



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

FEB 4 2009

REPLY TO THE ATTENTION OF:
WQ-16J

Todd L. Ambs, Administrator
Division of Water
Wisconsin Department of Natural Resources
P.O. Box 7921
Madison, Wisconsin 53707-7921

Dear Mr. Ambs:

Thank you for your letter of December 9, 2008, submitting Wisconsin's proposed variance from the water quality standards for mercury for the Neenah Menasha Sewerage Commission (NMSC), WPDES Permit Number WI-0026085-08, to U.S. Environmental Protection Agency for review under section 303(c) of the Clean Water Act (CWA). The proposed action would grant the NMSC a variance from Wisconsin's water quality criterion for mercury and establish a variance-based effluent limit for mercury for the NMSC's discharge to the Menasha Channel of the Fox River of 6.0 ng/L.

Consistent with section 303(c) of the CWA and federal regulations at 40 CFR 131.21, EPA is required to review and approve state water quality standards. EPA has reviewed the information submitted in support of the proposed variance and hereby approves the proposed variance pursuant to section 303(c) of the CWA and federal regulations at 40 CFR 131.21.

As required under section 7 of the Endangered Species Act, EPA evaluated whether approval of this variance would affect federally-listed threatened or endangered species or designated critical habitat. Based on this evaluation, EPA concluded that approval of this variance will have no effect on listed species or critical habitat because there are no listed species or designated critical habitat in the affected area.

If you or your staff has any questions regarding this approval, please contact Edward Hammer of my staff at (312) 886-3019.

Sincerely,

A handwritten signature in black ink, appearing to read "Tinka G. Hyde".

Tinka G. Hyde
Director, Water Division

cc: Tom Mugan, WDNR
Robert Masnado, WDNR
Louis Clemency, USFWS