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February 26, 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 October 1, 2008 through January 31, 2009 quarter of the Stormwater Environmental Results Project. This report represents the current scope of work that was included in our revised goals and objectives submitted on January 30, 2009. We appreciate your continued interest and comments regarding this project. We look forward to continuing the collaborative nature of the project and also listening to the needs of those involved.

Please let us know if you have additional comments regarding our joint project. We look forward to EPA's response to our January 30 submittal addressing revised project goals and objectives, milestones, and best management practices checklist, etc. 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)

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## Progress Report (10/1/08-1/31/09)

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:**

Maine DEP ERP and watershed management staff, and EPA Region I and EPA Headquarters staff and Mike Crow, their consultant, have engaged in significant communications to address EPA's comments and the changing landscape of stormwater policies and management in the northeast region with regard to the existing ERP project. These communications included meeting at the Maine DEP's regional office in Portland on January 12, 2009, with Maine DEP, EPA Region I, and EPA headquarters staff, and Mike Crow. The meeting provided an excellent opportunity to collaborate and gather information and discuss developing issues in stormwater policies in order to move the project forward. As requested, Maine DEP provided an updated written memo to EPA that outlined a revised ERP project. Maine DEP developed this memo addressing updated goals and objectives accompanied by a revised milestones/objectives chart. This project proposal was submitted to EPA on January 30, 2009, in accordance with the agreed upon schedule, along with a revised "Best Management Practices" draft checklist document reflecting the new focus on Maine's fast food business chains with drive-thrus particularly in major metropolitan areas.

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Maine DEP staff also participated in the January 22, 2009, Long Creek Restoration Project public meeting to communicate developments in implementing stormwater requirements, and better understand the developing alternative draft watershed management plan in this metropolitan watershed where preliminary RDA has been exercised in Maine.

Details from the draft proposal submitted to EPA on January 30, 2009 are included below:

Maine DEP has revised its project goals for this project in response to changed circumstances in Maine and Massachusetts regarding the adoption of regulatory responses to stormwater in the two states. This project is designed to test whether a voluntary approach can work to solve existing water quality problems in urban impaired streams. The Maine DEP will target "hotspots" including the two largest metropolitan areas of Maine. An innovative solution such as the Environmental Results Program (ERP) offers an alternative to the regulatory and 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 Maine does not have a sufficient number of staff to implement a large scale stormwater permitting program. Maine proposes to focus on fast food chain restaurants with drive-thrus, which have been identified as hotspots due to their high traffic volumes and disproportionate contribution to stormwater pollutant loading. The pollutant loading is due to the high volume of automobile traffic over the business's impervious surface (drive-thru area).

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. We will utilize both a local level facility-by-facility approach as well as a national level corporate approach if we are able to gain a commitment of assistance from EPA and the Governor's Office to encourage corporate level participation in the ERP.

**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 (Bangor, Brewer, Orono, and Veazie) and Portland Metropolitan Area (Portland, South Portland, Westbrook, Scarborough, Cape Elizabeth, and Falmouth). 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 fast food chains and number of businesses located per area (Portland or Bangor Metropolitan Area) includes these include the business listings from which we may want to try to identify those which include drive-thrus or hotspots):

- McDonald's:
  Portland -11
  Bangor - 6

- Dunkin Donuts
  Portland - 9
  Bangor - 9

- Burger King
  Portland - 6
  Bangor - 5

- Taco Bell
  Portland - 2
  Bangor - 3

- Kentucky Fried Chicken (KFC)
  Portland - 1
  Bangor - 2

- Tim Horton's
  Portland - 5
  Bangor - 2

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- Wendy's
  Portland - 5
  Bangor - 2

**Total:** Portland - 49
Bangor - 30
**79**

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 |



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| Milestone | Description of activities | Start Date | End Date |
|---|---|---|---|
| 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 |
| 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 | March 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 3 tier branding to reward participants who implement the greatest number of bmp's. | February 2009 | April 2009 |
| Develop EBPIs | Revise Environmental Business Practice Indicators (EBPIs), including non-structural BMPs beyond compliance, and social marketing indicators. | February 2009 | April/May 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 |

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| Milestone | Description of activities | Start Date | End Date |
|---|---|---|---|
| Develop outreach materials | Develop workbook and self-certification checklist. | February 2009 | March 2009 |
| 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. | March 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. | 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 |

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| Milestone | Description of activities | Start Date | End Date |
|---|---|---|---|
| Facility recognition | Recognition of facilities that implemented appropriate BMPs for their "certification" status. Recognition would be through logo development and branding (e.g. possible Stormwater "Friend", "Leader", or "Champion" levels). (Not sure how we want to say this piece?) | 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 |

**Massachusetts Department of Environmental Protection**

In November 2008, the EPA announced "precedent-setting" rules to clean up stormwater pollution flowing into the Charles River. To complement EPA's leadership, the MassDEP announced a parallel statewide stormwater permitting program.

Massachusetts DEP has initiated rollout of their stormwater permitting program with outreach activities beginning in January, 2009. Massachusetts staff completed and released draft regulations for a new statewide Stormwater General Permit (SWGP). The regulations are based upon input from a wide-ranging Stakeholders Group that met March through November, 2008. Stakeholders included the Conservation Law Foundation, the Charles River Watershed Association, the Organization for the Assobet River, the National Association of Industrial and Office Properties, Associated Industries of Massachusetts, three different Towns in the Upper Charles River watershed, three colleges/universities, a number of private consultants, the Cities of Boston and

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Cambridge, the Mass Waterworks Association, Lowe's, and representatives of New England Office of the EPA..

MassDEP has worked with the following organizations to explain the general features of the SWGP. These organizations include the Arc of Innovation (a public/private partnership for the I495/Metrowest Corridor), Town Administrators of Norfolk County (which encompasses most of the Upper Charles River Basin), various regional Bar Associations, the Massachusetts Homebuilders Association, the Environmental Business Council; and the Greater Boston Realty Board.

The draft regulations regarding the new statewide Stormwater General Permit (SWGP) were released to the public in January 2009, with the public comment period scheduled to end on February 9 as follows:

- MA conducted 5 public information sessions; and
- MA conducted 4 public hearings to obtain public comment.

In response to stakeholder concerns the public comment period has been extended to March 11, 2009, and MA scheduled 2 additional public information sessions.

The draft regulations have these elements:

- expands responsibility for stormwater management from the municipalities (through the MS4 permit) and a limited number of industries (through the MSGP) to include private owners of larger impervious surfaces; proposed threshold is 5 acres of impervious surface;
- statewide, private owners of larger impervious surfaces would be required to implement good housekeeping and pollution prevention measures, like sweeping of parking lots, Spill Prevention plans and securing lids of dumpsters;
- in the Charles River watershed and near certain ponds, where an adopted TMDL requires reduction of phosphorus, properties will be required to meet the required TMDL reduction by installing infiltrating BMPs within 10 years;
- new developments and redevelopments would have to install infiltrating BMPS; and
- after the program is started, permittees would have 1 year to certify that they meet program requirements; during that year MA will conduct education and outreach focusing on stormwater good housekeeping BMPs and pollution prevention measures.

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

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**ME DEP and MA DEP Collaboration**

Massachusetts and Maine have had several conversations this quarter and have similar emerging stormwater management issues. Due to the changing issues and polices both states are primarily focusing their materials and outreach on implementing good housekeeping Best Management Practices and pollution prevention measures

**Financial Report**

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

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