Draft: 04/24/09

April 24, 2009

Mr. Josh Secunda
U.S. Environmental Protection Agency (EPA)
Region I, New England
1 Congress Street, Suite 1100
Boston, MA 02114-2023

Subject: Progress Report for the 2007 State Innovation Grant

Dear Josh:

Attached is Maine Department of Environmental Protection and the Massachusetts Department of Environmental Protection joint progress report covering the January 31, 2009 through March 31, 2009 quarter of the Stormwater Environmental Results Project. This report includes the accomplishment of discrete tasks included in our revised goals and objectives and subsequent communications. We appreciate your comments received in your email replies dated March 2, 2009 and April 1, 2009. We understand that EPA is encouraged with our progress and that we should continue to move ahead. We look forward to continuing the collaborative nature of the project and continuing to listen to the needs of those involved as the project moves forward towards a successful ERP.

Please let us know if you have additional comments regarding our joint project. We welcome hearing from EPA and our project partners and interested parties at any time. Please contact us if there are any questions or concerns at tel. (207)-287-8550 or by email at roy.t.krout@maine.gov.

Sincerely,

Roy Krout
Office of Innovation & Assistance
Maine Department of Environmental Protection

c: Jerry Filbin (EPA), Scott Bowles (EPA), Anne Leiby (EPA), Jennifer Linn (EPA), Marge Miranda (EPA), Sherri Walker (EPA), Fred Civian (MA DEP), David Noonan (MA DEP), Beth Nagusky (ME DEP), Julie Churchill (ME DEP), Don Witherill (ME DEP), Jeff Dennis (ME DEP)

Draft: 04/24/09

Progress Report (1/31/09-3/31/09)

Award: 2007 State Innovation Grant
Recipient: Maine Department of Environmental Protection (ME DEP) and Massachusetts Department of Environmental Protection (MA DEP)
Project: Stormwater Environmental Results Program (ERP): Voluntary Certification Pilot Program to Reduce Stormwater Pollution from Existing Commercial Businesses' Impervious Surfaces

Overview

Maine and Massachusetts have a clear need to solve existing water quality problems affecting impaired or soon to be designated impaired water bodies. This need is demonstrated by the dramatic increase in development in both states; and the corresponding increase in the number of impaired or soon to be impaired water bodies. An innovative solution such as the Environmental Results Program (ERP) offers an alternative to the traditional enforcement/compliance model that allows us to proactively work with unregulated facilities and encourage upgrades in stormwater Best Management Practices (BMPs). This is important because states are generally not sufficiently staffed to implement traditional permitting programs.

Accomplishments During Reporting Period

Maine Department of Environmental Protection:

In this reporting period, the Maine DEP ERP project has:

- Collected updated/additional contact database information for the fastfood businesses identified in the Portland metropolitan, Bangor metropolitan, and central Maine regions which we are targeting for ERP work. The database currently includes 158 businesses;
- Developed a logo/decal design for our Clean Water Friends and Clean Water Champions (please see attachments);
- Developed a one page fact sheet that we can use to introduce the owners/operators of our target facilities to the program, program workshops, etc. (please see attachment);
- Began process needed to set up workshops;
- Worked with Mike Crow on sample size, population, etc., to ensure statistical and project validity. We understand these communications have been shared also with EPA; and,
- Started a discussion of workshop agenda, format, speakers (Jeff Dennis, Maine DEP; watershed group rep; Steve Hinchman, Conservation Law Foundation).

Maine DEP ERP and watershed management staff, and EPA Region I and EPA Headquarters staff and Mike Crow, their consultant, have continued to engage in significant communications to continue to address EPA's comments and the resolution of statistical and project groundwork in order to move the project forward within the changing landscape of stormwater policies and management in the northeast region.

By implementing an ERP program, Maine will be able to efficiently utilize shrinking resources to promote the Best Management Practices and Environmentally Preferred Business Practices that help to address important stormwater pollution issues where there does not exist a regulatory mechanism.

The technical information and implementation techniques developed pursuant to this ERP will be able to be transferred to and replicated by other states and regions.

B. Maine Revised Goals and Objectives

Our revised project will focus on selected drive-thru fast food chains that receive a high volume of traffic in Maine including and to the south of the Bangor Metropolitan Area. We have established the following project goals:

- Increase the number of facilities implementing BMPs;
- Increase the number of BMPs being implemented within the specific sector;
- Increase public's and the target business sectors' awareness of stormwater pollution and pollution prevention benefits;
- Decrease pollutant loading based on modeled performance standards of BMPs;
- Identify any changes in ERP approaches in Maine and Massachusetts that would likely result in greater pollutant load reductions;
- Expand Maine's ability to reduce stormwater pollutant loading by adding ERP to existing non-point source regulatory tools;
- Provide recommendations in our final report to effectively transfer successful elements of the project within the State to other regions and nationally.

C. Maine Revised Geographic and Corporate focus

The project team will focus on the largest population densities in Maine including Bangor Metropolitan Area, Portland Metropolitan Area, and Augusta regions. Maine will focus on drive-thru chains with a regional and national presence. The project may include additional businesses in these greater metropolitan and possibly other regions in order to ensure a statistically valid sample population of hotspots is employed.

The seven types of fast food businesses with potential drive-thru hotspots are McDonald's, Dunkin Donuts, Burger King, Taco Bell, Kentucky Fried Chicken, Wendy's, and Tim Horton's.

Furthermore, if we can successfully advance our project goals within the fast food chains at the corporate level then this project will produce significant and widespread benefits

nationally.

D. Revised Milestones and Objectives- The following table reflects the activities and milestones that have undergone revision based on Maine's re-configured ERP approach focused on the fast food chain drive-thru restaurants.

Table 1: Schedule of Milestones

Milestone	Description of activities	Start Date	End Date
Receive funding	Receive EPA grant funding for project.	October 2007	October 2007
Train staff	Train project staff in stormwater BMPs and hotspot analysis.	October 2007	ongoing
Outreach	Staff assigned to project begins coordinating with stormwater staff.	October 2007	ongoing
Outreach	Develop a list of external stakeholders within each state and begin involvement with them.	November 2007	ongoing
Monthly meetings	Coordinate and implement monthly meetings/conference calls for Maine and Massachusetts.	October 2007	September 2010
Develop Gantt Chart	Revise the detailed workflow and timelines based on logic model.	October 2007	January 2009 (revised 2009)
Goals identification	Revise and finalize the goals of this project, upon which metrics will be based	October 2007	January 2009
Measures identification	Revise and finalize the metrics to be tracked by this project.	November 2007	January 2009
Project Area identification	Select/confirm the revised target areas based on states population in metropolitan areas and fast food chains	January 2009	February 2009
Facility identification	Include all fast food chain restaurants with drive thrus in Bangor and Portland metropolitan regions, etc., and compile a list of facilities from reliable sources	January 2009	March 2009
Statistical methodology	Revise the development of the statistical methodology to drive performance measurement and analytical tasks based on the drive-thru including final approval from the EPA ERP measurement consultant.	February 2009	March 2009

Table 1: Schedule of Milestones

Milestone	Description of activities	Start Date	End Date
Develop EBPIs	Revise Environmental Business Practice Indicators (EBPIs), including non-structural BMPs beyond compliance, and social marketing indicators.	February 2009	April/May 2009
QAPP finalization & approval	Revise and Finalize QAPP based upon results of the measures identification, statistical methodology, and data management tasks. Primary data collection will not occur before relevant parts of the QAPP are finalized and approved by EPA.	February 2009	June 2009
Data input & management	Revise the development and implementation of an approach to cost-effectively inputting and managing ERP data, including data from the BMP and EBPI checklist which for the most part includes primary data.	February 2009	March 2009
Develop incentives	Revise incentives, including a potential two tier branding to reward participants who implement the greatest number of bmp's.	February 2009	April 2009
Develop list of structural BMPs	Develop and analyze a list of structural retrofit "off the shelf" stormwater BMPs and technologies (filtration, bioretention and "biological" technologies); include cost estimates and range of effectiveness for different pollutant loading removal efficiencies (where available), while targeting specific needs of fast food restaurants.	February 2009	March 2009
Develop list of non-structural BMPs	Develop and analyze a list of non-structural BMPs targeting specific needs of fast food restaurants including pollutant removal efficiencies where available.	February 2009	March 2009
Review stormwater BMP technologies	Work with partners in project including Massachusetts and EPA to ensure BMPs technologies can, by themselves or as part of a treatment train reduce phosphorous and TSS.	February 2009	March 2009
Develop outreach materials	Develop workbook and self-certification checklist.	March 2009	April 2009
Develop Incentives	Recognition logo development and branding of Tiered Recognition: Tier I Clean Water Friend, and Tier II Clean Water Champion.	April 2009	May 2009

Table 1: Schedule of Milestones

Milestone	Description of activities	Start Date	End Date
Baseline inspections (establishing a performance measures baseline)	Inspections at facilities to establish a baseline for performance measures. Facilities selected at random from the entire targeted population, based upon sample design from statistical methodology.	May 2009	July 2009
Baseline analysis	Analysis of inspection data to establish a baseline for the project's performance measures.	July 2009	August 2009
Outreach Information on BMP installations	Provide technical information on known structural engineered BMPs including diagrams illustrated in both Maine's and Massachusetts published stormwater guidance material. Provide a list of consultants available to perform the work.	September 2009	February 2010
Facility assistance	Delivery of compliance/technical assistance to facilities via workshops, calls and emails. Provide mainly broad-based compliance assistance approaches wherever possible with availability of site-specific technical assistance.	February 2010	April 2010
Self-certification	Implementation of a voluntary facility self-certification approach. Self-certification refers to the submission of a record of a facility's employment of stormwater BMP practices.	May 2010	September 2010
Analysis of self-certification results	Analysis of self-certification data, with primary purpose of identifying opportunities for selective follow-up (next step).	October 2010	November 2010
Selective follow-up	Selective follow-up with self-certifying facilities, based upon analysis of self-certification data. Selective follow-up may include phone calls, inspections and technical assistance. Selective follow-up is not typically based upon a random sample.	December 2010	March 2011
Post-certification inspections	Inspections at facilities to establish whether sector performance measures (BMPs) have changed since the baseline. Inspection data also used to cross-check self-certification data at inspected facilities. Facilities selected at random from the entire universe of facilities, based upon sample design from statistical methodology.	March 2011	June 2011

Table 1: Schedule of Milestones

Milestone	Description of activities	Start Date	End Date
Facility recognition	Recognition of facilities that implemented appropriate BMPs for their "certification" status. Tier I Clean Water Friend, and Tier II Clean Water Champion.	July 2011	August 2011
Self-certification vs. Inspections	Tabulate accuracy scores for self-certification vs. inspections.	July 2011	September 2011
Data analysis	Analysis of baseline, self-certification, and post-certification data to understand change in facility performance and overall outcomes of interest. Assessment of project efficiency.	July 2011	September 2011
Explore funding opportunities	Explore other grants available through EPA, Association resources and potential corporate sponsorships from larger companies to small companies that could be used to assist project partners in the installation of BMPs.	June 2011	September 2011
Self-certification	Conduct 2nd round of self-certification.	July 2011	September 2011
Technical Support	Set up ongoing technical support for installed BMPs on an as-needed basis.	August 2011	September 2011
Reporting to EPA	Reporting shall include quarterly and final reports.	October 2007	September 2011

E. Massachusetts Department of Environmental Protection

MassDEP released for public comment its proposed mandatory Stormwater program's regulations and general permit and extended the public comment period to accommodate public interest. There was substantial comment from businesses subject to the permit that the cost of building structural BMPs to meet program requirements was excessive - especially given the current economic situation - and substantial comment from the environmental community that the deadline proposed for meeting TMDL-required phosphorus reductions (10 years) was too long. MassDEP is considering those public comments and is scheduling various Stakeholder meetings to discuss these issues for April - June. Some of these meetings will be with specific Stakeholders who prefer to meet separately.

In the meantime MassDEP is also drafting various program forms and applications, building an electronic database to accommodate program submittals, drafting a program

Workbook and harmonizing the program information to be gathered for Maine and Massachusetts to accommodate Stormwater ERP analysis.

For further information about the MA proposal please visit the following Web site: http://www.mass.gov/dep/water/wastewater/stormwat.htm

F. ME DEP and MA DEP Collaboration

The ME DEP and MA DEP continue to collaborate, and most recently have spoken on April 9, 2009 including discussion regarding project developments and harmonizing of materials.

The MA DEP has reviewed outreach documents and materials produced by the Maine DEP including:

- The one page fact sheet that we can use to introduce the owners/operators of our target facilities to the program, program workshops, etc.;
- Logos/decal for our Clean Water Friends and Clean Water Champions.

Financial Report

Please refer to the attached Excel spreadsheet for the expenditures for this quarter.