UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

OCT -7 2009

Ms. Susana M. Hildebrand, P.E., Chief Engineer/Deputy Director
Office of the Chief Engineer (MC-168)
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

Dear Ms. Hildebrand:

The Environmental Protection Agency (EPA) has completed its review of several provisions in the *Texas Surface Water Quality Standards* (TX WQS). These standards were adopted by the Texas Natural Resource Conservation Commission, now the Texas Commission on Environmental Quality (TCEQ), on July 26, 2000, and submitted to the EPA for approval on September 27, 2000. I am pleased to inform you that the EPA is approving the provisions as documented in the enclosure to this letter, pursuant to sections 303(c) of the Clean Water Act (CWA) and the implementing regulation at 40 CFR Part 131. This action includes the revised aquatic life criteria for freshwater metals in Table 1 of the TX WQS.

Section 7(a)(2) of the Endangered Species Act requires that all federal agencies engage in consultation to ensure their actions are not likely to jeopardize the continued existence of any threatened or endangered species or result in adverse modification of designated critical habitat. EPA is approving the revised criteria for freshwater aquatic life subject to completion of consultation with the U.S. Fish and Wildlife Service. Because EPA retains the full range of options available under CWA §303(c), including discretion to revise its approval decision based on new or additional information developed in those consultations, the conditional approval is fully consistent with §7(d) of the Endangered Species Act.

The EPA has previously stated that it takes no action on the revised definition of "surface water in the state" in the TX WQS, which includes an area extending 10.36 miles offshore into the Gulf of Mexico. Under the CWA, Texas does not have jurisdiction to regulate water standards more than three miles from the coast. Therefore, EPA's approval of the items in the enclosure recognizes the state's authority under the CWA to include waters extending offshore three miles in the Gulf of Mexico, but does not extend past that point. Beyond three miles, the EPA retains authority for CWA purposes. EPA's approval does not include the application of the TX WQS for the portions of the Red River and Lake Texoma that are located within the state of Oklahoma. Finally, the EPA is not approving the TX WQS for those waters or portions of waters located in Indian Country.

The EPA has previously approved the human health provisions in the TX WQS; new and revised provisions in §307.2, §307.3, §307.4, §307.5, §307.7, §307.8 and §307.9; revised aquatic life criteria for saltwater in Table 1 and other items in §307.6; revised uses and criteria for numerous segments in Appendix A - Site-specific Uses and Criteria for Classified Segments;

all new and revised provisions in Appendix C - Segment Descriptions and Appendix D - Site-specific Receiving Water Assessments; and, criteria based on water effects ratios for numerous segments in Appendix E - Site-specific Criteria. The EPA will take separate action on the temperature criterion for segment 1811 – Comal River in Appendix A of the TX WQS.

I would like to commend the TCEQ staff for its commitment in completing the task of reviewing and revising the state's water quality standards. If you have any questions or concerns, please contact me at (214) 665-7101, or have your staff contact Diane Evans at (214) 665-6677.

Sincerely,

Bill Luthans
Acting Director
Water Quality Protection Division

Enclosure

cc: Laurie Curra – Monitoring & Assessment Section (MC-165)

§307.6 General Criteria

§307.6(c). Table 1 – Criteria in Water For Specific Metals – Aquatic Life Protection

Parameter		2000 TX WQS	
		conversion factor	Criterion
Cadmium (dissolved)	Acute	0.973	e (1.128(ln(hardness)) - 1.6774)
	Chronic	0.909	e (0.7852(ln(hardness)) - 3.490)
Chromium, trivalent (dissolved)	Acute	0.316	e (0.8190(ln(hardness)) + 3.688)
	Chronic	0.860	e (0.8190(ln(hardness)) + 1.561)
Chromium, hexavalent (dissolved)	Acute	(included in criterion)	15.7
	Chronic	(included in criterion)	10.6
Copper (dissolved)	Acute	0.960	e (0.9422(ln(hardness)) -1.3844)
	Chronic	0.960	e (0.8545(ln(hardness)) - 1.386)
Lead (dissolved)	Acute	0.889	e (1.273(ln(hardness)) - 1.460)
	Chronic	0.792	e (1.273(ln(hardness)) - 4.705)
Nickel (dissolved)	Acute	0.998	e (0.8460 (ln(hardness)) + 3.3612)
	Chronic	0.997	e (0.8460(ln(hardness))+1.1645)
Silver (as a free ion)	Acute	(included in criterion)	0.8
	Chronic	-	-
Zinc (dissolved)	Acute	0.978	e (0.8473(ln(hardness)) + 0.8604)
	Chronic	0.986	e (0.8473(ln(hardness)) + 0.7614)

Additional editorial changes in §307.6(c), which don't alter the meaning or implementation of the WQS, were made.