OKLAHOMA FARM BUREAU
2501 N. STILES • OKLAHOMA CITY, OK 73105-3126 • 405-523-2300

Via Email smith.diane@epa.gov

September 11, 2006

Ms. Diane Smith, Environmental Protection Specialist
Water Quality Protection Division
US EPA Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

Re: Comments on the Proposed Draft TMDLs for the Upper Canadian River and Turkey Creek Watersheds

Dear Ms. Smith,

Thank you for the opportunity to comment on these proposed Total Maximum Daily Loads (TMDLs). We appreciate the EPA mailing notices of the draft TMDLs to the affected county Farm Bureau offices.

Oklahoma Farm Bureau (OFB) is the largest farm organization in the state, with more than 162,000 member families. Since its inception in 1942, the organization has been involved with water and water quality issues. Our organization supports voluntary conservation measures to address nonpoint pollution concerns. We have worked to encourage funding for these measures at the local, state and national levels.

Following are our specific comments:

UPPER CANADIAN RIVER WATERSHED TMDL

Page 5-46. "Nonpoint source pollution is regulated by the Oklahoma Conservation Commission."

OFB comment: *This is an incorrect statement. The agencies' jurisdictional responsibility for nonpoint source pollution is found in 27A Okla. Stat. § 1-3-101. The Oklahoma Department of Agriculture Food and Forestry has jurisdiction over nonpoint source runoff from agricultural crop production, agricultural services, livestock production, silviculture, feed yards, livestock markets and animal waste. Other nonpoint source jurisdiction is divided among the Oklahoma Department of Environmental Quality, Oklahoma Corporation Commission, and the Department of Mines.*

The Oklahoma Conservation Commission (OCC) is responsible for the monitoring, evaluation and assessment of waters to determine the condition of streams and rivers being impacted by

nonpoint source pollution. The OCC is the technical lead agency for nonpoint source categories as defined in Section 319 of the federal Clean Water Act or other subsequent federal or state nonpoint source programs, except for activities related to industrial and municipal storm water or as otherwise provided by state law.

Pages 5-46 and 5-47:

The reduction rates called for in this TMDL report are as high as 98%. The DEQ recognizes that achieving such high reductions may not be realistic, especially since unregulated nonpoint sources are a major cause of the impairment. The high reduction rates are not uncommon for pathogen impaired waters. Similar reduction rates are often found in other pathogen TMDLs around the nation. The suitability of the current criteria for pathogens and the beneficial uses of the receiving stream should be reviewed. For example, Kansas DEQ has proposed to exclude certain high flow conditions during which pathogen standards will not apply, although that exclusion was not approved by the EPA. Additionally, EPA has been conducting new epidemiology studies and may develop new recommendations for pathogen criteria in the near future.

Revisions to the current pathogen provisions of Oklahoma's Water Quality Standards should be considered. There are three basic approaches to such revisions that may apply.

- Removing the Primary Body Contact Recreation use: This revision would require documentation in a Use Attainability Analysis that the use is not existing and cannot be attained. It is unlikely that this approach would be successful since there is evidence that people do swim in this segment of the river, thus constituting an existing use. Existing uses cannot be removed.
- Modifying application of the existing criteria: This approach would include considerations such as an exemption under certain high flow conditions, an allowance for wildlife or "natural conditions", a sub-category of the use or other special provision for urban areas, or other special provisions for storm flows. Since large bacteria violations occur over all flow ranges, it is likely that large reductions would still be necessary. However, this approach may have merit and should be considered.
- Revising the existing numeric criteria: Oklahoma's current pathogen criteria are based on EPA guidelines (See Implementation Guidance for Ambient Water Quality Criteria for Bacteria, May 2002 Draft; and Ambient Water Quality Criteria for Bacteria – 1986, January 1986). However, those guidelines have received much criticism and EPA studies that could result in revisions to their recommendations are on-going. The use of the three indicators specified in Oklahoma's standards should be evaluated. The numeric criteria values should also be evaluated using a risk-based methodology such as that found in EPA guidance.

Unless or until the water quality standards are revised and approved by EPA, Federal rules require that this TMDL must be based on attainment of the current standards. If revisions to the pathogen standards are approved in the future, the reductions specified in this TMDL will be reevaluated.

OFB comments: *OFB generally concurs with these recommendations, except for the last statement that says the, "TMDL must be based on attainment of the current standards." We're concerned that when waterbodies in remote areas of the state with sparse population are labeled as impaired, either the beneficial use may be inappropriate, and/or the standard is questionable. For example, in some areas of the Upper Canadian watershed the biggest contributors of bacteria to the waterbodies will be wildlife and cattle.*

We support a revision of Oklahoma's water quality standards bacteria criteria. However, it is our understanding that the Secretary of Environment is opposed to moving forward with any type of risk-based revision to the criteria at this time.

In the meantime, we support Use Attainability Analyses (UAA) being performed on the creeks in the Upper Canadian River watershed to verify whether Primary Body Contact Recreation is the appropriate beneficial use. If UAA's have not already been performed for them, we respectfully request that UAAs be performed for:

OK520620010120	*Bear Creek*
OK520620020090	*Trail Creek*
OK520620030020	*Lone Creek*
OK520620030050	*Red Trail Creek*
OK520620030110	*Red Creek*
OK520620040050	*Hackberry Creek*
OK520620050160	*Commission Creek*
OK520620060010	*Deer Creek*

TURKEY CREEK WATERSHED TMDL

Page 48: "Nonpoint source pollution is regulated by the Oklahoma Conservation Commission."

OFB comment: *See OFB response to same statement above.*

Pages 48-49:

The reduction rates called for in this TMDL report are as high as 98%. The DEQ recognizes that achieving such high reductions may not be realistic, especially since unregulated nonpoint sources are a major cause of the impairment. The high reduction rates are not uncommon for pathogen impaired waters. Similar reduction rates are often found in other pathogen TMDLs around the nation. The suitability of the current criteria for pathogens and the beneficial uses of the receiving stream should be reviewed. For example, Kansas DEQ has proposed to exclude certain high flow conditions during which pathogen standards

will not apply, although that exclusion was not approved by the EPA. Additionally, EPA has been conducting new epidemiology studies and may develop new recommendations for pathogen criteria in the near future.

Revisions to the current pathogen provisions of Oklahoma's Water Quality Standards should be considered. There are three basic approaches to such revisions that may apply.

- Removing the Primary Body Contact Recreation use: This revision would require documentation in a Use Attainability Analysis that the use is not existing and cannot be attained. It is unlikely that this approach would be successful since there is evidence that people do swim in this segment of the river, thus constituting an existing use. Existing uses cannot be removed.
- Modifying application of the existing criteria: This approach would include considerations such as an exemption under certain high flow conditions, an allowance for wildlife or "natural conditions", a sub-category of the use or other special provision for urban areas, or other special provisions for storm flows. Since large bacteria violations occur over all flow ranges, it is likely that large reductions would still be necessary. However, this approach may have merit and should be considered.
- Revising the existing numeric criteria: Oklahoma's current pathogen criteria are based on EPA guidelines (See Implementation Guidance for Ambient Water Quality Criteria for Bacteria, May 2002 Draft; and Ambient Water Quality Criteria for Bacteria – 1986, January 1986). However, those guidelines have received much criticism and EPA studies that could result in revisions to their recommendations are on-going. The use of the three indicators specified in Oklahoma's standards should be evaluated. The numeric criteria values should also be evaluated using a risk-based methodology such as that found in EPA guidance.

Unless or until the water quality standards are revised and approved by EPA, Federal rules require that this TMDL must be based on attainment of the current standards. If revisions to the pathogen standards are approved in the future, the reductions specified in this TMDL will be reevaluated.

OFB comments: *OFB generally concurs with these recommendations, except for the last statement that says the, "TMDL must be based on attainment of the current standards." We're concerned that when waterbodies in remote areas of the state with sparse population are labeled as impaired, either the beneficial use may be inappropriate, and/or the standard is questionable.*

We support a revision of Oklahoma's water quality standards bacteria criteria. However, it is our understanding that the Secretary of Environment is opposed to moving forward with any type of risk-based revision to the criteria at this time.

In the meantime, we support Use Attainability Analyses (UAA) being performed on the creeks in the Turkey Creek watershed to verify whether Primary Body Contact Recreation is the appropriate beneficial use. If UAA's have not already been performed for them, we respectfully request that UAAs be performed for:

OK620910060010	*Turkey Creek*
OK620910060020	*Little Turkey Creek*
OK620910060030	*Buffalo Creek*
OK620910060110	*Clear Creek*

Thank you for your consideration in this matter.

Sincerely,

Marla R. Peek
Director of Regulatory Affairs

cc: OFB Board of Directors
Alfalfa County Farm Bureau
Blaine County Farm Bureau
Custer County Farm Bureau
Dewey County Farm Bureau
Ellis County Farm Bureau
Garfield County Farm Bureau
Kingfisher County Farm Bureau
Major County Farm Bureau
Roger Mills County Farm Bureau
Dan Parrish, ODAFF
Jon Craig, ODEQ
Dan Butler, OCC
Derrick Smithee, OWRB
J.D. Strong, OSE

BRAD HENRY
GOVERNOR

MARY FALLIN
LIEUTENANT GOVERNOR

STATE OF OKLAHOMA

OKLAHOMA CONSERVATION COMMISSION

MIKE THRALLS
EXECUTIVE DIRECTOR

BEN POLLARD
ASSISTANT DIRECTOR

September 11, 2006

Ms. Diane Smith
Environmental Protection Specialist
Water Quality Protection Division
U.S. Environmental Protection Agency
1445 Ross Avenue
Dallas, TX 75202-2733

Dear Ms. Smith:

This letter is to inform you that we have reviewed both the Upper Canadian River Watershed and Turkey Creek Watershed TMDLs and find them acceptable.

Sincerely,

Greg Kloxin
Water Quality Division
Oklahoma Conservation Commission
P.O. Box 53134
2401 N. Lincoln Blvd., Room 224
Oklahoma City, OK 73152-3134

Ph: 405-522-4737
Fx: 405-522-4770
Em: greg.kloxin@conservation.ok.gov