



JAMES D. BRADBURY  
E-Mail: jbradbury@jw.com

817. 334.7256 (Direct Dial)  
817. 870.5106 (Direct Fax)

JACKSON WALKER L.L.P.  
ATTORNEYS & COUNSELORS

July 13, 2007

**Hand Delivery**

LaDonna Castanuela—Chief Clerk  
State of Texas Commission On Environmental Quality  
Building F  
12100 Park Thirty Five Circle  
Austin, Texas 78753-1808

Re: *In The Matter of the Application of Elmer Jack Parks d/b/a Jack Parks Dairy  
for Individual Permit No. WQ0003590000 to Operate a Concentrated Animal  
Feeding Operation*

Dear Ms. Castanuela:

Enclosed for filing is the original and 11 copies of *Elmer Jack Parks' Motion to  
Overturn Executive Director's Decision and Motion to Determine the Sufficiency of  
Necessary Technical Data*. Please return the extra file-marked copies to me in the reply  
envelope which has been enclosed for your convenience. I have this day forwarded a copy of  
this document to all interested parties as indicated below.

Please contact me if you have any questions regarding this matter.

Very truly yours,

*James D. Bradbury/cec*  
James D. Bradbury

JDB:sgm  
Enclosures

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2007 JUL 13 PM 12:56  
CHIEF CLERK'S OFFICE

301 Commerce Street, Suite 2400 • Fort Worth, Texas 76102 • (817) 334-7200 • fax (817) 334-7290

July 13, 2007

Page 2

---

cc: Via Hand Delivery  
Mr. Glenn Shankle  
Executive Director-MC 109  
Texas Commission on Environmental Quality  
12100 Park 35 Circle, Building F, 4<sup>th</sup> Floor  
Austin, Texas 78753

Via Hand Delivery  
Mr. Blas J. Coy  
Public Interest Counsel-MC 103  
Texas Commission on Environmental Quality  
12100 Park 35 Circle, Building F, 4<sup>th</sup> Floor  
Austin, Texas 78753

Via Hand Delivery  
Mr. Charles Maguire  
Land Application Team-MC 148  
Texas Commission on Environmental Quality  
12100 Park 35 Circle, Building F, 3<sup>rd</sup> Floor  
Austin, Texas 78753

TCEQ DOCKET NO. \_\_\_\_\_

PERMIT NO. WQ0003590000

IN THE MATTER OF THE  
APPLICATION OF ELMER JACK  
PARKS D/B/A JACK PARKS DAIRY  
FOR INDIVIDUAL PERMIT  
NO. WQ0003590000 TO OPERATE A  
CONCENTRATED ANIMAL  
FEEDING OPERATION

§  
§  
§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

**ELMER JACK PARKS' MOTION TO OVERTURN  
EXECUTIVE DIRECTOR'S DECISION AND MOTION TO DETERMINE THE  
SUFFICIENCY OF NECESSARY TECHNICAL DATA**

TO THE HONORABLE COMMISSIONERS OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:

COMES NOW, Elmer Jack Parks d/b/a Jack Parks Dairy ("Parks") and files this his Motion to Overturn Executive Director's Decision which returned Parks' application for an amended individual permit to operate a concentrated animal feeding operation and Motion to Determine the Sufficiency of Necessary Technical Data pursuant to section 281.19(b) of the Texas Administrative Code, and in support of this motion, respectfully shows as follows:

**I. INTRODUCTION**

On June 20, 2007, the Executive Director of the Texas Commission on Environmental Quality ("TCEQ") returned Parks' application for a major amendment to his Individual Permit No. WQ0003590000 to operate a concentrated animal feeding operation ("CAFO") pursuant to section 281.19 of title 30 of the Texas Administrative Code. Parks contends that the Executive Director's decision to return his permit application was made arbitrarily, without sufficient notice to Parks of his rights under the law, and without reference to all supplemental information submitted by Parks. Accordingly, Parks requests that the Commissioners of the TCEQ overturn

RECEIVED  
JUN 23 12:06  
TCEQ  
COMMISSION ON ENVIRONMENTAL QUALITY

the Executive Director's decision and reinstate the application for further consideration and approval by the TCEQ.

## **II. FACTUAL AND PROCEDURAL BACKGROUND**

Parks owns and operates a dairy consisting of approximately 700 cows in Stephenville, Texas. Parks has long been recognized as a model dairyman who maintains his property, animals and facilities in compliance with the law. In the thirty years that the dairy has been in operation, Parks has been a leader in environmental stewardship and has had no environmental or regulatory violations.

Parks has long operated his dairy with a water quality permit as a CAFO. After the rules concerning CAFOs were revised in 2004 to provide additional protection for certain watershed areas in the State, Parks was required to amend his permit to comply with the new, more stringent standards. In June 2004, Parks submitted an Administrative Application for a renewal permit with the TCEQ. On July 15, 2004, Parks' environmental consultant, Lowther Consulting, Inc., submitted an updated technical packet in conjunction with the earlier Administrative Application for renewal. A few months later, on August 6, 2004, Parks filed his application to amend his permit to comply with the new CAFO standards (the "Application").

TCEQ declared Parks' Application administratively complete on September 21, 2004, thereby commencing the technical review of his Application. A true and correct copy of the September 21, 2004 letter from the TCEQ is attached hereto as Exhibit "A" and incorporated by reference herein. In this letter, the TCEQ informed Parks' consultant that as the Application undergoes technical review, additional information may be requested by the agency. (Ex. A.)

Over the months that followed, TCEQ maintained regular contact with Parks and his consultant regarding issues arising from the technical review of the Application and requesting

certain additional information or revisions that became necessary. Parks and his consultant made a good faith effort to promptly respond to inquiries made by the TCEQ and believed that the information submitted was complete and accurate. *See* Affidavit of Joe Cordell, a true and correct copy of which is attached hereto as Exhibit "B" and incorporated by reference herein. On December 16, 2005, certain members of the TCEQ met with Parks' consultant in an effort to clarify the additional information and modifications needed to complete the technical packet. The meeting was followed by a letter several months later on March 14, 2006, which reiterated the information needed and requested that Parks submit the information within thirty days. A true and correct copy of the March 14, 2006 letter from the TCEQ to A.C. Lowther is attached hereto as Exhibit "C" and incorporated by reference herein. On October 27, 2006, the TCEQ sent a letter to Parks as a follow-up to the March 2006 letter requesting that he respond with the requested revisions and information within thirty days. A true and correct copy of the October 27, 2006 letter from the TCEQ to Parks is attached hereto as Exhibit "D" and incorporated by reference herein. Parks submitted a supplemental response on November 27, 2006.

On December 4, 2006, the TCEQ sent another letter to Parks attaching a list of purported deficiencies that remained in his technical packet and requesting a response by January 4, 2007. A true and correct copy of the December 4, 2006 letter from the TCEQ to Parks is attached hereto as Exhibit "E" and incorporated by reference herein. Around the time the December 2006 letter was sent, the owner of Parks' environmental consultant, A.C. Lowther, suffered some serious health problems. (Ex. B, ¶ 4.) Mr. Lowther's illness had a material and adverse impact on the business of the consulting firm. (Ex. B, ¶ 4.) Despite the difficulties with Parks' consultant, Parks again timely supplemented his technical packet by January 4, 2007. In a March 28, 2007 letter, the TCEQ acknowledged receipt of Parks' January 4, 2007 response and noted

additional purported deficiencies in the technical packet which required attention. A true and correct copy of the March 28, 2007 letter from the TCEQ to Parks is attached hereto as Exhibit "F" and incorporated by reference herein. The TCEQ demanded a response by April 11, 2007—approximately fourteen days from the date the letter was mailed. (Ex. F.) Despite the abbreviated response time, Parks once again timely submitted supplemental information to the TCEQ.

After submitting the April 2007 supplement, Parks' consultant (who represents many of the dairies in Erath County) met with several members of the TCEQ on May 15, 2007 regarding general issues and technical questions concerning the various permits. No mention was made at this meeting that the TCEQ was considering returning any permit applications or otherwise closing the technical review process on any of the applications. Following the May 15, 2007 meeting, Parks' consultant remained in contact with the TCEQ concerning Parks' Application. On June 5, 2007, Parks' consultant spoke by telephone with a TCEQ team member involved in the review of Parks' Application. In this conversation, Parks' consultant informed the TCEQ team member that additional information was on its way to the TCEQ to further supplement Parks' Application. The TCEQ team member gave no indication that it was too late to submit information or that supplemental information would no longer be considered by the TCEQ.

On June 12 and 14, 2007, Parks submitted two additional supplements to his Application, including an updated Waste Utilization and Nutrient Management Plan. A true and correct copy of the June 12, 2007 and June 14, 2007 correspondence and supplemental packets are attached hereto as Exhibits "G" and "H," respectively, both of which are incorporated by reference herein. The June 14, 2007 packet was received by the TCEQ on June 19, 2007. (Ex. H.) Without reviewing any of the June 12 and 14, 2007 supplemental information submitted by Parks, the

TCEQ sent a letter to Parks on June 20, 2007 returning his Application pursuant to section 281.19 of title 30 of the Texas Administrative Code. A true and correct copy of the June 20, 2007 letter is attached hereto as Exhibit "I" and incorporated by reference herein. Parks was no longer authorized to operate as a CAFO and was immediately required to reduce his herd size to below 200 head or face severe financial penalties. (See Ex. I.) In response, Parks brings this Motion to Overturn the Executive Director's Decision and requests that the Commissioners of the TCEQ reinstate his Application for further review and consideration.

### **III. REQUEST TO STAY EXECUTIVE DIRECTOR'S DECISION AND REINSTATE CAFO PERMIT PENDING DETERMINATION OF MOTION TO OVERTURN**

Parks requests that the Commissioners stay the Executive Director's decision to return Parks Application and that the Commissioners reinstate the permit pending a final determination of this Motion to Overturn. The Executive Director's decision to return Parks' Application (without following the procedures provided for in the Texas Administrative Code) has caused Parks irreparable injury in forcing him to operate his dairy as an animal feeding operation ("AFO") rather than a CAFO. Parks has invested significant money into amending his current permit and in bringing his dairy into compliance with the newly promulgated standards for a CAFO, including funds expended to retain consultants to assemble his Application, technical packet and responses to numerous inquiries from the TCEQ for supplemental information.

Now that his Application has been returned, without the opportunity to exercise his rights under the Texas Administrative Code and despite his diligence in working through the issues and purported deficiencies in his Application, Parks is faced with mounting expenses and losses in bringing the present action to overturn the Executive Director's decision and in immediately bringing his dairy into compliance with AFO standards. Parks contends that the Executive Director's decision was in error and should be overturned. The decision has resulted in

immediate and irreparable harm to Parks' dairy operations by necessitating an immediate reduction in his herd size to less than 200 head of cattle. Accordingly, Parks respectfully requests that the Commissioners stay the Executive Director's decision and reinstate his CAFO permit pending a final determination of this Motion to Overturn.

#### **IV. MOTION TO OVERTURN EXECUTIVE DIRECTOR'S DECISION**

##### **A. The Executive Director's Action was Improper Under Section 281.19(b) of the Texas Administrative Code and Denied Parks his Right to Have Sufficiency Determined by the Commission.**

The Executive Director's decision to return Parks' Application must be overturned because it prematurely denied Parks his right to refer the determination of the sufficiency of necessary technical data in his Application to the Commission instead of having the Application returned. The Executive Director returned Parks' Application on June 20, 2007 without affording Parks the right under section 281.19(b) of title 30 of the Texas Administrative Code to have the issue determined by the Commission. (*See Ex. I.*) Section 281.19(b) provides in pertinent part:

Decisions to return material to the applicant during the technical review stage will be made on a case by case basis. *The applicant 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.*

30 TEX. ADMIN. CODE § 281.19(b) (emphasis added).

Returning Parks' Application has placed him in uncharted territory in which his permit status and his options going forward are not clearly defined. Had the Executive Director properly allowed Parks the opportunity to exercise his right to refer the issue of the technical sufficiency of his Application to the Commission rather than having it returned, Parks would have, without hesitation, chosen the option of referral to the Commission. The Executive

Director's failure to follow the proper administrative procedure in denying Parks the right to avoid the return of his Application has resulted in tremendous expense to Parks in bringing his dairy into compliance with AFO standards, in immediately reducing his herd size to under 200 head, in lost production resulting from a reduction in his milking herd by approximately fifty head of cows, as well as in bringing this motion to seek reconsideration of an action that should never have occurred.

While Parks maintains that his Application is not deficient and does not merit return under section 281.19(b), Parks is entitled at a minimum to exercise the option expressly provided for in section 281.19(b) to choose to have his Application referred to the Commission rather than having it returned. The Executive Director and other members of the TCEQ charged with the technical review of Parks' Application should have provided Parks with sufficient opportunity to exercise this option prior to his Application being returned. Such an arbitrary decision, made without giving full credence to the law, should not stand. Accordingly, Parks requests that the Commission overturn the Executive Director's decision and reinstate Parks' Application.

**B. Parks Continually Attempted to Resolve Deficiencies in his Permit Application.**

1. Deficiencies cited by the TCEQ in the Notices of Deficiency.

In the June 20, 2007 letter returning Parks' Application, the TCEQ cites to two previous Notices of Deficiency to demonstrate that Parks failed to adequately respond to the inquiries detailed on the "List of Unresolved Deficiencies" attached to the June 20, 2007 letter returning his Application. (Ex. I.) The story this letter fails to tell, however, is that over the many months in which the TCEQ was engaged in the technical review of Parks' Application, the purported deficiencies noted in the communications were ever-changing. The fact that the

supplementations to the Application themselves raise additional questions and issues does not equate with a failure to respond or a dereliction of duty by Parks.

Further, some of the information which was noted as a “deficiency” in Parks’ Application resulted from changes to rules, policies or procedures that took place long after Parks filed his applications for renewal and amendment in 2004. (See Ex. E, F.) The TCEQ required that Parks update his Application to comply with the new standards, and to the best of his knowledge and ability, Parks complied. (See Ex. B, ¶¶ 3, 5.) To consider that such items as “deficiencies” in the Application and to suggest a failure by Parks to comply with the permitting process, likewise provides an inaccurate depiction of the situation. Consequently, the Executive Director’s decision to return Parks’ Application, notwithstanding his continued and diligent efforts to meet the demands and requests of the TCEQ throughout the technical review process, serves no purpose other than to further delay a process which the TCEQ was charged with completing. Accordingly, Parks requests that the Commissioners overturn the Executive Director’s decision and reinstate his Application.

2. Parks submitted a Supplement to his Application on June 12, 2007 and June 14, 2007 that was not considered by the TCEQ.

In a continuing effort to supplement his Application and provide accurate and complete responses to the purported deficiencies described by the TCEQ, Parks submitted two additional supplements on June 12, 2007 and June 14, 2007, which included an updated Waste Utilization and Nutrient Management Plan. (See Exs. G, H.) Notably the June 14, 2007 supplement was received by the TCEQ on June 19, 2007—one day before the TCEQ mailed the letter returning Parks’ Application. Neither of these supplements were considered by the TCEQ prior to returning Parks’ Application. (See Ex. I.)

Further, neither Parks nor his consultant had any indication that the TCEQ had determined that further communications or supplementation would be disregarded and that the Application would be returned. Specifically, a staff member for Parks' consultant contacted a TCEQ team leader handling Parks' Application on June 5, 2007 to discuss several items and inform him that they were sending further supplementation and corrections. (*See Ex. H.*) During this conversation, the TCEQ team leader did not dissuade Parks' consultant from sending further information and gave no indication that such efforts would be futile. It seems antithetical to the underlying mission of the TCEQ in this process to ignore information that could assist with completing the permitting process for Parks, thereby requiring his dairy to operate under the new and more stringent water quality standards.

The TCEQ noted in its June 20, 2007 letter that it received certain information directly responsive to several of the noted deficiencies but that they would not consider it because it was "62 days late." (Ex. I.) This statement, however, does not comport with the conduct of the TCEQ concerning Parks or his consultant. Notably, several members of the TCEQ held a meeting with several staff members of Lowther Consulting, Inc. on May 15, 2007 to discuss general issues arising in the permitting process with several dairies. No indication was given in this meeting that the TCEQ would refuse to consider further supplemental information or otherwise discontinue working through the questions and issues concerning the various permits. Despite the positive tone of the May 15, 2007 meeting and the continued communication with Parks' consultant through June 2007, the TCEQ decided to return Parks' Application, without warning, without providing him ample notice of his rights under the law, and without reviewing additional, material information provided concerning the Application. As such, the Executive Director's decision to return Parks' Application was arbitrary and unwarranted, and Parks

respectfully requests that the Commissioners overturn the decision and reinstate his Application for further consideration.

**V. MOTION TO DETERMINE THE SUFFICIENCY OF  
NECESSARY TECHNICAL DATA**

Alternatively, Parks requests that the Commissioners determine the sufficiency of the necessary technical data of his Application. Parks has a statutory right to refer the determination of the sufficiency of the necessary technical data of his Application to the Commission rather than having it returned by the Executive Director. *See* 30 TEX. ADMIN. CODE § 281.19(b). Parks was denied this right prior to the Executive Director returning his Application. (*See* Ex. I.) Parks has been diligent in responding to TCEQ's requests for supplementation and additional information during the technical review of his Application. While there may be additional information that is needed or that may arise in the future that must be addressed before the Application may be approved, Parks contends that the purported "deficiencies" identified by the TCEQ do not merit the return of his Application and that the necessary technical data is sufficient. Therefore, Parks now requests that the Commissioners consider and determine the sufficiency of the technical data of his Application.

**VI. CONCLUSION**

Obtaining a permit to operate a CAFO is a cumbersome, highly technical and by its very nature, lengthy process. Newly promulgated, complex rules, as well as groups actively protesting the applications and politicizing the permitting process (thereby further hindering implementation of the very rules they helped propound), further complicate and delay the process. Despite the difficulty of the permitting process, Parks has made every effort through his consultant to promptly, timely and fully respond in good faith to the numerous inquiries and requests for supplementation, corrections, or adjustments proffered by the TCEQ over the three

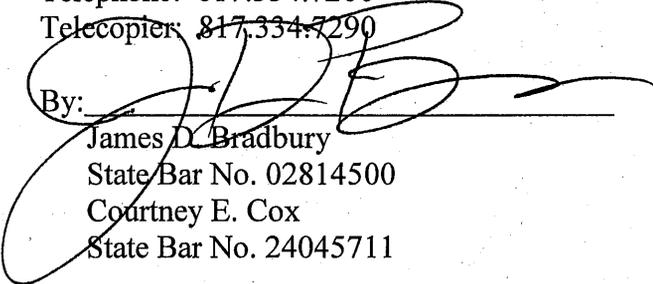
years since this process began for Parks. The Executive Director's decision to return his Application was made arbitrarily, without sufficient notice to Parks of his rights under the law, and without reference to all supplemental information submitted by Parks. Accordingly, Parks requests that the Commissioners of the TCEQ overturn the Executive Director's decision and reinstate the Application for further consideration and approval by the TCEQ or alternatively, that the Commissioners determine that the necessary technical data of Parks' Application is sufficient.

## **VII. PRAYER**

WHEREFORE, PREMISES CONSIDERED, Elmer Jack Parks d/b/a Jack Parks Dairy respectfully prays that the Commissioners 1) set this motion for hearing; 2) stay the Executive Director's decision pending a final determination of the motion; 3) grant the motion in its entirety; 4) overturn and vacate in its entirety the Executive Director's decision to return Parks' Application; 5) order the Application to be reinstated and the technical review process to continue or alternatively, determine that the necessary technical data is sufficient; and 6) award such other and further relief to which Parks may be justly entitled.

Respectfully submitted,

JACKSON WALKER L.L.P.  
301 Commerce Street, Suite 2400  
Fort Worth, Texas 76102  
Telephone: 817.334.7200  
Telecopier: 817.334.7290

By: 

James D. Bradbury  
State Bar No. 02814500  
Courtney E. Cox  
State Bar No. 24045711

**ATTORNEYS FOR ELMER JACK PARKS D/B/A  
JACK PARKS DAIRY**

**CERTIFICATE OF SERVICE**

I hereby certify that on this **13th** day of **July, 2007** a true and correct copy of the above and foregoing document has been forwarded to the following parties as indicated below:

Via Hand Delivery

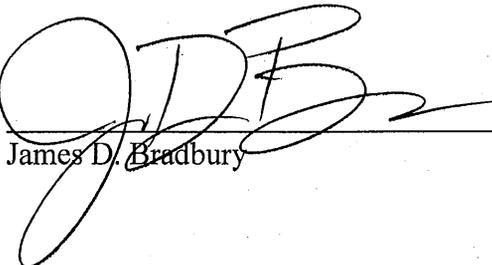
Mr. Glenn Shankle  
Executive Director—MC 109  
Texas Commission on Environmental Quality  
12100 Park 35 Circle  
Austin, Texas 78753

Via Hand Delivery

Mr. Charles Maguire  
Land Application Team—MC 148  
Texas Commission on Environmental Quality  
12100 Park 35 Circle  
Austin, Texas 78753

Via Hand Delivery

Mr. Blas Coy  
Public Interest Counsel—MC 103  
Texas Commission on Environmental Quality  
12100 Park 35 Circle  
Austin, Texas 78753

  
James D. Bradbury

Kathleen Hartnett White, *Chairman*  
R. B. "Ralph" Marquez, *Commissioner*  
Larry R. Soward, *Commissioner*  
Glenn Shankle, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

September 21, 2004

Mr. Joe Cordell  
Lowther Consulting, Inc.  
P.O. Box 78  
Dublin, Texas 76446

RE: Declaration of Administrative Completeness  
Name: Elmer Jack Parks (CN601127798)  
Permit Number: WQ0003590000 (EPA I.D. No. TX0127159) (RN102091873)  
Type of Authorization: Major Amendment

Dear Mr. Cordell:

We have declared the above referenced application, received on August 6, 2004, administratively complete on September 21, 2004.

You are now required to publish notice of your proposed activity. To help you meet the requirements associated with this notice, we have included the following items:

- Notice for Newspaper Publication
- Instructions for Public Notice
- Affidavit of Publication

Please note that it is VERY IMPORTANT that you follow ALL directions in the ENCLOSED INSTRUCTIONS. If you do not, you may be required to republish the notice. One of the most common mistakes we see is the unauthorized changing of notice wording or font. If you have any questions, please contact us before you proceed with publication.

The following items and time limitations are also described in the enclosed instructions. However, due to their importance, we want to highlight them for you.

1. Publish the enclosed notice within **30 calendar days** after your application is declared administratively complete. (See this letter's first paragraph for the declaration date.)
2. Place a copy of your application in a public place in the county where the facility is or will be located. This copy must be accessible to the public for review and copying and remain in place throughout the comment period.

Mr. Joe Cordell  
Page 2

3. Return an original newspaper clipping of the notice, which shows publication date and newspaper name, to the Office of the Chief Clerk within **10 business days** after notice is published in the newspaper.
4. Return the original enclosed Affidavit Of Publication to the Office of the Chief Clerk within **30 calendar days** after the notice is published in the newspaper.

If you do not comply with all requirements described in the instructions, further processing of your application may be suspended or the agency may take other actions. Please note, as your application undergoes technical review, we may request additional information.

If you have any questions regarding publication requirements, please contact the Office of the Chief Clerk at 512-239-3300. If you have any other questions, please contact Laurie J. Lancaster at 512/239-4418.

Sincerely,



Laurie J. Lancaster, Team Leader  
Water Quality Applications Team  
Permits Administrative Review Section  
Registration, Review & Reporting Division

Enclosures

cc: TCEQ Region 4, Water Program Manager

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## NOTICE OF RECEIPT OF APPLICATION AND INTENT TO OBTAIN A WATER QUALITY PERMIT AMENDMENT

PERMIT NO. WQ0003590000

**APPLICATION.** Elmer Jack Parks, 13628 West Farm-to-Market Road 8, Stephenville, Texas 76401-8666, has applied to the Texas Commission on Environmental Quality (TCEQ) to amend Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0003590000 (EPA I.D. No. TX0127159) for a Concentrated Animal Feeding Operation (CAFO) to authorize an increase in the amount of land used for land application of waste to 526 acres on-site and 370 acres off-site. The 700 head dairy facility is located on the south side of Farm-to-Market Road 8, approximately one mile east of the intersection of Farm-to-Market Road 8 and Farm-to-Market Road 219 in Erath County, Texas. This application was submitted to the TCEQ on August 6, 2004. The permit application is available for viewing and copying at Erath County Courthouse Annex, Erath County Extension Service, 112 West College, Stephenville, Texas.

The TCEQ executive director has determined the application is administratively complete and will conduct a technical review of the application. After completion of the technical review, the TCEQ will issue a Notice of Application and Preliminary Decision.

**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 comment or to ask questions about the application. The 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.

Written public comments or requests for public meeting must be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087.

**ADDITIONAL NOTICE.** 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 or the mailing list for this application. That notice will contain the final deadline for submitting public comments.

**OPPORTUNITY FOR A CONTESTED CASE HEARING.** After the deadline for public comments, the executive director will consider the comments and prepare a response to all relevant and material, or significant public comments. **The response to comments, along with the executive director's decision on the application, will be mailed to everyone who submitted public comments or who is 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 a state district court.

A contested case hearing will only be granted based 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 during the public comment period and not withdrawn.

**MAILING LIST.** In addition to submitting public comments, you may ask to be placed on a mailing list to receive future public notices mailed by the Office of the Chief Clerk. You may request to be added to: (1) the mailing list for this specific application; (2) the permanent mailing list for a specific applicant name and permit number; and/or (3) the permanent mailing list for a specific county. Clearly specify which mailing list(s) to which you wish to be added and send your request to the TCEQ Office of the Chief Clerk at the address above. Unless you otherwise specify, you will be included only on the mailing list for this specific application.

**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. General information about the TCEQ can be found at our web site at [www.tceq.state.tx.us](http://www.tceq.state.tx.us).

Further information may also be obtained from Elmer Jack Parks at the address stated above or by calling A. C. Lowther, Lowther Consulting, Inc., at (254)445-4121.

Issued: September 21, 2004

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

Applicant Name: Elmer Jack Parks  
Permit No.: WQ0003590000  
Notice of Intent to Obtain Permit

**AFFIDAVIT OF PUBLICATION FOR  
A NEWSPAPER WITHIN A MUNICIPALITY  
WATER QUALITY PERMITS**

STATE OF TEXAS §

COUNTY OF \_\_\_\_\_ §

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

\_\_\_\_\_, who being by me duly  
*(name of newspaper representative)*

sworn, deposes and says that (s)he is the \_\_\_\_\_  
*(title of newspaper representative)*

of the \_\_\_\_\_;  
*(name of newspaper)* that said newspaper is

a newspaper of general circulation in \_\_\_\_\_, Texas;  
*(Name of Municipality)*

and that the attached notice was published in said newspaper on the following  
date(s): \_\_\_\_\_.

\_\_\_\_\_  
Newspaper Representative's Signature

Subscribed and sworn to before me this the \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_\_, to certify which witness my hand and seal of office.

(Seal)

\_\_\_\_\_  
Notary Public in and for the State of Texas

\_\_\_\_\_  
Print or Type Name of Notary Public

My Commission Expires \_\_\_\_\_

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

Applicant Name: Elmer Jack Parks  
Permit No.: WQ0003590000  
Notice of Intent to Obtain Permit

**AFFIDAVIT OF PUBLICATION FOR  
A NEWSPAPER WITHIN THE COUNTY  
WATER QUALITY PERMITS**

STATE OF TEXAS §  
COUNTY OF \_\_\_\_\_ §

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

\_\_\_\_\_, who being by me duly  
*(name of newspaper representative)*

sworn, deposes and says that (s)he is the \_\_\_\_\_  
*(title of newspaper representative)*

of the \_\_\_\_\_;  
*(name of newspaper)*

the newspaper of largest circulation in \_\_\_\_\_ County, Texas;

and that the attached notice was published in said newspaper on the following  
date(s): \_\_\_\_\_.

\_\_\_\_\_  
Newspaper Representative's Signature

Subscribed and sworn to before me this the \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_\_, to certify which witness my hand and seal of office.

(Seal)

\_\_\_\_\_  
Notary Public in and for the State of Texas

\_\_\_\_\_  
Print or Type Name of Notary Public

My Commission Expires \_\_\_\_\_

TCEQ DOCKET NO. \_\_\_\_\_

PERMIT NO. WQ0003590000

IN THE MATTER OF THE	§	BEFORE THE
APPLICATION OF ELMER JACK	§	
PARKS D/B/A JACK PARKS DAIRY	§	
FOR INDIVIDUAL PERMIT	§	TEXAS COMMISSION ON
NO. WQ0003590000 TO OPERATE A	§	
CONCENTRATED ANIMAL	§	
FEEDING OPERATION	§	ENVIRONMENTAL QUALITY

AFFIDAVIT OF JOE CORDELL

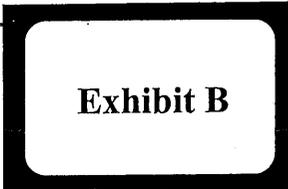
STATE OF TEXAS §  
 COUNTY OF ERATH §

Before me, the undersigned authority, on this day personally appeared Joe Cordell, known to me, and stated under oath as follows:

1. "My name is Joe Cordell. I am over twenty-one years of age and am otherwise competent to testify as to the matters contained herein. I am a consultant of Lowther Consulting, Inc. ("Lowther"). Lowther has been involved with representing Elmer Jack Parks and his dairy (collectively, "Parks") in his efforts at obtaining an amended water quality permit to operate as a concentrated animal feeding operation from the Texas Commission on Environmental Quality ("TCEQ"). In that capacity and from the knowledge in the possession of Lowther, I have gained personal knowledge of the facts contained herein, each of which is true and correct.

2. "Parks filed an application to renew his permit in June, 2004 and an application for an amended permit on August 6, 2004 with the TCEQ. Since that time, Lowther has actively represented Parks in the technical review process with the TCEQ.

3. "Over the nearly three years since Parks filed for an amended permit, Lowther has received notice of several purported deficiencies in the application packet. At all times throughout this process, Lowther has made a good faith effort to comply with the requests and

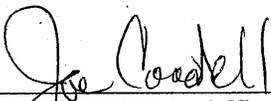


demands of the TCEQ and provided timely responses to the deficiency notices. The responses and supplemental packets provided to the TCEQ on Parks' behalf were the best information Lowther could obtain within the time periods allotted for a response by the TCEQ, and at all times, Lowther believed that its responses and supplementation were complete and accurate.

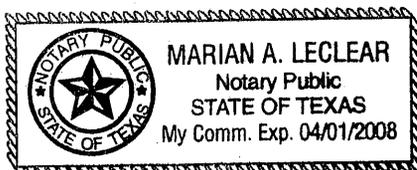
4. "Lowther is owned and operated by A.C. Lowther. In the Fall of 2006, Mr. Lowther became ill and suffered some serious health problems. While the staff at Lowther made every effort to keep up with the business and to timely and sufficiently respond to all inquiries and demands of the TCEQ, Mr. Lowther's health problems had a material and adverse impact on Lowther's ability to represent Parks' interests before the TCEQ.

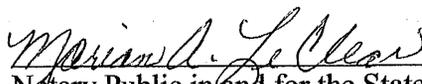
5. "Despite these obstacles, Lowther did its best to be diligent in responding to the TCEQ and made every effort to supplement Parks' application and to resolve any purported deficiencies. Such action continued up until Parks' application was returned by the Executive Director on June 20, 2007."

FURTHER AFFIANT SAITH NAUGHT.

  
\_\_\_\_\_  
JOE CORDELL, Affiant

SUBSCRIBED AND SWORN TO before me by Joe Cordell this 12<sup>th</sup> day of July, 2007.



  
\_\_\_\_\_  
Notary Public in and for the State of Texas

10  
J.

Kathleen Hartnett White, *Chairman*  
R. B. "Ralph" Marquez, *Commissioner*  
Larry R. Soward, *Commissioner*  
Glenn Shankle, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

March 14, 2006

Mr. A.C. Lowther  
Lowther Consulting  
P. O. Box 78  
Dublin, Texas 76446

Re: Application for Individual Permit No. WQ0003590000, Elmer Jack Parks  
CN601127798, RN102091873

Dear Mr. Lowther:

As a follow-up to our meeting with you on December 16, 2005 and recent phone conversations, we would like to re-affirm some of the things we have mentioned and make sure that we are accurately conveying to you the information we need regarding technical packet modifications. We would also like to establish a new timetable with you as to when you will be updating the application.

When submitting the updated technical packet:

1. Establish surface water buffers based on NRCS 393 or 601+332 as appropriate.
2. Revise the RCS design calculations and the NMP to reflect spreadable acres and appropriate treatment volume, water balance, and sludge calculations.
3. Utilize the current version of the NMP software. Attached is a list of the items to be submitted with the NMP to make it a stand alone package.
4. Correct all associated portions of the application affected by the changes in number 1,2, and 3.

Please provide the revised application within 30 days. If you cannot meet this deadline please fax or mail a proposed schedule to submit the revised application within 1 week of this letter.

If you should have any further questions, please do not hesitate to call me at (512) 239-5445, or if by correspondence include MC 148 in the letterhead address following my name.

Sincerely,

A handwritten signature in cursive script that reads "Deana Moore".

Deana Moore, Permit Coordinator  
Land Application Team  
Water Quality Division

DM/ins

ccs: TCEQ, Region 4  
Elmer Jack Parks, Lingelville Dairy, 13628 West FM 8, Stephenville, Texas 76401-8666

Ernest White, Chairman  
R. Soward, Commissioner  
Lin A. Hubert, Commissioner  
Don Shankle, Executive Director



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

October 27, 2006

### CERTIFIED MAIL

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

Re: Application for Individual Permit No. WQ0003590000  
Elmer Jack Parks, (CN601127798, RN102091873)

Dear Mr. Parks:

This letter is a follow-up to our Notice of Deficiency letter dated March 14, 2006. In that letter, we required that you send an updated technical application within 30 days. That timeframe has passed, and we still do not have the updated information we requested. You have not made an appropriate response to our request on your application, and apparently our attempts to obtain this information failed to impress upon you the necessity of submitting a complete technical application.

An accurate and complete revised technical package is essential for making recommendations to the commission regarding whether this permit should be issued. Based on the information you have provided in your application so far, the executive director does not have sufficient information to make a recommendation. Therefore, you must send an updated technically complete and accurate application within 30 days of the date of this letter or the executive director will return this permit application as allowed by Title 30, Texas Administrative Code Section 281.19(b).

If the executive director returns the permit application, then Lingleville Dairy will no longer have a valid TCEQ authorization to operate as a CAFO and will be required to reduce the herd size to less than 200 head in confinement. Operating without a permit is a violation of the Texas Water Code and the commission may impose administrative penalties not to exceed \$10,000 per day for each violation.

Also, we are available to meet with you to answer any questions prior to the 30 day deadline. If you should have any further questions, please contact Charles Maguire at (512) 239-5308.

Sincerely,

Handwritten signature of L. Oreal Stepney in cursive.

L. Oreal Stepney, P.E., Director  
Water Quality Division

ccs: Mr. A. C. Lowther, Lowther Consulting, Inc., P.O. Box 78, Dublin, Texas 76446  
TCEQ, Region 4, Stephenville, Texas

reads  
J

12-05-06

11:14am

From-TNRCC POL & REGS

512 239 5195

T-602

P.015/019

F-558

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 4, 2006

Mr. Jack Parks  
Jack Parks Dairy  
13628 West Farm-to-Market Road 8  
Stephenville, Texas 76401

Re: Application for Individual Permit No. WQ0003590000, Jack Parks  
(CN601127798, RN102091873)

Dear Mr. Parks:

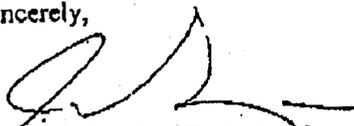
We received your updated technical information packet on November 27, 2006. We have completed a review of the information provided and there remain major deficiencies that you must address before we can continue with the technical review. The items in Attachment A require your response in a timely, complete, and accurate manner.

An accurate and complete revised technical package is essential for making recommendations to the commission regarding whether this permit should be issued. Based on the information you have provided in your application so far, the executive director does not have sufficient information to make a recommendation. Therefore, you must send an updated technically complete and accurate application by January 4, 2007 or the executive director will return this permit application as allowed by Title 30, Texas Administrative Code Section 281.19(b).

If the executive director returns the permit application, then Jack Parks Dairy will no longer have a valid Texas Commission on Environmental Quality (TCEQ) authorization to operate as a CAFO and will be required to reduce the herd size to less than 200 head in confinement. Operating without a permit is a violation of the Texas Water Code and the commission may impose administrative penalties not to exceed \$10,000 per day for each violation.

Also, we are available to meet with you to answer any questions prior to the 30 day deadline. If you should have any further questions, please contact Charles Maguire at (512) 239-5308.

Sincerely,

  
Charles Maguire, Team Leader  
Land Application Team MC 148  
Water Quality Division

Enclosures

cc: TCEQ, Region 4 Stephenville  
Mr. A.C. Lowther, Lowther Consulting, Inc., P.O. Box 78, Dublin, Texas 76446  
P.O. Box 13087 • Austin, Texas 78711-3087 • 512/239-1000 • Internet address: www.tceq.texas.gov

provided on confidential matter using confidential link

**Exhibit E**

Attachment A

Jack Parks

Jack Parks Dairy

Permit No. WQ0003590000

**Engineering calculations**

1. For dairy CAFOS in a major sole-source impairment zone the planned operating capacity for the Retention Control Structure (RCS) can not encroach into the design storm event (margin of safety) storage volume at any time during the month based on average rainfall data. The minimum design volumes for operating capacity are required to include the maximum level of calculated total inflow minus evaporation prior to any monthly withdrawals indicated in the water balance. The water balance presented for this operation indicates that the total inflow minus pond evaporation prior to pumping for RCS #1, #2, and #3 exceeds the designed operating capacities for the RCSs. Please clarify or resubmit design calculations that will ensure that the calculated operating requirements do not encroach into the margin of safety during typical operating conditions. The design calculations and water balance should clearly identify the storage period used to determine the planned operating capacity.
2. Please verify that the RCS volume allocations shown in the Technical Information Packet (TIP) are consistent with the engineering calculations.
3. The number of head in the engineering calculations for Drainage Area #1, #2, and #3 do not add to the total head count proposed in the permit application. Please verify that the engineering calculations are for the total number of head or revise the total number of head to correspond with the engineering calculations.

**Nutrient Management Plan**

1. Please ensure that you use the latest version of the 590-633 spreadsheet (version 3-22). The version submitted was updated to Version 3 in April of 2006 by NRCS. You are required to download the most current version of the software from the web site when you develop the NMP using this software.
2. The volume of effluent to be irrigated used in the 590-633 spreadsheet is the irrigation depth value from the water budget in the engineering calculations. NRCS issued Texas Bulletin No. TX210-06-01 on August 8, 2006 specifying the total actual withdrawal predicted by the water budget should be used as the effluent volume in the spreadsheet. Please revise the NMP to comply with the NRCS guidelines.
3. Soil analyses for eleven LMUs were submitted; please verify that the number of soil analysis is consistent with the number of LMUs and submit additional soil analysis or change LMU designations as appropriate.

**Recharge Feature Certification**

1. Please verify that the RCS capacity certifications are consistent with the capacities presented in the TIP and adjust the TIP as appropriate.
2. Please provide sealed, signed, and dated liner certifications.

**Buffer Map**

1. The LMU map submitted with the TIP is dated July 12, 2006. Please verify that this is the most current map and if necessary, please revise to include the most current map. We have a different version (date) in our file.
2. Please provide a description of the half moon shape (black outline) located in LMU #1. If it is a pivot, designate it as a different LMU and revise maps, TIP, and NMP as appropriate.
3. Please buffer the waterway coming from the creek on the east side of LMU #1 and running back west to the headquarters and revise NMP, engineering calculations, and TIP as necessary, or provide documentation that the waterway no longer exists.

The corrections and clarifications identified above result in significant changes throughout the application. Please make the appropriate changes to information presented in the TIP and attachments and submit a new application form in its entirety. If making changes to one of the attachments submit the entire attachment with your response. This will help maintain the consistency of the application in our file as it moves through the review process.

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



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

March 28, 2007

### CERTIFIED MAIL

Mr. Elmer Jack Parks  
Jack Parks Dairy  
429 County Road 297  
Stephenville, Texas 76401

Re: Application for Individual Permit No. WQ0003590000, Jack Parks Dairy  
(CN601127798, RN102091873)

Dear Mr. Parks:

We received your response to our request for information on January 4, 2007. We have completed a review of the information provided and there remain major deficiencies that you must address before we can continue with the technical review. The items in Attachment A require your response in a timely, complete, and accurate manner.

An accurate and complete revised technical package is essential for making recommendations to the commission regarding whether this permit should be issued. Based on the information you have provided in your application so far, the Executive Director does not have sufficient information to make a recommendation. Therefore, you must send an updated technically complete and accurate application April 11, 2007 or the Executive Director will return this permit application as allowed by Title 30, Texas Administrative Code Section 281.19(b).

If the Executive Director returns the permit application, then Jack Parks Dairy will no longer have a valid Texas Commission on Environmental Quality (TCEQ) authorization to operate as a CAFO and will be required to reduce the herd size to less than 200 head in confinement. Operating without a permit is a violation of the Texas Water Code and the commission may impose administrative penalties not to exceed \$10,000 per day for each violation.

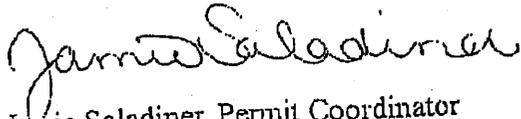
**Exhibit F**

Mr. Elmer Jack Parks  
Page 2  
March 28, 2007

Please note that all correspondence from the TCEQ regarding this application, all responses and application revisions or clarifications shall be copied and updates placed in the publicly available copy of the application within 10 business days from the date of the correspondence.

Also, we are available to meet with you to answer any questions prior to April 11, 2007. I may be contacted at (512) 239-5021 if you have any questions.

Sincerely,



Jamie Saladiner, Permit Coordinator  
Land Application Team  
Water Quality Division (MC-148)  
Texas Commission on Environmental Quality

JS/sp

Enclosures

ccs: TCEQ, Region 4 Stephenville  
Mr. A.C. Lowther, Lowther Consulting, Inc., P.O. Box 78, Dublin, Texas 76446

Attachment AElmer Jack Parks  
WQ0003590000

## Land Application Team Comments

1. RCS capacities listed in the Supplemental Permit Information Form (SPIF) are inconsistent with page 5 of the Technical Packet. Please revise.
2. Please clarify what the term "drilled" means as it relates to the application of sludge or slurry provide a more descriptive word in the Sludge/Slurry section of the Best Management Practices on page 2a. of the Technical Packet.
3. The Best Management Practice for Compost as a Potential Pollutant Source on page 2 a. of the Technical Packet states that composting may be done at this facility. Please identify composting area on the Site Plan Map or revise this page to show that composting will not be done at this facility.
4. The Volume Allocations for RCS #1 and #3 on page 5 of the Technical Packet are not consistent with the engineering calculations. RCS #3 is not allocated for in the engineering calculations for DA 1 and 3.
5. The acre-inches/year of wastewater production on page 6 of the Technical Packet is inconsistent with engineering calculations. Please provide an explanation for the inconsistency or revise as appropriate.
6. Please provide an updated Site Plan Map with consistent Land Management Unit (LMU) labels and composting area labeled.
7. Please provide an explanation for the average liveweight used in the engineering calculations for the open lots in Drainage Area #1 and #3, or revise to be consistent with the other weights.
8. The volume of effluent to be irrigated used in the 590-633 spreadsheet is the irrigation depth value from the water budget in the engineering calculations. NRCS issued Texas Bulletin No. TX210-06-01 on August 8, 2006 specifying the total actual withdrawal predicted by the water budget should be used as the effluent volume in the spreadsheet. Please revise the NMP to comply with the NRCS guidelines.
  - The water budget analysis for Drainage Area (DA) 1, 2, and 3 indicate an aggregate withdrawal of 19.73 acre-feet. The NMP indicates an effluent irrigation volume equal to 22.06 acre-feet.
9. Please provide capacity certifications with an unobscured seal and original signature with date.

10. Liner certifications for RCS #1 and #2 as submitted are not acceptable to continue processing the application. We need liner certifications and capacity certifications that properly identify the control facility with no edits and have an unobscured seal and original signature with date.

#### Water Quality Assessment Team Comments

##### Ground Water Comments

1. The Geomorphologic and Geology Features on the Facility Property page of the Recharge Feature Guidance Document submitted in the NOI states that there are no intermittent streams on the property, however, intermittent streams are identified on maps submitted in the NOI. Please revise this statement. Any changes to the RFC must be recertified by the PG.
2. The Artificial Features on the Facility Property page of the Recharge Feature Guidance Document submitted in the NOI states that there is a caliche on the property, however, no BMPs are proposed for this recharge feature. Please provide BMPs for this recharge feature as required by §321.34(f)(4). Any changes to the RFC must be recertified by the PG.
3. The Recharge Feature Certification (RFC) does not include a method to identify any previously unidentified and undocumented recharge feature that may be discovered during construction in accordance with §321.34(f)(3)(A)(ii). Please update the RFC accordingly.
4. Please revise the well exception request letter to state whether the additional wellhead protective measures will prevent pollutants from entering groundwater. The revised request letter must be signed, sealed, and dated by the Texas licensed professional geoscientist.
5. The version of attachment A.2.a received in earlier submissions of this permit application shows an additional well on the western boundary of LMU 7 that is not shown on the current maps. Please either add this well to the technical packet or provide an explanation for why this well is no longer shown on the maps.

##### Agronomy Comments

1. The total volume of wastewater applied to LMUs 1 and 1a according to the table labeled *Land Application Summary* on page 6 of the Technical Packet is 22.35 acre-feet. The water budget analysis for DA 1, 2, and 3 indicate an aggregate withdrawal of 19.73 acre-feet. Please reconcile the wastewater volume proposed to be land applied in the *Land Application Summary* table with the wastewater volume to be used for irrigation in the water budget analysis.

2. The aggregate volume of manure to be land applied according to information contained in the table labeled *Land Application Summary* on page 6 of the Technical Packet is 4,361 tons/yr. The NMP indicates that the estimated tons of solids to be land applied is 2,525 tons. According to the NMP, the producer will not receive waste from outside sources. Please reconcile these figures.
  - The percent of maximum planned to apply needs to be revised to show the total planned solids is the same as solids produced.
3. Data in Table 7 of the NMP indicate the *Nutrients Applied/Needed at Planned Solids Rates* and *Planned Effluent Rates* in Table 11. The P2O5 rates must be indicated in the appropriate range in the *Organic Phosphorus (P2O5) Application Rate* entry on the PI worksheet. The P2O5 rates for LMUs 2, 3, and 4 in Table 7 and LMU 1 in Table 11 of the NMP are not indicated in the appropriate range in the PI worksheets included with the NMP. Please consider this issue in the elaboration of the revised NMP for this site.



**Lowther Consulting, Inc.**  
**Environmental Management Consultants**

PHONE: (254) 445-4121 FAX: (254) 445-4331

Date: June 12, 2007

No. Pages: 2

TO: Jamie Saladiner  
Fax: (512) 239-4430

RE: Jack Parks Dairy Application - WQ0003590-000

I was looking back over this packet and realized we'd made a mistake on this page when we'd transferred the numbers from the WatrNtr. Please replace the page in the packet with this revised page.

If you have any questions or need additional information, please let us know.

Thank you,

J. Claire Baker

**Exhibit G**

C. RCS Volume Allocations.

Volume Allocations for RCSs (Acre-feet)							
RCS #	Design Rainfall Event Runoff	Process Generated Wastewater	Minimum Treatment Volume	Sludge Accumulation	Water Balance	Required Capacity without Freeboard	Actual Capacity without Freeboard
1	4.0	1.16	-0-	2.50	2.34	10	10.72**
3	14.96	-0-	-0-	1.0	-0-	18.86	14.96**
2	7.24	-0-	-0-	0.51	0.87	8.62	7.82**
** RCS will be modified after the permit is issued							

Please indicate which RCSs are in-series

RCS #1 & RCS #3

D. RCS Hydrologic Connection.

RCS No.	Construction Date	Type of Hydrologic Connection Certification
1	1995	Liner Certification**
2	1995	Liner Certification**
3	1995	Liner Certification**
** Will be recertified after the permit is issued		

E. Playa Lakes.  
 Are any playa lakes used for RCSs?       YES     NO



Lowther Consulting, Inc.  
Environmental Management Consultants

PO Box 78  
Dublin, Texas 76446

June 14, 2007

Jamie Saladiner  
Land Application Team  
PO Box 13087 MC 150  
Texas Commission on Environmental Quality

Re: Permit Application - Jack Parks Dairy - WQ0003590-000

Ms. Saladiner:

Attached are corrections to the permit application for the above referenced permit application packet.

I spoke with Mr. Maguire on the 5<sup>th</sup> of this month and found there were problems with this packet. We have reviewed the packet and made the following revisions.

The two monitoring wells have been located and have been added to the recharge feature certification and all maps. The appropriate page of the TIP, page 8, has been revised and is attached along with the maps and revised pages of the recharge certification.

The inconsistency between the WatrNtr and the NMP has been resolved. A revised NMP is attached along with the revised page of the TIP referring to the waste/wastewater application.

If you need anything else or have any questions regarding this submission, please let us know.

Thank you,

J. Claire Baker

RECEIVED

WATER QUALITY

Exhibit H

C. RCS Volume Allocations.

Volume Allocations for RCSs (Acre-feet)							
RCS #	Design Rainfall Event Runoff	Process Generated Wastewater	Minimum Treatment Volume	Sludge Accumulation	Water Balance	Required Capacity without Freeboard	Actual Capacity without Freeboard
1	4.0	1.16	-0-	2.50	2.34	10	10.72**
3	14.96	-0-	-0-	1.0	-0-	15.96	14.96**
2	7.24	-0-	-0-	0.51	0.87	8.62	7.82**
** RCS will be modified after the permit is issued							

Please indicate which RCSs are in-series

RCS #1 & RCS #3

D. RCS Hydrologic Connection.

RCS No.	Construction Date	Type of Hydrologic Connection Certification
1	1995	Liner Certification**
2	1995	Liner Certification**
3	1995	Liner Certification**
** Will be recertified after the permit is issued		

E. Playa Lakes.

Are any playa lakes used for RCSs?

YES  NO

**RECEIVED**

NOV 9 10  
WATER QUALITY DIVISION

Facility Name Jack Parks Dairy  
TCEQ-00760 (11/1/04)

III. MANURE, LITTER AND WASTEWATER HANDLING

A. Manure, litter and wastewater usage.

	Wastewater	Sludge	Solids
Method	<input checked="" type="checkbox"/> Land Application <input type="checkbox"/> Total Evaporation <input type="checkbox"/> Other _____	<input checked="" type="checkbox"/> Land Application <input checked="" type="checkbox"/> Transfer to other persons <input checked="" type="checkbox"/> Other <u>3rd Party Application</u>	<input checked="" type="checkbox"/> Land Application <input checked="" type="checkbox"/> Transfer to other persons <input checked="" type="checkbox"/> Composting <input checked="" type="checkbox"/> Other <u>3rd Party Application</u>
Land Application Location	<input checked="" type="checkbox"/> Onsite <input type="checkbox"/> Offsite <input type="checkbox"/> Not applicable	<input checked="" type="checkbox"/> Onsite <input checked="" type="checkbox"/> Offsite <input type="checkbox"/> Not applicable	<input checked="" type="checkbox"/> Onsite <input checked="" type="checkbox"/> Offsite <input type="checkbox"/> Not applicable
Composting Location			<input checked="" type="checkbox"/> Onsite <input checked="" type="checkbox"/> Composting Facility <input type="checkbox"/> Not applicable

B. Land Application Summary.

LMU #	Acreage	Proposed Crop(s)	Estimated Yield Goal(s)	Estimated Application Rate (ac-ft/ac/yr or tons/ac/yr)
1	15	Coastal/RG	3 cut hay/graze	0.158 ac-ft/ac/yr
1A	115	Coastal/RG	3 cut hay/graze	0.158 ac-ft/ac/yr
2	49	Sorg/SG	Slage 11-15T/Green Chop 8-9T	6.5 tons/ac/yr
3	60	Coastal	Grazing +1 Hay	6.5 tons/ac/yr
4	103	Coastal	Grazing +1 Hay	6.5 tons/ac/yr
5	99	Coastal	3 cut hay	6.4 tons/ac/yr
6	29	Coastal	Grazing	6.5 tons/ac/yr
7	74	Coastal	3 cut hay	6.4 tons/ac/yr
8	112	Sorg/SG	Slage 11-15T/Green Chop 8-9T	6.5 tons/ac/yr
9	46	Coastal/RG	Graze/Graze	6.2 tons/ac/yr
10	70	Coastal	+1 Hay	6.5 tons/ac/yr

Wastewater production, ac-in/yr: 237.48  
 Estimated Wastewater application, ac-in/yr: 237.48

Manure/litter production, tons/yr: 2,629  
 Estimated manure/litter application, tons/yr: 2,629  
 Estimated manure/litter transferred to other persons, tons/yr: 0-

Facility Name Jack Parks Dairy  
 TCEQ-00760 (11/1/04)

**RECEIVED**  
 NOV 10 2004  
 WATER QUALITY DIVISION

E. Well Protection

Well ID Number	Well Type	Producing or Non-Producing	Open, Cased, or Capped	Protective Measure
1	Domestic Water	Producing	Cased	Housed, Buffered
2	Domestic Water	Producing	Cased	Buffered
3	Domestic Water	Non-Producing	Cased	Buffered
4	Domestic Water	Producing	Cased	Housed, Buffered
5	Domestic Water	Producing	Cased	Housed, Buffered
6	Domestic Water	Producing	Cased	Buffered
7	Domestic Water	Producing	Cased	Buffered
8	Domestic Water	Producing	Cased	Buffered
9	Domestic Water	Producing	Cased	Buffered
10	Domestic Water	Non-Producing	Cased	Buffered
11	Domestic Water	Producing	Cased	Buffered
12	Domestic Water	Producing	Cased	Buffered
13	Domestic Water	Producing	Cased	Buffered
14	Monitoring	N/A	Cased	Elevated Riser
15	Monitoring	N/A	Cased	Elevated Riser

Facility Name Jack Parks Dairy  
 TCEQ-00760 (11/1/04)

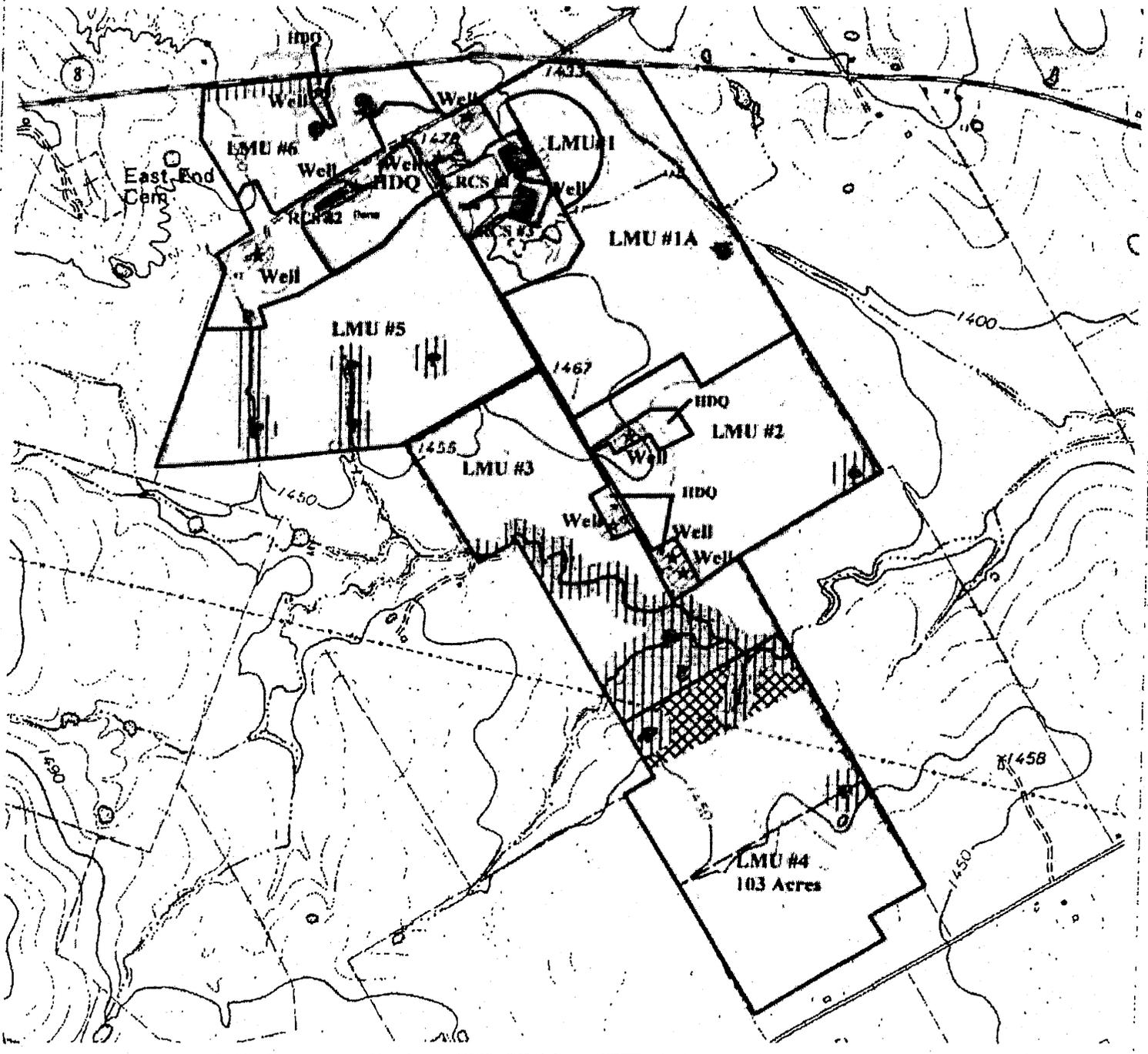
**RECEIVED**  
 11/18/04  
 WATER QUALITY DIVISION

# Site Plan Map

Jack Parks Dairy  
Jack Parks

Lowther Consulting  
Assisted By: AC Lowther  
254-445-4121

Date: 06/14/2007



2000 0 2000 Feet

Legend			
	Dairy Barn		Planned Land Units
	Pens		150' Buffer
	Berm		Pond
	Well		Creek
	RCS		140' Buffer
	128' Buffer		Wooded Area

**RECEIVED**  
JUN 18 2007  
WATER QUALITY DIVISION

# LMU Map

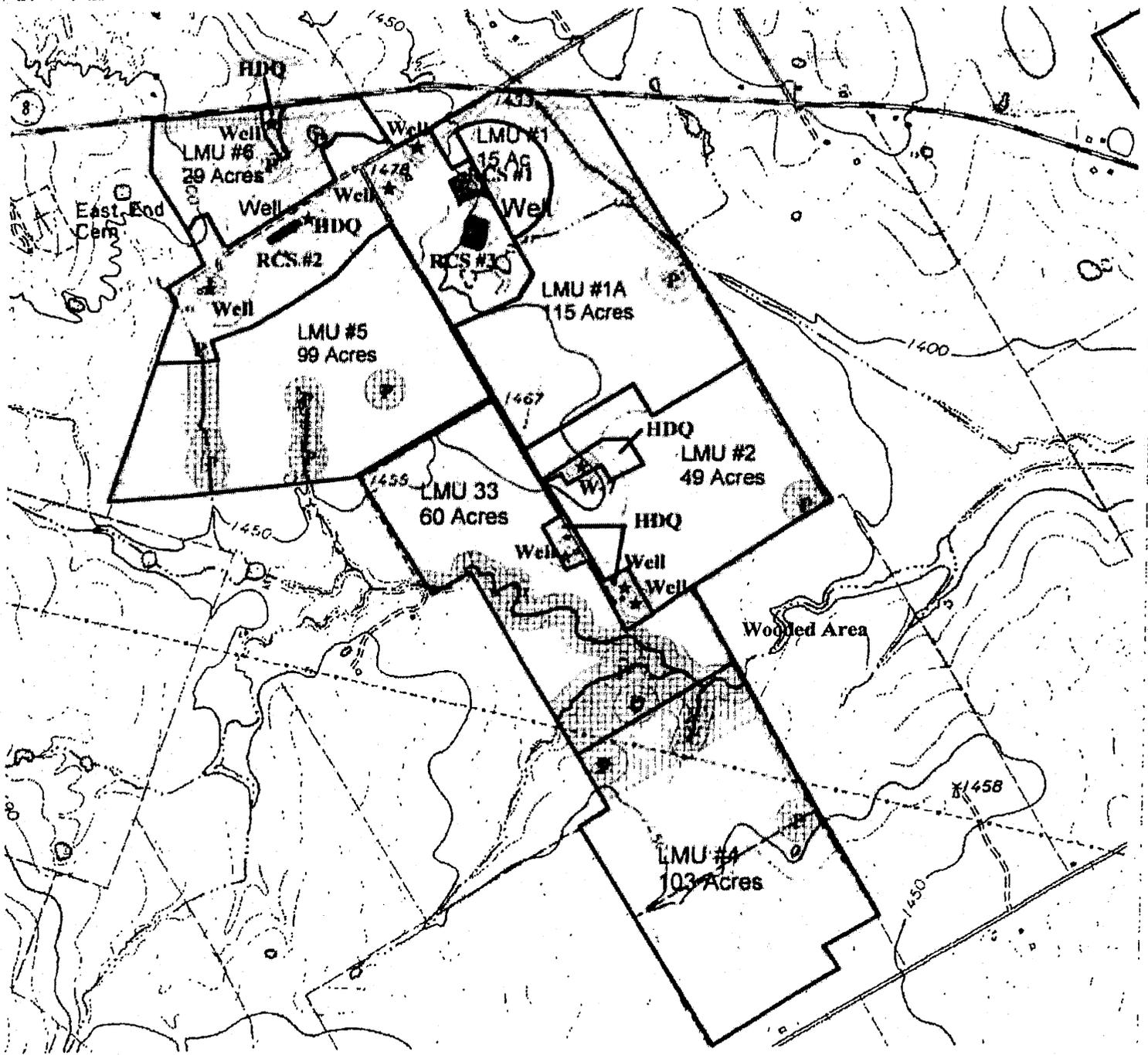
Jack Parks Dairy

Date: 06/12/2007

Lowther Consulting, Inc.

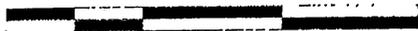
A.C. Lowther

254-445-4121



This Map Supersedes  
Previous Submissions

1000 0 1000 2000 Feet



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

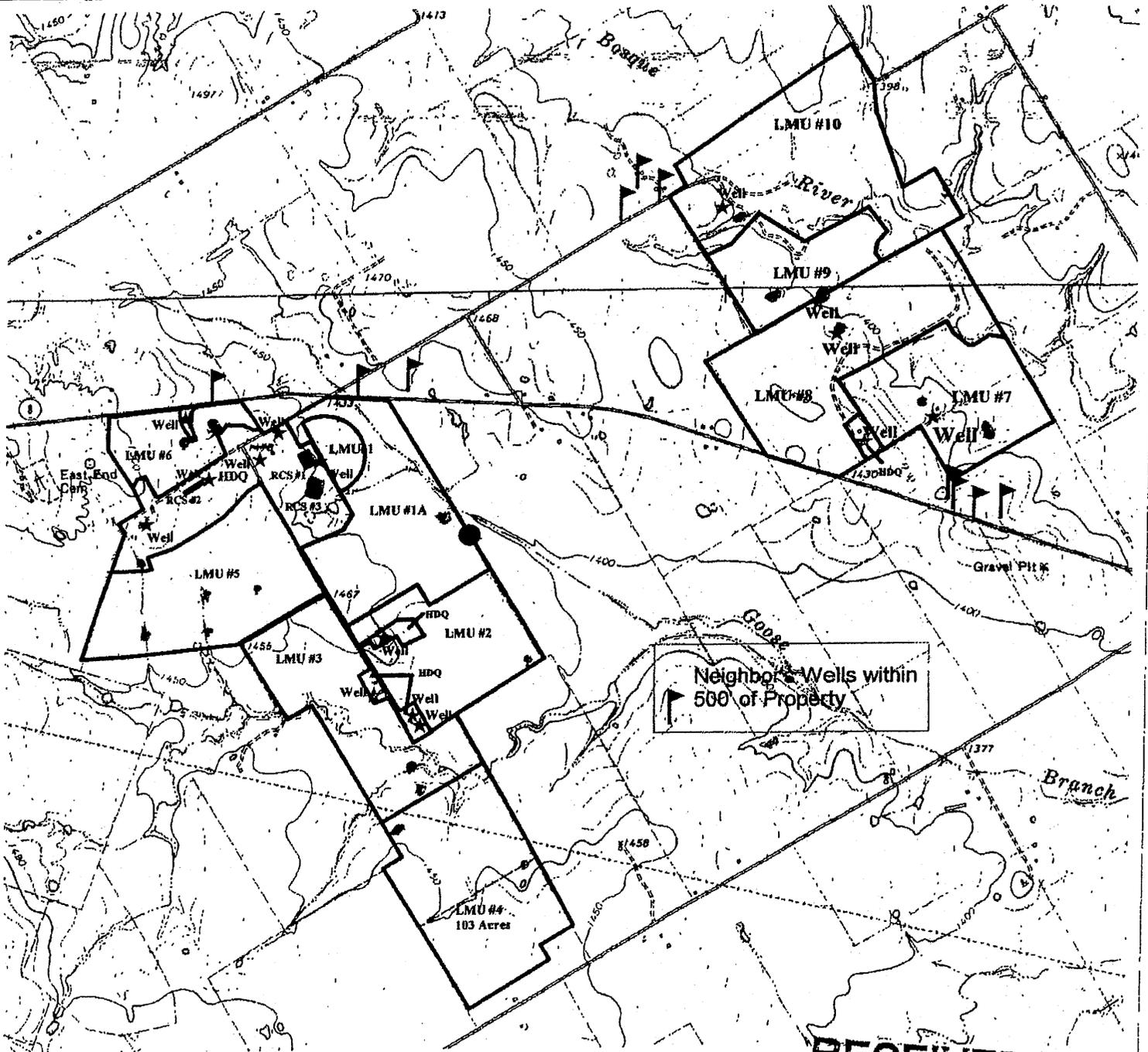
RECEIVED  
WATER QUALITY DIVISION

# Topographic Map

Jack Parks Dairy  
Jack Parks  
Topo Quad: Huckabee and Bunyan

Lowther Consulting  
Assisted By: AC Lowther  
254-445-4121

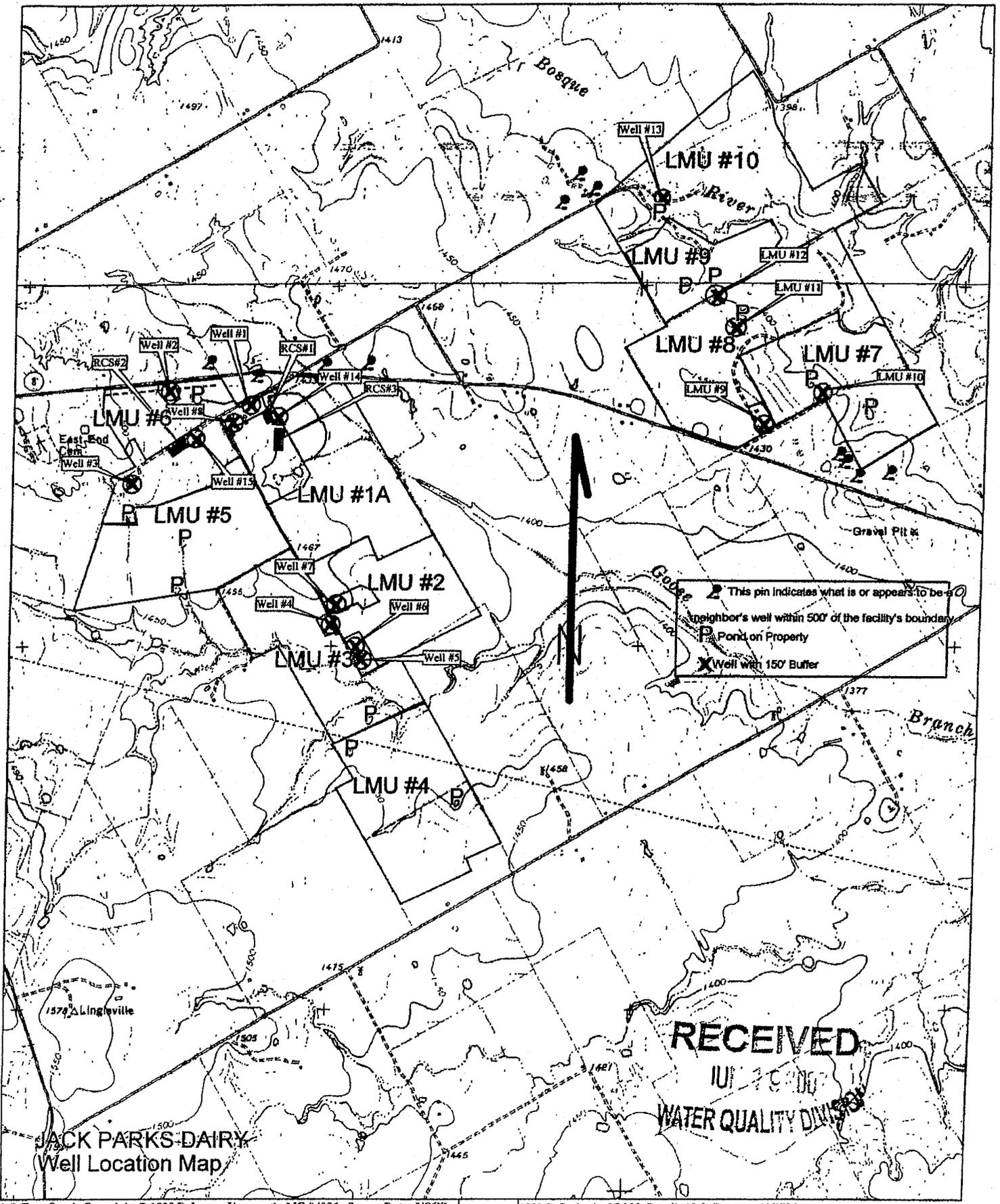
Date: 06/14/2007



**Legend**

- Neighbor's Wells
- Planned Land Units
- Well
- Pond
- RCS

RECEIVED  
JUL 16 2007  
WATER QUALITY DIVISION



JACK PARKS DAIRY  
Well Location Map

RECEIVED  
JUN 29 2007  
WATER QUALITY DIVISION

# Waste Utilization and Nutrient Management Plan

**Jack Parks Dairy**  
429 CR 297  
Stephenville, TX 76401  
254-968-3406

**TCEQ Permit Number:**  
WQ03590

**Owner**  
Jack Parks  
429 CR 297  
Stephenville, TX 76401  
254-968-3406

**Type of Waste Plan:**  
**Other AFO-CAFO Waste Plan**  
located in Erath County

**Prepared By:**

*J. C. Wyrick*

(Signature)

Jim C. Wyrick  
Consultant

Certificate Number = TX20049

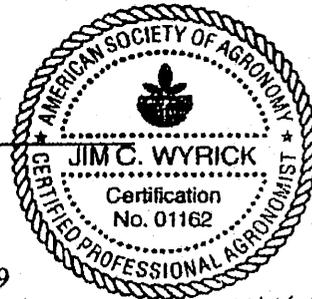
Expiration Date = December 31, 2007

Lowther Consulting, Inc.

PO Box 78

Dublin, TX 76446

254-445-4121



6/14/07

This plan is based on:  
590 -633 Plan V 3-22\_12.11

6/14/07 10:39 AM

**RECEIVED**  
JUL 7 2007  
WATER QUALITY DIVISION

**EXECUTIVE SUMMARY:**

Form #

This Nutrient Management Plan has fields that meet NMP and/or NUP requirements.

**LOCATION AND PURPOSE OF THE PLAN**

This animal operation is located in Crath County (see attached topo map and plan map for location.) The purpose of this plan is to outline the details of the land application of the effluent and solids produced by this operation. When the plan is fully implemented, it should minimize the effects of the land application of animal wastes on the soil, water, air, plant, and animal resources in and around the application area. This plan, when applied, will meet the requirements of the Natural Resources Conservation Service Waste Utilization Standard and Nutrient Management Standard.

The plan is for the year of 2007 and will remain in effect until revision based on new soil or manure analysis or crop change (yield or crop) result in a new P-Index rating or plan classification (NMP-NUP). The waste has been stored in a Dairy Storage Pond (Agitated). Approximately 700 head will be confined with the average weight of 1400 pounds. The animals will be confined 24 hours per day for 365 days per year.

**RECEIVED**  
JUN 18 2007  
WATER QUALITY DIVISION

# Waste Utilization and Nutrient Management Plan

TABLES 1, 2 and 2a

Permit #:

Values in Table 1 may be based on actual analysis or "book" values during the initial planning to determine land application rates for the initial plan. When "book" values are used, they will be from NRCS, Texas Cooperative Extension or averages from other TX testing lab sources. Site specific data will be used as soon as feasible after production begins. Manure and/or effluent will be tested at least annually or in the year of application if it is stored for more than one year. If the actual values are more than 10% higher or lower than the estimated values, this plan will need to be revised accordingly.

Application of waste products may be made up to the Maximum Rate given in Table 2 or 2a as applicable. Table 2 applies to those that are subject to Nutrient Management Plan (NMP) requirements while Table 2a applies when subject to Nutrient Utilization Plan (NUP) requirements. Current requirements for both the NMP and NUP are given in the headers of the tables. Table 2a has a criteria involving the distance to a named stream when the Soil Test P Level is above 200 ppm in arid areas as well as special requirements when the site is in a TMDL watershed designated by TCEQ. For various P Index Ratings, the maximum rates in Table 2 are based on crop requirements, whereas the maximum rates in Table 2a are based on crop removal rates. County avg. rainfall information can be found in the TX Agronomy Technical Note 15, Phosphorus Assessment Tool for Texas, located in the eFOTG at the address given in the section entitled "Collecting Soil Samples for Analyses".

## CROP REMOVAL RATES:

Crop Removal Rates of nitrogen (N), phosphorus (P), and potassium (K) in pounds per acre are given in Table 3 for the crop and yield planned for each field. This Table is included for information only, and should be used during the planning process to compare planned or maximum application rates to crop removal. Crop removal rates may be based on actual analysis of harvested material or default values in the database. P build-up will occur at higher rates when crop removal rates are exceeded.

## SOLIDS APPLICATION:

The maximum solids application rates are given in Table 4 along with the current soil test P level, maximum  $P_2O_5$  application rate, maximum tons per acre of solids and the total tons of solids per field that can be applied to each field. The maximum tons of solids that can be utilized on the fields planned is indicated in the box near the lower left corner of Table 4. When the total application acres of the fields are adequate to allow all of the solids to be applied, "Adequate" will be indicated below the tonnage in this box. If "Not Adequate" is indicated, then the lower box will indicate the tons of solids that must be utilized off-site unless more fields/acres are added. This plan is valid only if the application of waste to the crops listed does not exceed the per acre rates by more than 10%. If the yield of a crop does not meet the expected goal, the application rate should be adjusted the following year.

The estimated amounts of N, P, and K contained in the solids are provided in Table 5 for the maximum application rate. Supplemental N and  $K_2O$  will be applied to achieve the yield goals in Table 4 when recommended by the soil test and the maximum rate of the solids does not meet the crop requirement. When the maximum application rate is applied and Table 5 indicates additional commercial nutrients, they must be applied to fields as indicated. NOTE: If additional nitrogen is recommended, the producer should consider collecting soil samples from the 6 - 36 inch layer to see if there is any additional deep nitrogen available. Additional deep nitrogen within the root zone of the crop can be substituted for supplemental commercial nitrogen.

RECEIVED  
10/14/07  
WATER QUALITY DIVISION

# Waste Utilization and Nutrient Management Plan

SOLIDS APPLICATION: (cont)

Permit #:

In situations where more land is available than is needed to utilize the maximum application rate on each field, the application rates in Table 6 have been reduced to the level that does not exceed the amount of solids produced. Table 7 indicates the amount of nutrients provided and, if needed, the supplemental nutrients which must be applied when the application is based on these rates. The amounts of supplemental nutrients in Table 7 are based on the actual amount of waste available rather than the maximum rate that "could" be applied.

The second line from the bottom of Table 6 on the right has a box that will be "YES" or "NO". When the reduced rates use all solids to be produced in a year, this box will be "Yes". If the percentages are too low, it will be "No". If "No", either more acreage is needed on which to apply the solids or the solids will need to be transported off-site. The amount is located on the bottom line on the extreme right of the page.

Actual application will be based on the quantities produced, as well as, current manure analyses. Application at the MAXIMUM rates shown in Table 4 will result in a more rapid build-up of phosphorus than if applied at lower rates. A different percentage may be used as long as the rate does not exceed the maximum shown in Table 4 for the field and the proper amount of supplemental nutrients are applied. Applying a lower rate to the fields with higher soil test P levels will slow down the P buildup and extend their land application life. Phosphorus will also build up more rapidly on pastureland than on hayland or cropland, since very few nutrients are actually removed by grazing animals.

The solids may be applied to the same acreage every year according to Table 2 or 2a. The annual rates in both Table 4 and 6 may be doubled not to exceed the 2X the annual nitrogen requirement or nitrogen removal rate, as applicable. When the full biennial rate has been used, no additional phosphorus fertilizer or animal wastes may be applied in the alternate year. A column in both tables indicates whether the rates given are Annual Rates (A) or Biennial Rates (B). Rates given are based on Table 2 or 2a as applicable. Annual application rate for fields in a TMDL area with a Soil Test P level equal to or greater than 500 ppm or any field in a TMDL area with P Index Rating of Very High is 0.5 annual crop removal rate.

## EFFLUENT APPLICATION:

The maximum effluent application rates are given in Table 8 for each field. This table provides the current soil test P level, maximum  $P_2O_5$  application rate, effluent either in gallons per acre or acre inches per acre and the amount of effluent that can be applied per field. The maximum amount of effluent that can be utilized on the fields planned is indicated in a box near the lower left corner of Table 8. When the total application acres are adequate to allow all of the effluent to be applied, "Adequate" will be indicated below this box. If "Not Adequate" is indicated, then the lower box will indicate the amount of effluent that must be utilized off-site unless more field acres are added.

The estimated amounts of N, P, and K contained in the effluent are provided in Table 9 for the maximum application rate indicated in Table 8. Supplemental N and  $K_2O$  will be applied to achieve the yield goals when recommended by the soil test and the maximum rates of the effluent do not meet the crop requirements. NOTE: If additional nitrogen is recommended, the producer should consider collecting soil samples from the 6 - 36 inch layer to see if there is any additional deep nitrogen available. Additional deep nitrogen within the root zone of the crop can be substituted for supplemental commercial nitrogen.

## Waste Utilization and Nutrient Management Plan

EFFLUENT APPLICATION: (cont)

Permit #:

In situations where more land is available than is needed to utilize the maximum application rate on each field, the application rates in Table 10 have been reduced to the level that does not exceed the amount of effluent produced. Table 11 indicates the amount of nutrients provided and, if needed, the supplemental nutrients which must be applied when application is made based on the rates in Table 10. These amounts of supplemental nutrients in Table 11 are based on the planned amount of effluent available rather than the maximum rate that "could" be applied.

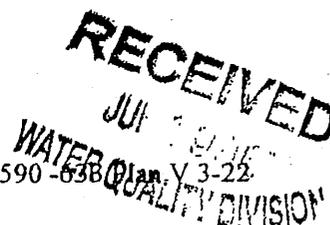
The bottom line on the right of Table 10 has a box that will be "YES" or "NO". When the reduced rates uses all effluent to be produced in a year, this box will be "Yes". If the percentages are too low, it will be "No". If "No" is indicated, either more acreage is needed on which to apply the effluent or the effluent will need to be transported off-site.

Actual application will be based on the quantities produced, as well as, current manure analyses. Application at the **MAXIMUM** rates shown in Table 8 will result in a more rapid build-up of phosphorus than if applied at lower rates. A different percentage may be used as long as the rate does not exceed the maximum shown in Table 8 for the field and the proper amount of supplemental nutrients are applied. Applying a lower rate to fields with higher soil test P levels will slow down the P buildup and extend their land application life. Phosphorus will also build up more rapidly on pastureland than on hayland or cropland, since very few nutrients are actually removed by grazing animals.

The effluent may be applied to the same acreage every year according to Table 2 or 2a. The annual rates in both Table 8 and 10 may be doubled not to exceed the 2X the annual nitrogen requirement or nitrogen removal rate, as applicable, when the full biennial rate has been used, no additional phosphorus fertilizer or animal wastes may be applied in the alternate year. A column in both tables indicates whether the rates given are Annual Rates (A) or Biennial Rates (B). Rates given are based on Table 2 or 2a as applicable. Annual application rate for fields in a TMDL area with a Soil Test P level equal to or greater than 500 ppm or any field in a TMDL area with P Index Rating of Very High is 0.5 annual crop removal rate.

**Maximum Hourly Application Rate** - The maximum hourly application rate is determined by the texture of the soil layer with the lowest permeability within the upper 24 inches of the of the predominant soil in each field. The hourly application rate must be low enough to avoid runoff and/or ponding. For effluent with 0.5% solids or less, **DO NOT** exceed the rates shown in Table 1 of the attached Job Sheet titled, "*Waste Utilization, Determining Effluent Application Rates*". If the effluent contains more than 0.5% solids, those values must be reduced by the appropriate amount shown in Table 2 of the attached "*Waste Utilization, Determining Effluent Application Rates*" Job Sheet.

**Maximum One-Time Application Rate** - The maximum amount of effluent that can be applied to a given field at any one-time is the amount that will bring the top 24 inches of the soil to 100% field capacity. This amount is determined by subtracting the amount of water stored in the soil (estimated by feel and appearance method) from the available water holding capacity (AWC) of the soil. The available water holding capacity of the top 24 inches of the predominant soil of each field receiving effluent and the texture of the most restrictive layer in the upper 24 inches are given in Table 12.



## Waste Utilization and Nutrient Management Plan

EFFLUENT APPLICATION: (cont)

Permit #:

To determine any one-time application amount, the current percent of field capacity (FC) of the upper 24 inches of the predominant soil in the field should be estimated using the guidance in Table 3 of the attached Job Sheet, "Waste Utilization, Determining Effluent Application Rates, rev 4/06". Additional information on estimating soil moisture can be found in the NRCS Program Aid 1619, "Estimating Soil Moisture by Feel and Appearance", or from the University of Nebraska Extension publication No. G84-690-A by the same name. Both of these publications have pictures of various soils at different percentages of field capacity to be used as a guide to estimating soil moisture. Once the current percent of FC is estimated, it is subtracted from the AWC amount in Table 12 for the given field and the difference is the maximum application for those soil conditions on that day. Remember, the maximum hourly application and the maximum one time application rates are only estimates to be used as a guide.

**Solids/Effluent Land Application:** - Land application of solids and/or effluent should be made at appropriate times to meet crop needs, but can be made at any time as long as the total annual (or biennial) rate, maximum hourly rate, and the maximum one time application rates are not exceeded. Effluent should be surface applied uniformly. No runoff or ponding should occur during application thus frequent observations should be made. Neither effluent or solids will be applied to soils with > 8% slope. Effluent or solids should not be spread at night, during rainfall events, or on frozen or saturated soils. Solids should be applied with a manure spreader as uniformly as feasible. Surface applications with trucks should only be made when soil conditions are favorable in order to minimize soil compaction.

### Filter Strips, Riparian Forest Buffers, Field Borders and other Setbacks or Out Areas

Filter strips, riparian forest buffers, or a combination of both with a minimum width of 100 feet will be maintained between the application area and all surface water bodies, sink holes and watercourses as designated on Soil Survey sheets or USGS topographic maps. Waste will not be applied to frequently flooded soils as designated in the county soil survey. No waste application will be made to these buffer areas. The minimum application distance from private or public wells will be 150 feet and 500 feet respectively. These areas will be marked as non-application areas on the application area map. Table 13 provides the field numbers and acreages for each area.

### MORTALITY MANAGEMENT:

All mortality will be disposed of properly within 3 days according to the Texas Commission on Environmental Quality (TCEQ) rules. The preferred method for disposal of routine mortality is by a rendering plant. Before planning this method, contact the facility or its representative to be informed of special handling procedures, equipment needs, scheduling requirements, etc. Maintain a list of contact phone numbers so information will be readily available following a catastrophic die-off. Verify that local companies which have previously picked up and/or rendered dead animals are still doing so. A number of rendering companies across the state have stopped dead animal pick up service, and others have raised their fees significantly. Periodically review the availability and cost of rendering so that the plan can be modified if necessary. This can be an excellent option if mortality can be loaded and transported while still fresh or the mortality can be refrigerated until loaded and transported.

Disposal in a landfill may be an option in some locations. Before planning this option, the closest commercial, regional, county, or municipal landfill should be contacted to determine if the landfill has a permit which would allow acceptance of dead animals (swine, sheep, cattle, etc.). Also ask if there are any restrictions on type and volume of animal mortality that will be accepted at the facility. Landfill fees and transport, offloading, and handling procedures should be discussed with landfill managers and documented for reference when needed.

RECEIVED  
WATER QUALITY DIVISION

The landfill is not a viable option if the producer does not own or have access to a vehicle capable of transporting mortality quickly in an emergency situation. After a catastrophic die-off is not a good time to find out that a driver and truck to transport mortality will not be available for several weeks (MAKE ARRANGEMENTS NOW, NOT AFTER THE ANIMALS ARE DEAD).

On-farm disposal of catastrophic mortality may be considered if site conditions permit. On-farm methods include burial, composting, and incineration. Incinerators and composters are excellent options for routine mortality but usually do not have the capacity to handle mortality volumes associated with catastrophic events. Composting and incineration should not be relied on for catastrophic mortality handling without a documented evaluation of worst anticipated mortality condition (number, type, and weight of animals), and the anticipated capacity of the system (i.e., lb./hr. incineration rate, hrs/day of operation). NRCS Mortality Facility Standard 316 will be used for all mortality management.

See the attached soil interpretation, ENG - Animal Mortality Disposal (Catastrophic) Trench, to make a preliminary assessment of the limitations of the soils on this farm for burial of catastrophic mortality. The attached TX NRCS Technical Guidance, Catastrophic Animal Mortality Management (Burial Method) should be used as a guide to overcome minor limitations and as design criteria for the construction of burial pits for catastrophic mortality. Mortality burial sites shall be located outside the 100 -year floodplain. Mortality burial will not be less than 200 feet from a well, spring, or water course. A FIELD INVESTIGATION BY A QUALIFIED PROFESSIONAL SHOULD BE MADE BEFORE AN AREA IS USED FOR A BURIAL SITE FOR CATASTROPHIC MORTALITY EVENTS. The TCEQ Industrial and Hazardous Waste Permits Section, MC-130, must be contacted before burial of catastrophic mortality.

TCEQ  
Industrial and Hazardous Waste Permits Section, MC-130  
PO Box 13087  
Austin, TX 78711-3087  
Phone: 512-239-2334 Fax: 512-239-6383

**ODOR MANAGEMENT:**

The following steps should be taken when spreading effluent or solids to reduce problems associated with odor.

1. Avoid spreading effluent or solids when wind will blow odors toward populated areas.
2. Avoid spreading effluent or solids immediately before weekends or holidays, if people are likely to be engaged in nearby outdoor activities.
3. Avoid spreading effluent or solids near heavily traveled highways.
4. Make applications in the morning when the air is warming, rather than in the late afternoon.

**MANURE STORAGE:**

Effluent and solids will be stored in facilities designed, constructed, and maintained according to USDA NRCS Standards and specifications.

RECEIVED

WATER QUALITY DIVISION

Waste Utilization and Nutrient Management Plan

EFFLUENT AND SOLIDS TESTING:

Permit #:

Effluent and solids sampling is needed to get a better idea of the nutrients actually being applied. Effluent and/or solids samples will be collected at least annually, or in the year of its use if waste is typically stored for more than 1 year. The samples will be submitted immediately to a lab for testing. If sent to Texas A&M soil lab or SFASU Soil Testing Lab for analysis, use the "plant and forage analysis" form and note the type of operation. Request that the manure be analyzed for percent dry matter, solids, total nitrogen, total phosphorus, and total potassium. Further information on collecting effluent and manure samples for analysis can be found in the TCE publication No. L-5175, "Managing Crop Nutrients Through Soil, Manure and Effluent Testing". TCEQ sampling rules and testing requirements will be followed on permitted sites.

COLLECTING SOIL SAMPLES FOR ANALYSIS:

Collect a composite sample for each field (or area of similar soils and management not more than 40 acres in size) comprised of 10 - 15 randomly selected cores. Each core should represent 0 - 6 inches below the surface except for when injection has been done over 6" in depth, then the core should represent the 3-9" layer. Thoroughly mix each set of core samples, and select about a pint of the mixture as the sample for analysis. Label each sample for the field that it represents. Request that the samples be analyzed for nitrate nitrogen, plant-available phosphorus, potassium, sodium, magnesium, calcium, sulfur, boron, conductivity; and pH. Also note on the samples that they are from an effluent or solids application area. TCEQ sampling rules and testing requirements will be followed on permitted sites. A weighted average of 0-2 and 2-6 inch layers will be used for calculations on permitted sites.

Further information on collecting soil samples can be found on the TCE Form D-494, p 2, TCE Publication No. L-1793, and TCEQ RG-408. Additional NRCS guidance and requirements can be found in the Nutrient Management (590) standard located in the Texas electronic Field Office Technical Guide (eFOTG) at:

http://efotg.nrcs.usda.gov/efotg/locator.aspx?map=TX

- Click the county desired.
- Click Section IV in the left column under eFOTG
- Type: 590 in the Search Menu above eFOTG and click: GO
- Click on the desired item under Nutrient Management in the left column

SOIL ANALYSIS:

A soil analysis will be completed for all areas to be used for all effluent or solids application areas. The soil test analysis method will be Mehlich III with inductively coupled plasma (ICP). The area will be tested and analyzed at least annually to monitor P build up.

RECEIVED  
JUL 26 2007  
WATER QUALITY DIVISION





# Lowther Consulting, Inc.

## Environmental Management Consultants

PO Box 78

Dublin, Texas 76446

Phone: (254) 445-4121 Fax: (254) 445-4331

The revised nutrient management plan, dated June 14, 2007, was provided to the producer, Jack Parks Dairy, Permit Number WQ0003590-000.

**RECEIVED**  
JUN 14 2007  
WATER QUALITY DIVISION

### Waste Utilization and Nutrient Management Plan

OPERATION AND MAINTENANCE:

Permit #:

WQ0003590

Application equipment should be maintained in good working order and it should be calibrated annually so that the desired rate and amount of effluent and solids will be applied.

Information on calibrating manure spreaders can be found in the TCE publication No. L-5175, "Managing Crop Nutrients Through Soil, Manure and Effluent Testing". Information on calibrating big gun sprinklers can be found in the Arkansas Extension publication, "Calibrating Stationary Big Gun Sprinklers for Manure Application". For information on calibrating tank spreaders, traveling guns, and additional information on other manure spreading equipment, see Nebraska Extension publication No. G95-1267-A, "Manure Applicator Calibration". Observe and follow manufacturer's recommended maintenance schedules for all equipment and facilities involved in the waste management system. For information on lagoon functions, refer to TCE publication F9, "Proper Lagoon Management".

Any changes in this system should be discussed with the local Soil and Water Conservation District, USDA Natural Resources Conservation Service, or other qualified professional prior to their implementation.

Plan Prepared by: Jim C. Wyrick

Date: 4/10/2007

Plan Approved by: \_\_\_\_\_

Date: \_\_\_\_\_

Producer Signature: Jack Parks

Date: 5-1-2007

The producer's signature indicates that this plan has been discussed with him/her. If this plan is not signed by the producer, indicate how the plan was provided to the producer.

RECEIVED  
JU

WATER QUALITY

# Waste Utilization and Nutrient Management Plan

**Table 1 - Estimated Effluent and Solids Quantities Produced**

Permit #: ..

Avg. Number of Animals	<b>Type of Waste</b>
700	Dairy Storage Pond (Agitated)
	Dairy Solids

Contact the local Soil and Water Conservation District or USDA Natural Resources Conservation Service office if the total number of animals change by more than 10% so your plan can be revised.

.. Estimated Acre Inches of Effluent to be Available Annually\* 2.37

Estimated Tons Solids to be Land Applied Annually (on or off site)\* 4.088.6

\*From engineering design

<p><b>Estimated Nutrient Availability Effluent</b></p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;"></th> <th style="width: 20%; text-align: center;">pounds/yr</th> <th style="width: 20%; text-align: center;">Pounds / 1000 gal</th> <th style="width: 20%; text-align: center;">Pounds / Acre Inch</th> <th style="width: 10%;"></th> </tr> </thead> <tbody> <tr> <td>N</td> <td style="text-align: center;">12,271</td> <td style="text-align: center;">1.90</td> <td style="text-align: center;">51.7</td> <td style="text-align: center;">**</td> </tr> <tr> <td>P2O5</td> <td style="text-align: center;">7,395</td> <td style="text-align: center;">1.15</td> <td style="text-align: center;">31.1</td> <td></td> </tr> <tr> <td>K2O</td> <td style="text-align: center;">82,069</td> <td style="text-align: center;">12.73</td> <td style="text-align: center;">345.6</td> <td></td> </tr> </tbody> </table> <p style="margin-top: 10px;">** Effluent Values Based on Analysis dated: September 28, 2006</p>		pounds/yr	Pounds / 1000 gal	Pounds / Acre Inch		N	12,271	1.90	51.7	**	P2O5	7,395	1.15	31.1		K2O	82,069	12.73	345.6		<p><b>Estimated Nutrient Availability Solids</b></p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;"></th> <th style="width: 20%; text-align: center;">pounds / yr</th> <th style="width: 20%; text-align: center;">ton</th> <th style="width: 10%;"></th> </tr> </thead> <tbody> <tr> <td>N</td> <td style="text-align: center;">36,091</td> <td style="text-align: center;">8.8</td> <td style="text-align: center;">**</td> </tr> <tr> <td>P2O5</td> <td style="text-align: center;">39,711</td> <td style="text-align: center;">9.7</td> <td></td> </tr> <tr> <td>K2O</td> <td style="text-align: center;">73,254</td> <td style="text-align: center;">17.9</td> <td></td> </tr> </tbody> </table> <p style="margin-top: 10px;">** Solids Values Based on Analysis dated: September 28, 2006</p>		pounds / yr	ton		N	36,091	8.8	**	P2O5	39,711	9.7		K2O	73,254	17.9	
	pounds/yr	Pounds / 1000 gal	Pounds / Acre Inch																																		
N	12,271	1.90	51.7	**																																	
P2O5	7,395	1.15	31.1																																		
K2O	82,069	12.73	345.6																																		
	pounds / yr	ton																																			
N	36,091	8.8	**																																		
P2O5	39,711	9.7																																			
K2O	73,254	17.9																																			

RECEIVED

JUL 10 2007

WATER QUALITY DIVISION

Default values were used on all fields for plant removal of nutrients and yield levels.

## Waste Utilization and Nutrient Management Plan

**TABLE 2. A Nutrient Management Plan (NMP) is required where Soil Test P Level <sup>1/</sup> is:**

- less than 200 ppm statewide or
- or < 350 ppm in arid areas <sup>2/</sup> with a named stream > one mile.

P – Index Rating	Maximum TMDL Annual P Application Rate <sup>5/</sup>	Maximum Annual P Application	Maximum Biennial Application Rate
Very Low, Low	Annual Nitrogen (N) Requirement	Annual Nitrogen (N) Requirement	2.0 Times Annual N Requirement
Medium	2.0 Times Annual Crop P Requirement <sup>3/</sup>	2.0 Times Annual Crop P Requirement <sup>3/</sup>	2.0 Times Annual N Requirement
High	1.5 Times Annual Crop P Requirement <sup>3/</sup>	1.5 Times Annual Crop P Requirement <sup>3/</sup>	Double the Maximum Annual P Application Not to Exceed 2 times the Annual N Requirement
Very High	1.0 Times Annual Crop P Requirement <sup>3/</sup>	1.0 Times Annual Crop P Requirement <sup>3/</sup>	Double the Maximum Annual P Application Not to Exceed 2 times the Annual N Requirement

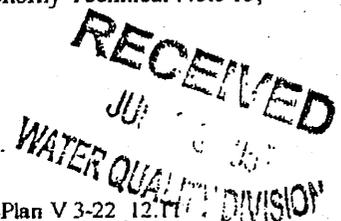
**TABLE 2a. A Nutrient Utilization Plan (NUP) is required by TCEQ where Soil Test P Level <sup>1/</sup> is:**

- equal to or greater than 200 ppm in non-arid areas <sup>2/</sup> or
- equal to or greater than 350 ppm in arid areas <sup>2/</sup> with a named stream greater than one mile or
- equal to or greater than 200 ppm in arid areas <sup>2/</sup> with a named stream less than one mile.

P – Index Rating	Maximum TMDL Annual P Application Rate <sup>5/</sup>	Maximum Annual P Application	Maximum Biennial Application Rate
Very Low, Low	1.0 Times Annual Crop P Removal <sup>4/</sup>	Annual N Crop Removal	2.0 Times Annual N Removal
Medium	1.0 Times Annual Crop P Removal <sup>4/</sup>	1.5 Times Annual Crop P Removal <sup>4/</sup>	Double the Maximum Annual P Application Not to Exceed 2 times the Annual N Crop Removal
High	1.0 Times Annual Crop P Removal <sup>4/</sup>	1.0 Times Annual Crop P Removal <sup>4/</sup>	Double the Maximum Annual P Application Not to Exceed 2 times the Annual N Crop Removal
Very High or soil test P <sup>1/</sup> => 500 ppm in nutrient impaired TMDL areas. <sup>5/</sup>	0.5 Times Annual Crop P Removal <sup>4/</sup>	0.5 Times Annual Crop P Removal <sup>4/</sup>	Double the Maximum Annual P Application Not to Exceed 2 times the Annual N Crop Removal

### Footnotes Applicable to both Tables

- 1/ Soil test P will be Mehlich III by inductively coupled plasma (ICP).
- 2/ Non-arid areas, counties receiving => 25 inches annual rainfall, will use the 200 ppm P level while arid areas, counties receiving < 25 inches of annual rainfall, will use the 350 ppm P level. See map in TX Agronomy Technical Note 15, Phosphorus Assessment Tool for Texas, for county designations.
- 3/ Not to exceed the annual nitrogen requirement rate.
- 4/ Not to exceed the annual nitrogen removal rate.
- 5/ TMDL watersheds are designated by Texas Commission on Environmental Quality (TCEQ).



# Waste Utilization and Nutrient Management Plan

Table 3 - Crop Removal Rates (For Information Only)

Permit #.

LMU or Field No.	Acres	Crop and P Index Level	TCEQ Plan Type	Actual Crop Analysis or Default	Total Est. N Removal lbs/Ac/Yr	Total Est. P <sub>2</sub> O <sub>5</sub> Removal lbs/Ac/Yr	Total Est. K <sub>2</sub> O Removal lbs/Ac/Yr
1	15.0	Coastal Hay 3 cut, RG mod Graze M	NMP	Default	319	96	284
1a	115.0	Coastal Hay 3 cut, RG mod Graze M	NMP	Default	319	96	284
2	49.0	Silage - Sorg-11-15 T; SG GreenChop-8-9T M	NMP	Default	383	127	184
3	60.0	Coastal Grazing + 1 Hay M	NMP	Default	145	34	129
4	103.0	Coastal Grazing + 1 Hay M	NMP	Default	145	34	129
5	99.0	Coastal 3 Cut Hay M	NMP	Default	238	74	202
6	29.0	Silage - Sorg-11-15 T; SG GreenChop-8-9T M	NMP	Default	383	127	184
7	74.0	Coastal graze 1 AU/1 ac, RG mod Graze H	NMP	Default	298	90	266
8	112.0	Coastal Grazing + 1 Hay M	NMP	Default	145	34	129
9	46.0	Coastal 3 Cut Hay M	NMP	Default	238	74	202
10	70.0	Wheat Moderate Grazing M	NMP	Default	97	36	99

NOTE: When crops are used for grazing, only a portion of the nutrients used by the crop are removed from the field in the live weight gain of the livestock, the remainder is returned to the land in manure and urine. The book "Southern Forages" estimates the N, P, & K removed in 100 lbs of live weight gain as follows: **2.5 lbs N, 0.68 lbs P, 0.15 lbs K**

**RECEIVED**  
JUL 13 2007  
WATER QUALITY DIVISION



# Lowther Consulting, Inc.

## Environmental Management Consultants

PO Box 78

Dublin, Texas 76446

Phone: (254) 445-4121 Fax: (254) 445-4331

On page 13 Table 4 - Maximum Solids Application per Field, the date printed reads "Printed 10/29/06". This is an error in the spreadsheet and cannot be corrected by the user. The cell containing the date printed information is protected and can only be changed by the spreadsheet developer. This date on this page should be the same as the rest of the "date printed" on the other pages of the NMP.

Jim Wyrick

RECEIVED  
JU  
WATER QUALITY DIVISION

# Waste Utilization and Nutrient Management Plan

Table 4 - Maximum Solids Application per Field

Permit #.

Est. Solids Produced Annually (wet tons)	LMU or Field No.	Acres	Crop Management and P/I runoff potential	Current Soil Test P Level (ppm)	Max Annual P2O5 lbs/acre	Annual/Biennial	Maximum Solids Allowable Tons/Acre	Maximum Allowable Application Per field (Tons)
4,889	1							
	1a							
	2	49.0	Silage - Sorg-11-15 T;SG GreenChop-8-9T M	74	330	A	34.0	1665
	3	60.0	Coastal Grazing + 1 Hay M	20	140	A	14.4	865
	4	103.0	Coastal Grazing + 1 Hay M	97	140	A	14.4	1485
	5	99.0	Coastal 3 Cut Hay M	160	250	A	25.7	2548
	6	29.0	Silage - Sorg-11-15 T;SG GreenChop-8-9T M	181	330	A	34.0	985
	7	74.0	Coastal graze 1 AU/1 ac, RG mod Graze H	92	188	A	19.3	1429
	8	112.0	Coastal Grazing + 1 Hay M	68	140	A	14.4	1614
	9	46.0	Coastal 3 Cut Hay M	37	250	B	51.5	2368
	10	70.0	Wheat Moderate Grazing M	39	176	B	36.3	2538
Total Solids Application Acres								
642								
Max. Solids Application Allowable on site (tons)								
15496.8								
Adequate								
Solids to be used off site (tons)								
0.0								

**RECEIVED**  
JU

WATER QUALITY DIVISION  
Plan: 590-633-11 Rev IV 3-22-11

End of Table 4

# Waste Utilization and Nutrient Management Plan

Table 5 - Nutrients Applied/Needs at Maximum Solids Rates

Permit #:

LMU / Field #	Nutrients Applied When Application is at Maximum Rates			Supplemental Nutrients Needed When Application is at Maximum Rates			
	N Lb/ac	P <sub>2</sub> O <sub>5</sub> Lb/ac	K <sub>2</sub> O Lb/ac	N Lb/ac	P <sub>2</sub> O <sub>5</sub> Lb/ac	K <sub>2</sub> O Lb/ac	Lime T/Ac
1							
1a							
2	300	330	609	140	0	0	0
3	127	140	258	15	0	0	0
4	127	140	258	10	0	0	0
5	227	250	461	45	0	0	0
6	300	330	609	110	0	0	0
7	170	188	346	175	0	0	0
8	127	140	258	0	0	0	0
9	454	500	922	0	0	0	0
10	320	352	650	0	0	0	0

**RECEIVED**  
 JUN 14 2007  
 WATER QUALITY DIVISION

# Waste Utilization and Nutrient Management Plan

Table 6 - Planned Solids Application Rates

Permit #:

LMU or Field No.	Double crop	Acres	Crop Management and PI runoff potential	Current Soil Test P ppm	Annual / Biennial	Max Rate tons/ac	% of Maximum to apply	Planned Solids tons/ac	Planned Solids per field (tons)	
1										
1a										
2		49.0	Silage - Sorg-11-15 T; SG GreenChop-8-9T M	74	A	34.0		6.5	316.3	
3		60.0	Coastal Grazing + 1 Hay M	20	A	14.4		6.5	389.2	
4		103.0	Coastal Grazing + 1 Hay M	97	A	14.4		6.5	668.1	
5		99.0	Coastal 3 Cut Hay M	160	A	25.7		6.4	637.1	
6		29.0	Silage - Sorg-11-15 T; SG GreenChop-8-9T M	181	A	34.0		6.5	187.2	
7		74.0	Coastal graze 1 AU/1 ac, RG mod Graze H	92	A	19.3		6.4	471.4	
8		112.0	Coastal Grazing + 1 Hay M	68	A	14.4		6.5	726.5	
9		46.0	Coastal 3 Cut Hay M	37	B	51.5		6.2	284.2	
10		70.0	Wheat Moderate Grazing M	39	B	36.3		6.5	456.8	
Acres		642.0					Will the planned per acre application rates use all of the Solids?		4136.8	
4089		Tons of wet solids produced Annually						YES		
0		Tons to be used off-site at Max rates		Tons to be used off-site at planned rates				0		

**WATER QUALITY DIVISION**

# Waste Utilization and Nutrient Management Plan

Table 7 - Nutrients Applied/Needed at Planned Solids Rates

Permit #:

Red cells? Proceed to adjustment page and fix.

LMU / Field #	Nutrients Applied at Planned Rates			Supplemental Nutrients Needed at Planned Rates			
	N Lb/ac	P <sub>2</sub> O <sub>5</sub> Lb/ac	K <sub>2</sub> O Lb/ac	N Lb/ac	P <sub>2</sub> O <sub>5</sub> Lb/ac	K <sub>2</sub> O Lb/ac	Lime T/Ac
1							
1a							
2	57	63	116	385	0	0	0
3	57	63	116	85	0	0	0
4	57	63	116	80	0	0	0
5	57	63	115	215	0	0	0
6	57	63	116	355	0	0	0
7	56	62	114	290	0	0	0
8	57	63	116	70	0	0	0
9	55	60	111	220	0	45	0
10	58	[REDACTED]	117	65	0	0	0

RECEIVED  
JUL 1 2007  
WATER QUALITY DIVISION

# Waste Utilization and Nutrient Management Plan

Permit #:

**Table 8 - Maximum Effluent Application Per Field**

Est. Available Effluent (ac inches)	LMU or Field No.	Acres	Double crop	Crop Management and PI runoff potential	Current Soil Test P Level (ppm)	Max Annual P <sub>2</sub> O <sub>5</sub> (lbs/acre)	Annual/Biennial	Maximum Effluent Allowable (ac in/ac)	Maximum Effluent Allowable / Field (ac in)
<b>237</b>	1	15.0		Coastal Hay 3 cut, RG mod Graze M	70	265	A	8.5	138
Source:	1a	115.0		Coastal Hay 3 cut, RG mod Graze M	72	265	A	8.5	978
Dairy Storage Pond (Agitated)	2								
	3								
	4								
	5								
	6								
	7								
	8								
	9								
	10								
	Total Effluent Application Acres								
<b>130</b>									
Maximum Effluent Application Allowable On-Site (ac in)									
<b>1105</b>									
Adequate									
Effluent to be used Off-Site (ac in)									
0									

RECEIVED

JUN 14 2007

WATER QUALITY DIVISION

End of Table 8

# Waste Utilization and Nutrient Management Plan

Table 10 - Planned Effluent Application Rates

Permit #:

LML or Field No.	Acres	Double crop	Crop Management and PI runoff potential	Current Soil Test P ppm	Annual / Biennial	Maximum Effluent (ac in/ac)	% of Maximum to apply	Planned Effluent (ac in/ac)	Planned Effluent / field (Ac. In)
1	15.0		Coastal Hay 3 cut, RG mod Graze M	70	A	8.5	22%	1.9	29
1a	115.0		Coastal Hay 3 cut, RG mod Graze M	72	A	8.5	22%	1.9	219
2									
3									
4									
5									
6									
7									
8									
9									
10									
Acres		130.0							
								Will the planned application use all of the Effluent? <b>YES</b>	

RECEIVED

JUL 1 2007

WATER QUALITY DIVISION

# Waste Utilization and Nutrient Management Plan

Table 11 - Nutrients Applied/Needed at the Planned Effluent Rates

Permit #:

Red cells? Proceed to adjustment page and fix.

LMU / Field #	Nutrients Applied at Planned Rates			Supplemental Nutrients Needed at Planned Rates			
	N Lb/ac	P <sub>2</sub> O <sub>5</sub> Lb/ac	K <sub>2</sub> O Lb/ac	N Lb/ac	P <sub>2</sub> O <sub>5</sub> Lb/ac	K <sub>2</sub> O Lb/ac	Lime T/Ac
1	97	58	647	320	5	0	0
1a	97	58	647	310	0	0	0
2							
3							
4							
5							
6							
7							
8							
9							
10							

**RECEIVED**  
JUL 11 2007  
WATER QUALITY DIVISION



# Waste Utilization and Nutrient Management Plan

**Table 13 - Non Application Areas by Field**

Permit #:

FS = 393-Filter Strip; FB = 386-Field Border, RFB = 391-Riparian Forest Buffer; OLEA = Other Land Excluded Area

LMU / Field #	FS Acres	FB Acres	RFB Acres	OLEA Acres	Total Excluded
1	0.0	0.0			
1a	15.0	0.0	0.0		15.0
2	3.0	0.0	0.0		3.0
3	39.0	0.0	0.0		39.0
4	13.0	0.0	0.0		13.0
5	15.0	0.0	0.0		15.0
6	5.0	0.0	0.0		5.0
7	17.0	0.0	0.0		17.0
8	24.0	0.0	0.0		24.0
9	10.0	0.0	0.0		10.0
10	61.0	0.0	0.0		61.0

LMU / Field #	FS Acres	FB Acres	RFB Acres	OLEA Acres	Total Excluded
[Empty Table Area]					

**RECEIVED**  
 JUN 14 2007  
 WATER QUALITY DIVISION

See Application Map for location of buffers  
 Total 590-633 application acres: 772.0

Totals 202.0 0.0 0.0 0.0 202.0  
 Total 590-633 Field Acres: ERROR

# Waste Utilization and Nutrient Management Plan

Table 9 - Nutrients Applied/Needed at Maximum Effluent Rates

Permit #:

LMU / Field #	Nutrients Applied When Application is at Maximum Rates			Supplemental Nutrients Needed When Application is at Maximum Rates			
	N Lb/ac	P <sub>2</sub> O <sub>5</sub> Lb/ac	K <sub>2</sub> O Lb/ac	N Lb/ac	P <sub>2</sub> O <sub>5</sub> Lb/ac	K <sub>2</sub> O Lb/ac	Lime T/Ac
1	439	265	2937	0	0	0	0
1a	439	265	2937	0	0	0	0
2							
3							
4							
5							
6							
7							
8							
9							
10							

RECEIVED

JUL 11 2007

WATER QUALITY DIVISION

# Waste Utilization and Nutrient Management Data Entries

**General Data**  
Date : 6/14/2007  
Farmer Name : Jack Parks Dairy  
County in which the Land is located : Erath  
Type of Waste Plan : Other AFO-CAFO Waste Plan  
Is this plan in a TMDL watershed for nutrients?  
Yes or No : No  
Is any field PERMITTED by TCEQ?  
Yes or No : Yes  
Permit # : WQ03590

All other entries on General Page appear on the Cover Page

**Animal Information**  
Plan Year : 2007  
Are you receiving waste from another producer? No  
Number of animals : 700  
Approximate Weight : 1400  
Days per year in confinement : 365  
Hours per day confined : 24  
ACRE FEET of effluent to be irrigated\* : 19.79  
Estimated annual gallons of effluent to be irrigated/applied annually : 6435498  
For effluent, do you want application rates shown in gallons or acre inches? : acre inches  
Estimated Tons Solids to be Land Applied Annually (on or off site)\* : 2629  
Is this the first Year of the AFO-CAFO Operation? : No

## Analysis Information

**Effluent Information**  
Date of Analysis: 9/28/2006  
Manure Source: Dairy Storage Pond (Agitated)  
Nitrogen % From Analysis: 0.0285  
Phosphorus % From Analysis: 0.006  
Potassium % From Analysis: 0.12707  
Moisture % From Analysis: 99.5

## Manure / Solids Information

Date of Analysis: 9/28/2006  
Manure Source: Dairy Solids  
Nitrogen % From Analysis: 0.858  
Phosphorus % From Analysis: 0.3298  
Potassium % From Analysis: 1.161  
Moisture % From Analysis: 35.7  
What will be Applied to Fields on this Farm? Both Effluent and Solids  
Is this Farm part of an AFO-CAFO? No

This plan is based on: 590 -633 Plan V 3-22  
Printed on: 6/14/07 10:40 AM

**RECEIVED**  
JUN 14 2007  
WATER QUALITY DIVISION





## Solids Application Rate Entries

Solids - Set the Planned Application Rates

Permit #:

WQ03590

4089 "Wet tons" of solids produced Annually		Will the planned rates use all of the Solids?						YES	
		Tons to be used off-site at planned rates						0	
LMU or Field No.	Acres	Crop Management and PI runoff potential	Current Soil Test P ppm	Crop P <sub>2</sub> O <sub>5</sub> Req.	Annual or Biennial Application Cycle	Maximum Solids Allowable Tons/Ac	Enter % of Maximum Planned to Apply	Planned Solids tons/ac	Planned Solids per field (Tons)
1									
1a									
2	49.0	Silage - Sorg-11-15 T;SG GreenChop-8-9T M	74	165	Annual	34.0	19.0	6.5	316.3
3	60.0	Coastal Grazing + 1 Hay M	20	70	Annual	14.4	45.0	6.5	389.2
4	103.0	Coastal Grazing + 1 Hay M	97	70	Annual	14.4	45.0	6.5	668.1
5	99.0	Coastal 3 Cut Hay M	160	125	Annual	25.7	25.0	6.4	637.1
6	29.0	Silage - Sorg-11-15 T;SG GreenChop-8-9T M	181	165	Annual	34.0	19.0	6.5	187.2
7	74.0	Coastal graze 1 AU/1 ac, RG mod Graze H	92	125	Annual	19.3	33.0	6.4	471.4
8	112.0	Coastal Grazing + 1 Hay M	68	70	Annual	14.4	45.0	6.5	726.5
9	46.0	Coastal 3 Cut Hay M	37	125	Biennial	51.5	12.0	6.2	284.2
10	70.0	Wheat Moderate Grazing M	39	105	Biennial	36.3	18.0	6.5	456.8
								4136.8	

Printed on: 6/14/07 10:40 AM

**RECEIVED**  
 Plan is based on: 590-633 Plan V. 1.02  
 JUL 1 2007  
**WATER QUALITY DIVISION**

# Effluent Application Rate Entries

Effluent - Set the Planned Application Rates

Permit #

WQ03590

6435498 Gallons of Effluent to be used annually									Will the planned rates use all of the effluent?		Yes
237 Acre inches of Effluent to be used annually											
LMU or Field No.	Acres	Crop Management and PI runoff potential	Current Soil Test P (ppm)	Crop P <sub>2</sub> O <sub>5</sub> Req.	Annual or Biennial Application Cycle	Max Effluent Allowance (ac in/ac)	Enter % of Maximum Planned to Apply	Planned Effluent (ac in/ac)	Planned Effluent per field (acre inches)		
1	15.0	Coastal Hay 3 cut, RG mod Graze M	70	190	Annual	8.5	22.0	1.9	29		
1a	115.0	Coastal Hay 3 cut, RG mod Graze M	72	190	Annual	8.5	22.0	1.9	219		
2											
3											
4											
5											
6											
7											
8											
9											
10											

Total Effluent This Page 237  
**RECEIVED**

Printed on: 6/14/07 10:40 AM

Plan is based on: 590-633 Plan-V 3-22  
 JU:

**WATER QUALITY DIVISION**

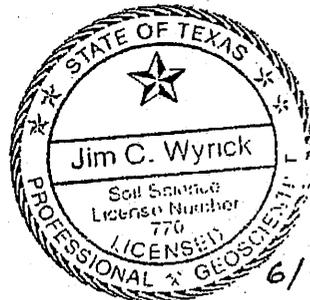


# RECHARGE FEATURE CERTIFICATION STATEMENT

I certify that potential recharge features, as defined in 30 Texas Administrative Code 321, Subchapter B,  EXIST  DO NOT EXIST on properties utilized in this application. All information presented on this page and the attached supporting documents is true and accurate to the best of my knowledge.

Certification Signature Jim C. Wyrick

Seal and Date



6/14/03

RECEIVED  
JUN 15 2003  
WATER QUALITY DIVISION

Facility Name Jack Parks Dairy  
TCEQ-00760 (11/1/04)

**Form Texas Commission on Environmental Quality  
Recharge Feature Identification Reporting Form**

This form is to be used to identify recharge features for the purpose of recommending best management practices that will prevent applied waste from impacting surface and/or groundwater quality.

Please mail and/or fax the completed form to:

Texas Commission on Environmental Quality  
Land Application Team (MC-148)  
PO Box 13087  
Austin, Texas 78711-3087

Phone: (512)239-4671  
Fax: (512)239-4430

Permit#: WQ03590 Permit Name: Jack Parks Dairy

County: Erath Address: 429 County Road 297

City / Town / Village: Stephenville, TX Zip Code: 76401

Reporter Name (Last, First): Jim Wyrick Phone (254)445-4121

Field Observation Date: June 13, 2007 Reporting Date: June 14, 2007

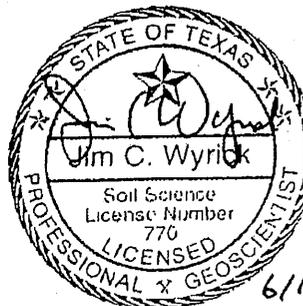
I certify that the facility has recharge features on the property owned or leased by the applicant.

I certify that the proposed plan and implemented and maintained best management practices will prevent any adverse impacts from waste application to recharge features, surface water and groundwater qualities.

*(dated and signed appropriate seal below)*

Name: Jim Wyrick

*(printed full name as appears on seal)*

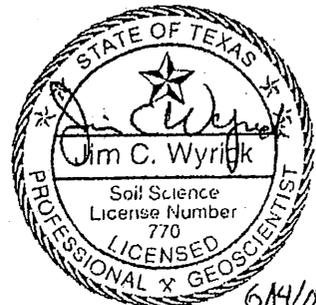


**RECEIVED**  
JUN 14 2007  
WATER QUALITY DIVISION

6/15/07

Artificial Features on the Facility	Yes	No
29. Are there any water wells?	✓	
30. How many water wells, including windmills, are there?	15	
<b>For each well, fill out the individual well information form.</b>		
31. Are there any active or abandoned pits: that is, material pits (sand, gravel, caliche, etc.), disposal pits, or burn pits?	✓	
32. Are there any active or abandoned excavation pits?	✓	
33. Are there any active or abandoned pits, mine entrances, or air shafts?		✓
Comments:	-	-

**RECEIVED**  
 JUN 1 2007  
 WATER QUALITY DIVISION



6/14/07

Jack Parks Dairy

# Individual Water Well Information Form

Water Well Identification Number: \_\_\_\_\_ Well #8

Well Information	Yes	No
Is the well active and producing?	✓	
Is the well shut in?		✓
Is the well head capped?		✓
Is the well abandoned?		✓
Is the well plugged and abandoned?		✓
Is the well located at the surface?	✓	
If the well is not identifiable at the surface, has a metal detector survey located the metal casing or a signature of the abandoned well?		✓
Are there plans to properly plug and abandon the wellhead?		✓
Can a water well driller, water conservation district, or the land owner produce a document confirming the plugging or abandoning procedure?	N/A	
Has a surface slab or sealing block been placed around the well at ground level?	✓	
Does the ground slope away from the well bore?	✓	
Does the surface slab slope away from the well bore?	✓	
Is the annular space between the surface and the well casing filled with either concrete or bentonite slurry?	✓	
Is there a watertight sanitary seal between the casing and the pipe column?	✓	
Is there a berm around the well head?		✓
Is there a structure (well house) enclosing the wellhead?	✓	
Are there backflow prevention valves in the irrigation system?		✓
Is the buffer distance from waste application or pen areas at least 100 feet?		✓
Is the buffer distance from waste application or pen areas at least 150 feet?		✓
Is the buffer distance from waste application or pen areas at least 500 feet?		✓

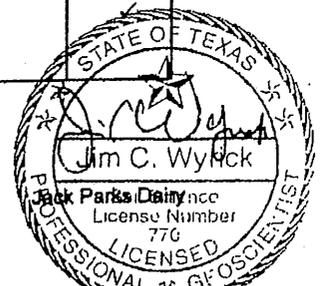
N32° 14.36  
W98° 21.20

Recharge Feature Guidance Document  
TCEQ publication RG-433 ■ October 2005

RECEIVED

JUN 1 2005

WATER QUALITY DIVISION



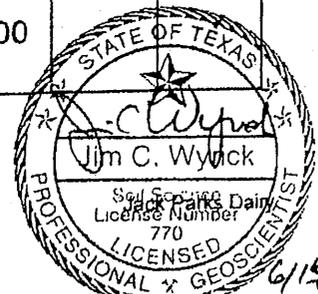
**Individual Water Well Information Form**  
 Water Well Identification Number: \_\_\_\_\_

Well #14

Well Information	Yes	No
Is the well active and producing?		N/A
Is the well shut in?		✓
Is the well head capped?		N/A
Is the well abandoned?		N/A
Is the well plugged and abandoned?		N/A
Is the well located at the surface?	✓	
If the well is not identifiable at the surface, has a metal detector survey located the metal casing or a signature of the abandoned well?		✓
Are there plans to properly plug and abandon the wellhead?		N/A
Can a water well driller, water conservation district, or the land owner produce a document confirming the plugging or abandoning procedure?		N/A
Has a surface slab or sealing block been placed around the well at ground level?		N/A
Does the ground slope away from the well bore?	✓	
Does the surface slab slope away from the well bore?		N/A
Is the annular space between the surface and the well casing filled with either concrete or bentonite slurry?		N/A
Is there a watertight sanitary seal between the casing and the pipe column?		N/A
Is there a berm around the well head?		N/A
Is there a structure (well house) enclosing the wellhead?		N/A
Are there backflow prevention valves in the irrigation system?		N/A
Is the buffer distance from waste application or pen areas at least 100 feet?		✓
Is the buffer distance from waste application or pen areas at least 150 feet?		✓
Is the buffer distance from waste application or pen areas at least 500 feet?		

This is a monitoring well next to RCS #1.

**RECEIVED**  
 JUN 14 2007  
 WATER QUALITY DIVISION



6/14/07

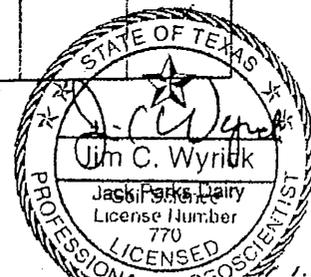
# Individual Water Well Information Form

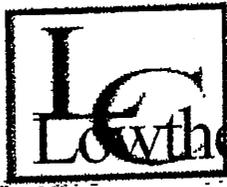
Water Well Identification Number: \_\_\_\_\_ Well #15 \_\_\_\_\_

Well Information	Yes	No
Is the well active and producing?		N/A
Is the well shut in?		✓
Is the well head capped?		N/A
Is the well abandoned?		N/A
Is the well plugged and abandoned?		N/A
Is the well located at the surface?	✓	
If the well is not identifiable at the surface, has a metal detector survey located the metal casing or a signature of the abandoned well?		✓
Are there plans to properly plug and abandon the wellhead?		N/A
Can a water well driller, water conservation district, or the land owner produce a document confirming the plugging or abandoning procedure?		N/A
Has a surface slab or sealing block been placed around the well at ground level?		N/A
Does the ground slope away from the well bore?	✓	
Does the surface slab slope away from the well bore?		N/A
Is the annular space between the surface and the well casing filled with either concrete or bentonite slurry?		N/A
Is there a watertight sanitary seal between the casing and the pipe column?		N/A
Is there a berm around the well head?		N/A
Is there a structure (well house) enclosing the wellhead?		N/A
Are there backflow prevention valves in the irrigation system?		N/A
Is the buffer distance from waste application or pen areas at least 100 feet?		✓
Is the buffer distance from waste application or pen areas at least 150 feet?		✓
Is the buffer distance from waste application or pen areas at least 500 feet?		

This is a monitoring well next to RCS #2.

**RECEIVED**  
JUL 10 2007  
WATER QUALITY DIVISION





# Lowther Consulting, Inc.

Lowther Consulting, Inc.  
PO Box 78  
Dublin, Texas 76446  
Office (254)445-4121  
Fax (254)445-4331

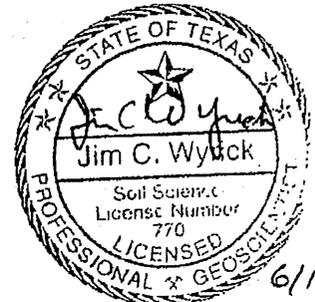
## Attachments to Recharge Feature Certification for Jack Parks Dairy TCEQ Water Quality Individual Permit #TXWQ0003590

The Texas Railroad Commission website was accessed and provided no additional information on the wells for Jack Parks Dairy. A map from the Railroad Commission website was printed and is attached to this document. There are currently thirteen wells on the site. Eleven of the thirteen wells are active and producing. Nine of the thirteen wells on the facility are located in the 'Headquarters' area. Well #1 is located behind a home as you enter the facility, and is approximately 325 feet northeast of the dairy barn. This well is active and producing. Well #2 is located in the headquarters area along the northern boundary of LMU #6, and is active and producing. Well #3 is located along the western boundary of the Headquarters area; this well is an old windmill which is no longer capable of producing water. Well #4 is located in the headquarters area along the eastern boundary of LMU #3, and is active and producing. Well #5 and #6 are both located in the headquarters area along the southern corner of LMU #2, these wells are both active and producing. Well #7 is located in the headquarters area along the western boundary of LMU #2, and is active and producing. Well #8 is located in the headquarters area, approximately 50 feet north of the dairy barn, and is active and producing. Well #9 is located at the owner's house in the southern corner of LMU #7, and is active and producing. Well #10 is located in the center of LMU #7, and is not active or producing. Well #11 is located in the center of LMU #8, and is active and producing. Well #12 is located along the northern boundary of LMU #8, and is active and producing. Well #13 is located in the northwestern corner of LMU #10, and is active and producing. Well #14 is a monitoring well located on the SE edge of RCS #1. Well #15 is a monitoring well East of RCS #2. Neither of the monitoring wells are producing wells. The Texas Water Development Board website was accessed, and there are four grids in which the dairy is located. They are Grid #s 31-54-1, 31-54-2, 31-46-7, and 31-46-8. Under the category "Submitted Driller's Reports" and "Submitted Driller's Reports-DIM's", several wells were located around the farm, and one on the facility. All features were printed and attached to the document. The previous ownership was contacted and no additional information was provided. The TCEQ was contacted and the well logs that they have are included in the document. The Middle Trinity Groundwater Conservation District was contacted and provided no additional information.

**Geology/Groundwater:** The facility and waste storage ponds are constructed upon the Paluxy Formation (Kpa). It is composed of fine sand and clay approximately 40 feet thick at the site. The Glen Rose Formation (Kgr) underlies the Paluxy, and is composed of shale and limestone approximately 200 feet thick. The Twin Mountains Formation (Ktm) underlies the Glen Rose and is composed of sand, shale, and sandstone. The Twin Mountains Formation is part of the Trinity Aquifer system which is the major aquifer in the area. The primary source of groundwater is infiltration of rainfall either directly into the outcrop or indirectly from seepage from stream flow.

### References:

- Well Logs
- Site Inspection
- Previous Ownership
- Soil Survey of Erath County, Texas
- Texas Railroad Commission Web Site
- Texas Water Development Board Web Site
- Geologic Atlas of Texas, Abilene Sheet
- Texas Commission of Environmental Quality
- Middle Trinity Groundwater Conservation District



RECEIVED  
JUN 14 2007  
WATER QUALITY DIVISION

# **Lowther Consulting, Inc.** Environmental Management Consultants

PO Box 78  
Dublin, Texas 76446  
Office (254)445-4121 Fax (254)445-4331  
Recharge Feature Certification

Buffer zones designated in this document will be strictly maintained for all wells and waterways. Filter strips and vegetative barriers will be utilized where appropriate following the guidelines of NRCS codes 393 and 601.

Best management practices recommended are:

1. Berms should be maintained to direct runoff away from potential recharge features.
2. Waste should be applied at agronomic rates to not exceed the intake rate of soils.
3. Extra vigilance of wastewater application in areas with slowly permeable soils and soils over aquifer sediments should be observed.
4. Vigorous vegetative cover should be maintained on application fields.
5. Strict observance of buffer zones around waterways, wells and non-wastewater ponds should be maintained.
6. Where steep topography or highly erodible soils are located in application areas adjacent to waterways, additional buffer zones should be maintained.
7. A berm should will be constructed and maintained up gradient of wells to divert any potential inflow of wastewater near well heads where it is deemed appropriate.
8. Existing wells with less than a 150 foot buffer must receive regular inspections to protect the wells from contamination if required by this document. If a deterioration of the well is detected, prompt corrective action is required.
9. Burial sites are to be located with potential of inundation into sensitive areas as a primary consideration.
10. Usage of and familiarity with the Nutrient Management Plan and the Comprehensive Nutrient Management Plan should become an intricate part of the waste management decisions made on a daily basis.
11. All existing or remnant waterways located on the property should be properly buffered, as appropriate, to prevent possible impacts to the aquifer.
12. Any well indicated within this document, or later to be determined, to have inadequate protection should have corrective actions promptly undertaken in order to protect the aquifer.
13. If areas of animal burrowing become significant, the burrowing animals should be relocated and the burrows filled with impermeable material such as clay or bentonite.
14. Small areas of exposed soils, typically found under trees, should be irrigated at reduced rates to limit rapid infiltration into soils. If these areas become significant and present a hazard to the aquifer, additional protective measures should be enacted.
15. All existing or abandoned excavation pits are to have 143' buffer around them.

Based upon construction methods, pond liner certification, and adherence to best management practices, this facility should not pose a hazard to regional ground water.

Kelso Dairy

RECEIVED  
WATER QUALITY DIVISION





# Lowther Consulting, Inc.

Environmental Management Consultants

PO Box 78  
Dublin, Texas 76446  
Office (254)445-4121 Fax (254)445-4331

June 13, 2007

TCEQ  
CAFO Water Quality Assessment Team  
ATTN: April Hoh  
PO Box 13087  
Austin, Texas 78711-3087

Ms. Hoh:

This letter is for an exception to the buffer zone requirements for wells located on Jack Parks Dairy. These wells are located where the production area is within the 150 foot buffer. This letter supersedes all previous submissions.

Well #8 is located in the headquarters area about 50 feet north of the dairy barn. The well has a six inch steel sleeve that is on a concrete slab with a concrete bermed area. The ground and slab slope away from the well head. This is a producing well.

Well #14 is a monitoring well located on the SE corner of RCS #1. The well consists of a PVC riser.

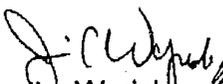
Well #15 is a monitoring well located NE of RCS #2. The well consists of a PVC riser.

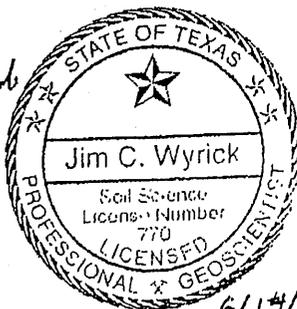
Additional well head protective measures will prevent pollutants from entering groundwater. Regular inspections of the well head on each of the wells will be conducted. Any change in conditions of the wells will have corrective measures taken.

These wells will be regularly monitored to assure that the specified precautions continue to be in place.

If you have any questions, or if anything else might be needed, please feel free to call my office.

Sincerely,

  
Jim Wyrick



6/14/07

RECEIVED  
JUN 14 2007  
WATER QUALITY DIVISION

Kathleen Hartnett White, *Chairman*  
Larry R. Soward, *Commissioner*  
H. S. Buddy Garcia, *Commissioner*  
Glenn Shankle, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

June 20, 2007

### **CERTIFIED MAIL**

Mr. Elmer Jack Parks  
Jack Parks Dairy  
429 County Road 297  
Stephenville, Texas 76401

Re: Application for Individual Permit No. WQ0003590000; Jack Parks Dairy  
(CN601127798, RN102091873).

Dear Mr. Parks:

Your application for an individual permit to operate a concentrated animal feeding operation (CAFO) was determined to be administratively complete on September 21, 2004. Since that time, the Executive Director's staff has communicated with your consultant many times by phone, fax, letters, and email in an attempt to resolve the technical deficiencies with your application. In an attempt to obtain the information still needed for the application, the staff met with your consultant on December 16, 2005 and sent a letter on March 14, 2006 that summarized the meeting and recent phone conversations. In a letter dated October 27, 2006, the staff reiterated that you needed to provide complete and accurate information in your application or the application would be returned.

Pursuant to section 281.19, title 30 of the Texas Administrative Code, on December 4, 2006, we sent you a detailed notice of deficiency (NOD) and stated that you had 30 days to correct the listed deficiencies. On January 2, 2007, you responded with additional information, however, that submission did not cure the deficiencies. On March 28, 2007, we sent you another NOD that again explained the major deficiencies and you were given an additional 14 days to correct the listed deficiencies. (*See attachment 1*).

On April 11, 2007, you submitted information that failed to resolve the deficiencies and we are unable to make a recommendation to the Commission on your application. Since we are unable, even after repeated attempts, to obtain the additional information necessary to complete our review, we are returning your application. (*See attachment 2*). The deficiencies that were the subject of the previous NODs and that still remain unresolved are listed below.

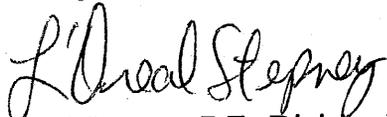
Mr. Elmer Jack Parks  
Page 2  
June 20, 2007

Upon receipt of this letter, you no longer have a valid Texas Commission on Environmental Quality (TCEQ) authorization to operate a CAFO since you do not have a pending renewal application. You may elect to be authorized under 30 TAC, section 321.47 (Requirements for Animal Feeding Operations not Defined as CAFOs) by reducing your herd size to less than 200 head in confinement. Operating without an authorization is a violation of the Texas Water Code and the Commission may impose administrative penalties not to exceed \$10,000 per day for each violation. We encourage you to immediately contact Frank Espino, Area Director, in the Office of Compliance & Enforcement at (817) 588-5900 to discuss options to bring your facility into compliance.

You may submit another application for a new CAFO permit upon the payment of appropriate fees. However, to operate a medium or large CAFO in the future at this location, you must have a CAFO permit issued by the TCEQ.

If you should have any further questions, please contact Charles Maguire at (512) 239-5308, or if by correspondence include MC 150 in the letterhead address following my name.

Sincerely,



L'oreal Stepney, P.E., Division Director  
Water Quality Division  
Texas Commission on Environmental Quality

LS/sp

cc: Mr. A.C. Lowther, Lowther Consulting, P.O. Box 78, Dublin, Texas 76446

### List of Unresolved Deficiencies

1. The Nutrient Management Plan (NMP) does not comply with NRCS guidelines. The volume of effluent to be irrigated used in the 590-633 spreadsheet is the irrigation depth value from the water budget in the engineering calculations. NRCS issued Texas Bulletin No. TX210-06-01 on August 8, 2006 specifying the total actual withdrawal predicted by the water budget should be used as the effluent volume in the spreadsheet. *See #2* under the Nutrient Management Plan in the 1st Notice of Deficiency (NOD) and #8 under the Land Application Team comments in 2<sup>nd</sup> NOD.
2. The tons of solid are not consistent between the Technical Packet, engineering calculations, and the NMP. *See #2* under the Agronomy Comments in 2<sup>nd</sup> NOD.
3. The RCS Volumes for RCS #1 and #3 in the RCS Volume Allocation Table on page 5 of the Technical Packet are inconsistent with the engineering calculations. *See #2* under the Engineering Comments in 1<sup>st</sup> NOD and #4 under the Land Application Team Comments in 2<sup>nd</sup> NOD. On June 12, 2007, you submitted by fax the volume allocations for the RCSs. This information was provided 62 days late and the staff has not evaluated the sufficiency of this late information.
4. You failed to show sludge accumulations in each RCS. NOTE: When the technical packet was submitted on November 27, 2006, sludge accumulation was shown in each RCS. The latest revision removed sludge accumulation from two of the RCSs in the technical packet. On June 12, 2007, you submitted by fax the sludge volume allocations for the RCSs. This information was provided 62 days late and the staff has not evaluated the sufficiency of this late information.
5. On the bottom of page 6, you failed to show the quantities of manure/litter production in tons per year with consistent moisture content or label which are wet tons and which are dry tons. NOTE: In earlier technical submissions, the wet tons and dry ton quantities were consistent.
6. The acres on the Runoff Control Map do not add correctly. NOTE: This was not verified earlier because the drainage areas were not correct. *See #4* under the Land Application Team comments in the 2<sup>nd</sup> NOD.
7. You failed to submit Lab Reports for the liner certifications. *See #2* under the Recharge Feature Certification comments in 1<sup>st</sup> NOD and #10 under the Land Application Team comments in 2<sup>nd</sup> NOD.