Colorado Department of Public Health and Environment
March 10, 2006

Colorado EMS Permit Pilot Project
Progress Report – June 2005 - Feb 2006

Activities

The following table lists the activities conducted during the period of June 200 – February 2006 related to the EMS Permit Pilot Project. The table is delineated by project partner and runs chronologically from the inception of the project.

Activity by Month	Ball Aerospace	Aeroflex	Murphy Brown of Yuma	Magnum Feedyard	Badger Creek Farm	Regulatory/Permit Other
June 2004			Held conference call with project partner to discuss issues related to the project (EMS and permit application). *ISO certified EMS in place.*			***Developing EMS Permit Program Regulation.*** Held three meetings with stakeholders and one internal meeting to discuss related issues. *Considerable time spent drafting regulation.* Held a meeting with contractor assisting on development of an EMS for livestock partners.
July 2004				On-site EMS meeting with project partners.	On-site EMS meeting with project partners.	*Grant award received by CDPHE.* Provided project updates during three conference calls with EPA and other states on the project. *Held three meetings with stakeholders on EMS Regulation.* Considerable time spent drafting EMS Regulation. *Met with contractor to discuss progress on EMS development for livestock partners.* Participated in a conference call with EPA Region 8 on EMS Regulation.
Aug. 2004						Held five meetings with stakeholders on EMS Regulation. *Met with EPA Region 8 to discuss issues related to EMS Regulation.* Held hearing on EMS Permit Program Regulation. *Participated in one conference call with EPA and other states on EMS Permit.*
Sept. 2004		Third party EMS audit conducted.				Held meeting with CAFO partners to discuss progress on project, issues, next steps, etc.
Oct. 2004				Site visit/meeting with partner to		Participated in one EPA/state

				assist with EMS development.		conference call related to agricultural issues. Presented update on project. *Participated on STAPPA conference call and provided project update.*
Nov. 2004				Two site visits/meetings with project partner to assist with EMS development.		Held internal meeting on EMS permit application.
Dec. 2004			Environmental Baseline Assessment completed.	Environmental Baseline Assessment completed. *Site visit/meeting with project partner to assist in development of EMS.*	Environmental Baseline Assessment completed.	Internal meeting on EMS permit application.
Jan. 2005			Environmental Baseline report completed.	Third party EMS audit completed. *Environmental Baseline report completed.*	Environmental Baseline report completed.	Met with internal water quality staff to discuss EMS permit issues. *Participated on an EPA/State ag conference call and provided project update.*
Feb. 2005	Environmental baseline assessment completed. *Environmental baseline report finalized.* EMS audit conducted.	Environmental baseline assessment completed. *Environmental baseline report finalized.* Third party EMS audit conducted.			Third party EMS audit completed.	Internal EMS Permit team training held.
Mar. 2005	EMS Audit Report completed.	EMS Audit Report completed. *CICP completed.*	Third party EMS audit completed.	Conducted two days of community interviews on EMS Permit Project in Morgan county. *Began drafting Community Involvement Communications Plan based on survey results.* EMS audit report completed.	EMS audit report completed.	
Apr. 2005			EMS audit report completed.			Presented EMS Permit Project to annual meeting of Auditing Roundtable in Dallas, Texas.
May 2005	CICP completed. Public notice of draft EMS permit sent to PAG members.		On-site meeting to discuss EMS Permit application information.	On-site meeting to assist on EMS implementation.		
June 2005				Conducted EMS training for feedyard staff.		Contractor began work on drafting EMS permits for CAFO partners.
July 2005						CAFO EMS Permit pre-application meeting in Fort Morgan. *Working with EPA consultant to gather data on EMS Permit Project.*
Aug. 2005		Public Advisory Group meeting held in Colorado Springs.	Conducted community interviews in Yuma county. *Draft of Community Involvement Communications Plan started.*		Conducted community interviews in Morgan county.	Department creates Environmental Agriculture Program.
Sept. 2005	Permit issued	Draft permit provided to PAG and company		Site-visit and assessment of feedyard by staff from Water Quality Control Division.		Contractor completes draft of CAFO permits and submits drafts to CDPHE and project partners for review.
Oct. 2005			Ag Program team (including project manager of CAFO	Site visit to project partner to assist in EMS and discuss issues		Conference call with Wisconsin to discuss EMS Permit approach.

			component of project) tours inside of sow farms and discuss issues related to EMS permit with project partner. *Air Quality Control Commission visits project partner facility for presentation on EMS and Permit Project and site visits to several swine farms.*	related to EMS permit.		*Participated in EPA/States conference call on EMS Permit approach.*
Nov. 2005				Site visit to project partner to discuss issues related to EMS permit.		
Dec. 2005		Company requested modifications to permit		Project partner conducts management review of EMS. *Revisions to EMS conducted based on management review.*	Project partner withdraws from project	
Jan. 2006		Working on redrafting permit to include stormwater				Attended Innovations Symposium in Denver. *Sunset review of EMS Permit Pilot Program begins by Department of Regulatory Affairs.*
Feb. 2006		Anticipate issuing permit in March, 2006	Meeting with project partner to discuss issues related to EMS permit and other existing permits. *Met with internal staff to discuss issues related to permit requirements and operational flexibility.*			Held CAFO Public Advisory meeting in Fort Morgan, CO to discuss draft EMS permits and EMS permit approach/project. *Participated on Integrated Permit Workgroup conference call.* Revising draft CAFO EMS Permits.

Progress

The project continues to make steady progress towards meeting the project goals, albeit behind schedule with respect to issuing EMS Permits. For CAFOs, in particular, the 2nd Circuit Court of Appeals decision in February 2005 substantially impacted the dairy and feedyard project partners as they began to re-evaluate their need for a CAFO discharge permit. The feedyard has decided it will seek coverage under the state's discharge permit and therefore is continuing in the EMS permit project. The dairy, however, for this and other reasons decided to opt out of the project. The dairy did not find value and sufficient incentives in the EMS approach to validate their time and effort in participating in the project. It is also unclear if the dairy will pursue coverage under a CAFO discharge permit. The swine partner was not impacted by the court decision because housed commercial swine operations in Colorado are subject to regulatory requirements that are more stringent than the federal CAFO rule.

EMS permits are drafted for the four remaining project partners with a final permit issued for Ball Aerospace and draft permits still under review for Aeroflex, Magnum Feedyard and Murphy Brown of Yuma. The delay getting permits posted for public notice is due to the complexity of the CAFO requirements and for the swine partner, in particular, merging 18 permits with several modifications into one centralized permit. An additional request to incorporate a new environmental media into the EMS permit has also delayed finalization of the

Aeroflex permit. Other department priorities such as development of a new cross media Environmental Agriculture Program, Senate Bill 114 addressing the swine odor statute before the legislature and planning assistance for the Innovations Symposium in January 2006, have refocused effort of both project managers. The department's goal is to get all permits public noticed and finalized during March 2006.

The project has made good progress on organizing and completing Public Advisory Group (PAG) meetings. These meetings have been informative and are shaping both the current pilot project and the department's discussions with respect to developing a permanent EMS permit approach. The PAG members participating in the CAFO PAG meeting, for example, stressed their concern for the complexity of the permit and recommended that the permit be simplified and streamlined if possible. These recommendations are being taken into consideration during the drafting of the EMS permit. Seeing value in the EMS permit and the department's approach to this regulatory scheme, the PAG raised concern that the EMS permit cannot be transferred to another party should an operator sell. This issue will be revisited if the department and the legislature move forward with a permanent EMS permit program.

Aeroflex and Ball Aerospace have completed another component of the project, the community involvement communications plan. The CAFO partners have completed the community review (surveys) but the plans are not yet final. These plans will need to be completed in the March/April timeframe.

One additional item includes the sunset review process initiated by the Colorado Department of Regulatory Affairs (DORA). This process encompasses a thorough review of the EMS Permit Program Regulation to determine whether the program is recommended to continue past the regulatory sunset of July 2008 or allow it to sunset as scheduled. To help make this decision DORA is conducting numerous interviews and in depth research to determine the value of the program to the state. This information should be informative to the project.

We have had a few other facilities request entrance to the program, but due to the short time left in the program we are working on drafting mock permits in case the program becomes permanent. The facilities opted not to apply for the pilot project unless it becomes a permanent program.

Costs Incurred

Financial Information removed by EPA as confidential business information.