was arbitrary and capricious because Parks missed his opportunity.

Additionally, 30 TAC § 281.19(b) does not place the burden on the ED to present Parks the option of requesting a hearing on the sufficiency of his application. Rather, the rule states that: "The petitioner has the option of having the question of sufficiency of necessary technical data referred to the commission for a decision instead of having the application returned." Parks was on notice from NOD dated October 27, 2006 that his application was subject to return. From October 27, 2006, Parks had over seven months to request a hearing regarding the sufficiency of his technical information returned and he did not do so.

V. PARKS ABILITY TO FILE AN MTO

Parks MTO is another opportunity for him to have the Commission consider the sufficiency of his permit application. Parks MTO is filed under 30 TAC § 50.139(a), which states: "The applicant, public interest counsel or other person may file with the chief clerk a motion to overturn of the executive director's action on an application..." This gives Parks yet another opportunity to challenge the ED's action in returning the application.²

On page 10 of Parks MTO, he states the application is complete, but provides no factual argument that his application is actually technically sufficient. In fact, he makes no demonstration at

² A previous example was located where the ED returned four permit applications under 30 TAC 281.19(b) and the applicant challenged the ED's decision through the MTO process. In that case, the ED returned the applications of 2428 Partners, L.P. to create Winfield Municipal Utility Districts Nos. 1-4. See TCEQ Docket Nos. 2004-1711-DIS to 2004-1714-DIS.

all and makes to effort to refute any of the NODs. He fails to explain how he has corrected any of the deficiencies listed in the July 20, 2007 letter returning the application. Instead, Parks concentrates on the process, claiming he did not have "sufficient opportunity" to exercise the option of requesting a hearing on the sufficiency of his application before the ED returned the application. Parks has again missed his opportunity to have the Commission consider the sufficiency of his application.

The ED attempted for over three years to obtain a complete and accurate application. The ED informed Parks time and again that his application was deficient. At some point the ED must decide whether to recommend issuance of a permit to an applicant. To reach that decision, the ED must receive complete and accurate technical information. As of the date of this filing, Parks has still not submitted a technically complete application that allows the ED to make a recommendation whether to issue the permit.

VI. PARKS APPLICATION IS STILL DEFICIENT

Over 60 days late, on June 12 and 14, 2007, Parks submitted additional technical information in response to the NOD dated March 28, 2007 (Parks MTO, Exhibits G and H). However, Parks still has failed to satisfy the deficiencies listed in this NOD (Parks MTO, Exhibit F). For example, the following deficiencies from the March 28, 2007 NOD still remain and were not corrected in Parks' late submissions:

- (1) The tons of solids are still inconsistent between the Technical Packet, engineering calculations, and the NMP. (Parks MTO, Exhibit F, Attachment A, Agronomy Comments, no. 2);
- (2) The sludge volumes are now misallocated between RCS No. 1 and No. 3. (Parks MTO, Exhibit F, Attachment A, Land Application Team Comments, no. 4);
- (3) The drainage area acres on the Runoff Control Map still do not add up correctly to fit with the engineering calculations. Parks made no attempt in any of its submissions to correct this deficiency that was listed in the previous NOD. (Parks MTO, Exhibit F, Attachment A, Land Application Team Comments, no. 4, "RCS #3 is not allocated for in the engineering calculations for [drainage areas] 1 and 3"); and

- (4) Parks has still failed to submit lab reports for the liner certifications. (Parks MTO, Exhibit F, Attachment A, Land Application Team Comments, no. 10).

The ED has informed Parks of these deficiencies and Parks has repeatedly failed to correct them. Even considering his latest submission that he relies on to justify his MTO, the deficiencies remain uncorrected. In fact, these same four items correspond to items no. 2, 4, 6, and 7 in the list of unresolved deficiencies attached to the June 20, 2007 letter returning the application (See Parks MTO, Exhibit I).

Furthermore, his late June 14, 2007 submission creates even more problems for the application. For example, his previous Technical Packet included calculations in the engineering design that showed there were 130 acres available for the land application of wastewater. This information contradicted the previous LMU maps and other parts of the technical package, which showed that there were only 70 acres available. In attempting to correct this inconsistency, Parks revised the LMU maps and technical package to coincide with the engineering calculations. He failed to indicate why the acreages listed on the previous LMU maps were incorrect or inconsistent even after he had previously verified the map. Instead of revising the engineering calculations, Parks simply changed the acreages on the LMU maps to fit the erroneous engineering calculations.

In developing this modification to the application, Parks has completely revised the configuration of LMUs #1A and #2 to account for the additional acreage and changed previously verified information on what crops are currently growing on specific LMUs. (Attachment 1). Because all parts of his application are interrelated, those changes have created numerous problems in other parts of the application. In attempting to correct his nutrient management plan (NMP) to fit the revised LMU maps, Parks created yet more internal inconsistencies between the NMP and the Technical Packet.

In addition, the LMU acreage and configuration are now significantly different from the information the ED used to perform his technical and administrative review of the application. Early in the application review process the ED's staff work with an applicant to finalize the LMU map

since it is the foundation for many aspects of the application review process. It does so for the following portions of the application review process:

- The administrative team works with applicants and uses the LMU maps to help identify the location of adjacent landowners for public notice purposes.
- The Water Quality Standards team works with the LMU map to evaluate protection of water in the state.
- The Water Quality Assessments team works with the LMU map to evaluate the recharge feature certification and the NMP.
- The permit writer works with the LMU map to determine if the critical components of the application use the information in a consistent manner.

It is very important to the permit review process that the LMU map and accompanying information accurately depict LMU boundaries, land use, acreage, buffers, and recharge features. Those same LMU boundaries need to appear on the National Resources Conservation Services soils map. LMU acreage and land use should be consistent throughout the application. ED staff already processed and reviewed an earlier LMU map for this facility. Changes to the new LMU map are enough to require new evaluations of all parts of the process that use the LMU map. If the MTO is granted, the changes to the application are so fundamental that the process will essentially start over.

Despite repeated attempts by the ED to get the information needed from Parks, the application remains inaccurate, incomplete, and impossible to evaluate to the point the ED can make a recommendation on the permit application. The decision of the ED to return this application should stand. If Parks wants to re-authorize this facility as a CAFO, he should be required to submit a new permit application.

VII. PROBLEMS WITH PARKS' CONSULTANT

Parks, through his attorney, calls the ED's decision to return the application "arbitrary" and accuses the ED of not following TCEQ rules. However, in another forum Mr. Parks made

statements that contradict the position taken in his filing before the commission. A July, 2007 article in Volume XVI, No.7 of the *Texas Dairy Review* entitled "Two Bosque River CAFO permit applications rejected by TCEQ" quotes Mr. Parks explaining why he thought the ED returned his permit application (Attachment 2):

However, [Parks] made it clear that he does not blame the TCEQ or Waco. "Not this time," Parks said. "This time, it was my consultant's fault. He dropped the ball. He's had health problems and I guess he was unable to oversee what was going on with my permit."

Mr. Parks is also quoted in the same article as saying:

Parks said the rejection for his permit stated technical problems with his application and inaccurate or insufficient information. "I had called the TCEQ and talked to them. I had gotten two warning letters and I was very concerned. They told me to get onto my consultant about it. **I can honestly say, the TCEQ made every effort to get my permit in.** But, even though it was filed, the paperwork was not on time and it was too late. Now, I'll have to file a new application and start over from scratch." (Emphasis added.)

In the quoted Texas Dairy Review article, Mr. Parks blames his consultant for problems with his permit application. Supporting this version of events is a quote from the affidavit of Joe Cordell, a former employee of Lowther Consulting and submitted as Parks MTO Exhibit B. On page 2 of the affidavit, Mr. Cordell makes the statement that Mr. Lowther's health problems that began in the fall of 2006³ "had a material and adverse impact on Lowther's ability to represent Parks' interests before the TCEQ."

While Mr. Lowther's health problems are unfortunate, they do not excuse the failure of Parks to submit the necessary technical information for the ED to process his permit application. Nor is Mr. Lowther's health problems a reason for overturning the ED's decision to return the application.

³ Although Mr. Cordell alleges that Mr. Lowther's health problems began in the fall of 2006, the ED first met with

If Parks believes that Lowther Consulting failed to properly represent him, then that issue is between him and his consultant.

VIII. EXECUTIVE DIRECTOR'S RECOMMENDATION

The ED respectfully recommends that the Commission deny the MTO because the decision to return the application under 30 TAC § 281.19(b) complies with TCEQ regulations. When the application was returned Parks lost the opportunity to request a hearing on the sufficiency of the technical information allowed by § 281.19(b). Nevertheless, Parks still had the opportunity to file an MTO, which he did, but he failed to demonstrate how his application was sufficient. Additionally, after consideration of the late information submitted by Parks the application is still technically deficient. The return of the permit application does not preclude Parks from filing a new dairy permit application.

Texas Commission on Environmental Quality

Glenn Shankle
Executive Director

Robert Martinez, Director
Environmental Law Division

by  _____
Robert D. Brush, Staff Attorney
Environmental Law Division
State Bar No. 00788772

consultant about application deficiencies in December, 2005 and the first NOD was sent in March, 2006.

CERTIFICATE OF SERVICE

I certify that on August 17, 2007, the original and 11 copies of the Executive Director's Response to Motions to Overturn on the Executive Director's return of the application of Elmer Jack Parks d.b.a. Parks Dairy Permit No. WQ0003590000 was filed with the TCEQ's Office of the Chief Clerk, and mailed or faxed to all persons on the attached mailing list.



Robert D. Brush, Staff Attorney

Environmental Law Division

State Bar No. 00788772

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2007 AUG 17 PM 4:20

CHIEF CLERKS OFFICE

MAILING LIST
FOR TPDES Permit No. WQ0003590000
Elmer Jack Parks d.b.a. Parks Dairy
TCEQ Docket No. 2007-1128-IWD

FOR THE APPLICANT:

Elmer Jack Parks
13628 West Farm to Market Road 8
Stephenville, Texas 76401-8666

James Bradbury
Jackson Walker, L.L.P
301 Commerce Street, Suite 2400
Fort Worth, Texas 76102
Fax: (817) 334-7290

FOR THE EXECUTIVE DIRECTOR:

Robert Brush
Texas Commission on Environmental Quality
Environmental Law Division MC-173
P.O. Box 13087
Austin, Texas 78711-3087

Charles Maguire
Chris Linendoll
Texas Commission on Environmental Quality
Wastewater Permits Section, MC-148
P.O. Box 13087
Austin, Texas 78711-3087

FOR OFFICE OF PUBLIC ASSISTANCE:

Bridget Bohac
Texas Commission on Environmental Quality
Office of Public Assistance MC-108
P.O. Box 13087
Austin, Texas 78711-3087

FOR THE CHIEF CLERK:

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

FOR ALTERNATIVE DISPUTE
RESOLUTION

Kyle Lucas
Texas Commission on Environmental Quality
Alternative Dispute Resolution, MC-222
P.O. Box 13087
Austin, Texas 78711-3087

OFFICE OF PUBLIC INTEREST COUNCIL

Christina Mann
Texas Commission on Environmental Quality
Office of Public Interest, MC-103
P.O. Box 13087
Austin, Texas 78711-3087
Fax: (512) 239-6377

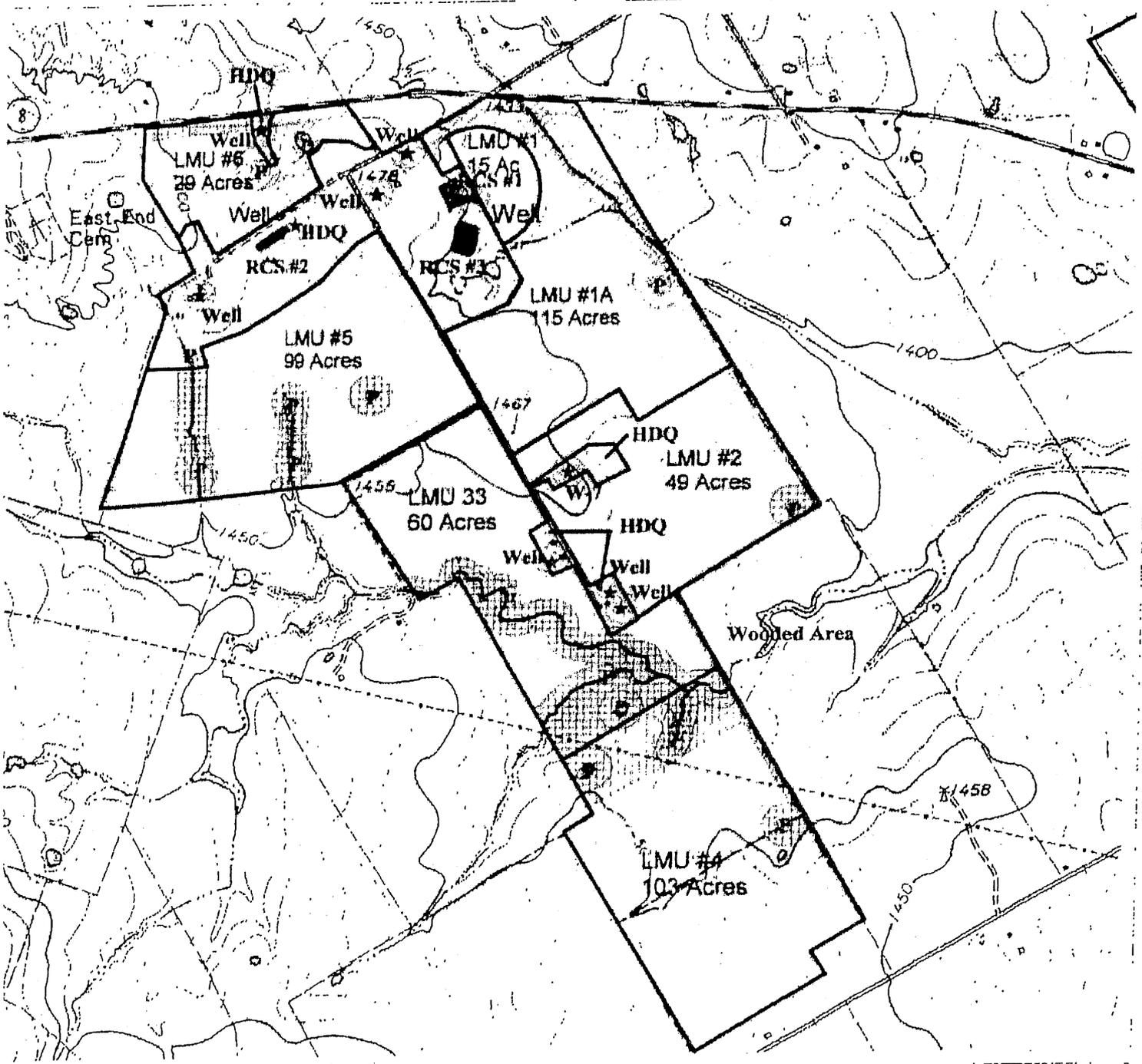
ATTACHMENT 1

LMU Map

Jack Parks Dairy

Date: 06/12/2007

Lowther Consulting, Inc.
A.C. Lowther
254-445-4121



This Map Supersedes
Previous Submissions

1000 0 1000 2000 Feet



Legend			
	Planned Land Units		128' Buffer
	Well		140' Buffer
	RCS		Wooded Area
			Creek

RECEIVED

WATER QUALITY DIVISION

ATTACHMENT 2

VOLUME XVI, NO. 7

TEXAS DAIRY REVIEW

JULY 2007

Headline Stories

Two Bosque River CAFO permit applications rejected by TCEQ
Bosque dairies report to state officials on lagoon storage capacity
Saying goodbye to dairy offers heifer-raising service to others
"Just say cheese" may not mean exactly what you think

ATTENTION READERS

Stet Corp. announces natural insecticide to destroy fierce fire ants
Company introduces new concept in animal nutrition
DairyFest hosts 1st Annual "Milktown Trot"

Dairy Replacement Sale Extravaganza – Saturday – July 14th – 11:00 am

Barlett-Crofoot Feedyard, Hereford, Texas

3400 hd Holstein Hfrs. From 400 lbs to Springing

600 hd Jersey & Jersey – X from 400 lbs to Springing

Call Erath County Dairy Sales at 1-800-788-5632

Jim Beyer 254-485-7253 Jason Beyer 817-366-0113

John Smith 254-485-7254

Two Bosque River CAFO permit applications rejected by TCEQ

A warning is in order for Bosque River dairies concerning the recent action by the Texas Commission on Environmental Quality (TCEQ) to recently reject two Concentrated Animal Feeding Operation (CAFO) permit applications. The Howle Dairy, owned by J.M. Howle, and the Parks Dairy, owned by Jack Parks, were seeking permit renewals to continue their CAFOs. However, the rejection by the TCEQ will force both dairies to scale their herds below the CAFO limit to 200 head.

This action by the TCEQ is critical to all CAFOs in the North Bosque River watershed.

The Parks Dairy is permitted for 700 head, currently milking 250 plus. The Howle Dairy is permitted for 940 cows, currently milking about 230. Both dairies have downsized considerably in recent months.

Parks said he was dumbfounded when he learned his permit was rejected. However, he made it clear that he does not blame the TCEQ or Waco.

"Not this time," Parks said. "This time, it was my consultant's fault. He dropped the ball. He's had health problems and I guess he was unable to oversee what was going on with my permit."

Parks said he had received letters from the TCEQ but was told by his consultant that everything was being taken care of. "But, I knew I was in trouble the day one of the consultants showed up and started taking pictures of my monitoring well, which should have been done a month before."

Parks said the rejection for his permit stated technical problems with his application and inaccurate or insufficient information. "I had called the TCEQ and talked to them. I had gotten two warning letters and I was very concerned. They told me to get onto my consultant about it. I can honestly say, the TCEQ made every effort to get my permit in. But, even though it was filed, the paperwork was not on time and it was too late. Now, I'll have to file a new application and start over from scratch."

Parks said he has spent a lot of money to make all the environmental improvements and now it will cost a lot more. "But, I won't lose my dairy. I've invested too much time and money to let that happen. I'll do everything I can do to keep it. But, reducing the herd to 200 will cause some people to go out of business and it will definitely affect the milk market from this area."

Parks has been in the dairy business most of his life. He and his brothers, James Mack and Harold Wayne, started out together but split up to own separate dairies in the 70s. Parks has been at the current Lingleville location since 1976.

Parks is regarded as a distinguished member of the dairy industry having been on several boards and involved in various dairy affairs. His contribution to the industry includes board member of the former AMPI board of directors for 22 years; board member of First Financial Bank in Stephenville for 12 years; board member of Cobank board in Denver, Co. for 14 years.

For the past three years, Waco has heavily criticized the TCEQ for the backlog of Bosque River dairy applications. However, North Bosque River dairies have been stymied in their efforts to obtain wastewater permit renewals by protests from the City of Waco and Sierra Club. When a permit comes up for renewal and is only hours from reaching final approval, either the city or the Sierra Club has successfully been able to halt permit approvals by filing contested case hearings or public meetings that delay the entire permitting process.

Because of this purposeful action by Waco, dairies have not been allowed to obtain their permit renewals and therefore, cannot operate under the 2004 TCEQ rules that Waco had a very large part in writing. It is questionable why Waco continues to defeat its own purpose in requiring stricter environmental regulations in TCEQ rules for dairies yet won't allow accurate permits to be approved.

This continuing ying-yang situation conducted by Waco and the Sierra Club has been the biggest issue dairies have faced up until now.

It is suspected that pressure from Waco has forced the TCEQ into this most recent action that points to more dairy application rejections.

Jim Bradbury, attorney for Parks, said Waco is applauding the TCEQ for taking such aggressive steps. Bradbury said its been brought to his attention that there could be as many as 13 to 15 more dairies in trouble because of insufficient applications.

"Dairies need to realize the importance of having a top-notch, top-flight consultant to handle their applications," he said. "Waco is watching every move the dairies make and they're ready to pounce at every opportunity."

Bradbury contends that the permit rejections and other actions is "clearly an assault on the dairy industry." Bradbury said nevermind all the business about environmental concerns by Waco. "They just want the dairies out of business and they're going to target every one of them."



Bosque dairies report to state officials on lagoon storage capacity

Rain, rain, rain. It's been a long time since anyone in north central Texas has seen quite so much. The recent rainfall has greened up the landscape and blessed area crops which are normally beginning to wither and dry as the hot July and August heat sets in. But, not this year. Although the moisture is deeply appreciated, farmers for once are beginning to say "enough is enough."

Erath County has gotten its share of rainfall with a record 10.52 average for the month of June. The rain has brought treacherous storms, rising rivers and lakes in other places causing severe flooding and evacuation of some homes along hard hit areas of the Brazos River in neighboring Parker County.

So far, Bosque River CAFOS have handled the tedious rainfall event adequately, according to John Cowan, executive director of the Texas Association of Dairymen (TAD) and the Texas Commission on Environmental Quality (TCEQ).

Cowan said the dairies, still operating under the old TCEQ rules, have been notifying the state officials about their lagoon storage as required in a 25-year, 24-hour rainfall event. Because of not being permitted yet to operate under the new TCEQ rules, dairies cannot exercise the 25-year, 10-day rainfall capacity for lagoon storage.

Dr. Tamilee Nennich of the Texas A&M Research and Experiment Station in Stephenville