Kathleen Hartnett White, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
Larry R. Soward, *Commissioner*
Glenn Shankle, *Executive Director*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

February 3, 2006

Mr. David Bond (6EN-XP)
U.S. Environmental Protection Agency
1445 Ross Avenue
Dallas, TX 75202-2733

Re: FY05-06 State Innovations Grant
No. 97670402-01
FY2006 First Quarter Report for the Period thru September 2005 to December 2005

Dear Mr. Bond:

Enclosed is the FY06 first quarter report for the State Innovations Grant awarded to the Texas Commission on Environmental Quality (TCEQ) on August 31, 2004.

If you have any questions, please contact Larissa Peter at 512/239-3766 or me at 512/239-5007.

Sincerely,

Brian Christian, Manager
Pollution Prevention & Industry Assistance Section

Enclosures

cc: John Janak, TCEQ Federal Funds Coordinator
Janice Robinson, TCEQ

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
STATE INNOVATION GRANT PROGRAM
EPA Grant #97670401-01
FY2006 First Quarter Report
Submitted February 3, 2006

OBJECTIVE 1: STRATEGICALLY DIRECTED REGULATORY STRUCTURE

This objective will: 1) support the development of the Strategically Directed Regulatory Structure in partnership with EPA; 2) support the development of permitting incentives for entities participating in CLEAN TEXAS - CLEANER WORLD (CTCW) / NATIONAL ENVIRONMENTAL PERFORMANCE TRACK (NEPT); 3) measure and communicate results to state, regional and national partners.

Task 1.1 *Identify potential types of permits to integrate EMS activities and incentives.*

Status: Ongoing

Small Business and Environmental Assistance (SBEA) and Office of Permitting, Remediation, and Registration (OPRR) continue to work together to integrate EMSs into permitting. On May 23, 2005, SBEA and OPRR signed a Memorandum of Agreement to offer expedited permitting (both for administrative and technical review) for organizations with a TCEQ-approved EMS. See Appendix A for the MOA. Additional incentives are being considered as requested.

In January 2006, SBEA met with OPRR to discuss additional EMS and permitting opportunities. As a result, SBEA has developed a grant proposal for FY06-07 to create EMS-based models for livestock operations that improve land, air, or water quality by reducing environmental impacts through: 1) source reduction; 2) waste minimization and beneficial reuse; 3) improved operational practices; and 4) development of new markets and products.

Task 1.2 *Work with agency staff to integrate EMS into the permitting programs via an internal workgroup.*

Status: Ongoing

Applied Materials' Austin facility was the first entity to take advantage of the expedited permitting incentive with an air permit renewal. From previous experience at the site, this permit renewal usually takes six to eight months. When the permit was received on June 29, 2005, it was assigned to a senior permit writer to expedite the process. A detailed timeline is below.

Permit Timeline:
6/29/05 — Permit received
6/30/05 — Site review request for comments sent to Region 11 and local programs
6/30/05 — Public notice draft sent to the company for their review
7/5/05 — Letter sent directing the company to run public notice and that permit was administratively complete
7/8/05 — Permit engineer received project and technical review begins
7/13/05 — Draft permit sent to company
9/19/05 — Received comments from company on the draft permit

9/29/05 — De minimis request approved, which rendered the draft permit obsolete
10/11/05 — Review started over, redrafted the permit, and asked for comments from company
1/3/06 — Asked the company's consultant and company what they wanted to do with the permit (due to the de minimis request)
1/11/06 — Response received from the consultant indicating that the company wishes to have the permit renewed; permit conditions and MAERT (maximum allowable emission rate table) agreed upon
1/23/06 — Permit renewal issued

In conclusion, the time frame was almost seven months, which included a De Minimus request. SBEA will be reviewing this permit renewal with OPRR to determine opportunities for greater efficiencies for permit time reductions.

Task 1.3 *Conduct at least one pilot project under the "Strategically Directed Regulatory Structure" interim rules and final rules by September 1, 2005.*

Status: Ongoing

The TCEQ has been working with 3M Brownwood to implement a flexible air permit; the permit was first submitted on March 31, 2004. The flexible air permit will allow the plant to make predefined changes without having to contact the TCEQ. Some of these changes include: adding a new line, a new press, or parts washer.

An EMS audit was performed on February 8-10, 2005 with TCEQ EMS auditors and the TCEQ air permit writer. Since the site is complex, the EMS audit provided the permit writer an opportunity to learn firsthand about the site, which has assisted in processing the permit. The permit writer's expertise also helped the EMS audit, specifically with air impacts and permitting requirements of the site.

The first draft of the permit was issued in December 2005. The second draft will be issued in February 2006 with a goal of issuing the final permit in April 2006.

In addition, SBEA has been working with the TCEQ's Municipal Solid Waste (MSW) Permitting Division to use EMSs to meet the Site Operating Plans required under the TCEQ's MSW regulations. Two EMS training audits of landfills were performed – one at a city-owned landfill and one at a privately-owned landfill. The audits were conducted in July 2004 and August 2004. These EMS audits resulted in a draft EMS guidance document for landfills. Review of the guidance document is currently on-hold.

On September 9, 2005, the TCEQ proposed significant, substantive revisions to its comprehensive municipal solid waste rules (Title 30, Texas Administrative Code, Chapter 330). The proposal included the following provision to allow a site to implement a TCEQ-approved environmental management system in lieu of a site operating plan:

> Section 330.59. Contents of Part IV of the Application.
>
> (b) A facility that has an environmental management system that meets both the minimum standards described in §90.32 of this title (relating to Minimum Standards for Environmental Management Systems) and the United States Environmental Protection Agency's National Environmental Performance Track (NEPT) Program standards and is approved to operate under an environmental management system in accordance with §90.36 of this title (relating to Evaluation of an

Environmental Management System by the Executive Director), is not subject to site operating plan requirements while the authorization to operate under the environmental management system remains in place. In the event the executive director terminates authorization to operate under an environmental management system, the facility will comply with the site operating plan requirements within 90 days.

It is anticipated that the TCEQ will adopt this rule on March 1, 2006.

OBJECTIVE 2: INNOVATIONS AND ENVIRONMENTAL MANAGEMENT SYSTEMS TRAINING

Task 2.1 Conduct at least two EMS permitting training workshops.

Status: Ongoing

TCEQ staff is working with a Contractor to provide targeted EMS training to companies in the Houston and Beaumont areas. The companies are being specifically targeted based on their environmental impact. The training sessions will be designed to help companies meet or exceed their permit requirements. Target companies include Hunstman, Chevron Phillips, Goodyear, and Texas Petrochemicals.

Additionally, TCEQ staff provided EMS training to the TCEQ Regional Offices in Houston and Dallas in June 2005. Staff will provide additional briefings and training sessions for TCEQ permit writers and field operations staff.

Task 2.2 Integrate Innovations and EMS into the annual CLEAN TEXAS-CLEANER WORLD Conference.

Status: Ongoing

Two innovative and pollution prevention tracks will be offered at the 2006 TCEQ Environmental Trade Fair and Conference. These tracks are designed to provide conference attendees with performance-based, beyond compliance tools and ideas. A full list of sessions can be found in Appendix B.

OBJECTIVE 3: PERFORMANCE EVALUATION

Task 3.1 Conduct grant evaluation to document project results, including emissions reductions and cost savings.

Task 3.2 TCEQ will utilize the performance metrics established under the National Environmental Performance Track. TCEQ will conduct the appropriate quality assurance on the data collection.

Status: Ongoing

The TCEQ surveys EMS participants each July using the metrics established by EPA's National Environmental Performance Track Program. Results for companies that participate in training will be highlighted in the final report in October 2006.

APPENDIX A

CLEAN TEXAS CLEANER WORLD

Small Business And Environmental Assistance Division and Office of Permitting, Remediation & Registration

TCEQ

EXPEDITED PERMITTING INCENTIVE AGREEMENT

The Small Business and Environmental Assistance Division (SBEA) and the Office of Permitting, Remediation & Registration (OPRR) share a commitment to recognize and reward environmental leadership in the protection of air, water, and land. To that end, EPA created the National Environmental Performance Track program and Texas created the Clean Texas, Cleaner World program with the Texas Environmental Management System. SBEA and OPRR believe we can achieve more by working together than by pursuing our goals independently.

Therefore, consistent with the intent of the Memorandum of Agreement (MOA) signed by SBEA and OPRR on May 23, 2005, we commit to establish expedited (top of the stack) permitting for Clean Texas, Cleaner World Lone Star Leaders and National Leaders with an approved EMS in place. Once facilities are admitted to the program(s), they will be considered for expedited permitting. This Memorandum of Agreement is requested by the EPP (Environmental Performance Partnership) so that members of Clean Texas, Cleaner World and National Environmental Performance Track have a document that clearly defines the incentive granted and are able to present it when applying for permits.

In order for relevant SBEA and OPRR management and staff to take this designation into account in carrying out expedited permitting activities, SBEA and OPRR must ensure that relevant state agency personnel at all levels are informed of these designations as expeditiously as possible. The Deputy Director or Division Director are responsible for ensuring that this policy is implemented and appropriately incorporated into internal planning and accountability processes as well as other processes within the organization.

OPRR- Office of Permitting & Remediation & Registration

Dan Eden
Deputy Director
Office of Permitting, Remediation & Registration
Texas Commission on Environmental Quality
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Austin, TX 78711-3087

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SBEA- Small Business and Environmental Assistance Division

Israel Anderson
Director
Small Business and Environmental
Assistance Division (MC 112)
Texas Commission on Environmental Quality
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Austin, TX 78711-3087

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This Incentive Agreement is entered into this 23rd day of May 2005, and remains in effect unless amended by mutual consent.

_____

Dan Eden
Deputy Director
Office of Permitting, Remediation & Registration
Texas Commission on Environmental Quality

_____

Israel Anderson
Director
Small Business and Environmental Assistance Division
Texas Commission on Environmental Quality

cc: Richard Hyde
Anne Rhyne
Wade Wheatley
L'Oreal Stepney
Mike Cowan
Matt Baker

APPENDIX B

TRACK 1: ENVIRONMENTAL INNOVATIONS AND PERFORMANCE

Tuesday, May 9, 2006
9:00 - 10:00 a.m.
Clean Texas, Cleaner World v. 2.0
New opportunities and possibilities in Clean Texas, Cleaner World. Find out what the changes mean for you.
Brian Christian, TCEQ
Larissa Peter, TCEQ

Tuesday, May 9, 2006
1:00 - 2:00 p.m.
What's in it for my Organization? State and Federal Incentives
Hear from businesses on the value of incentives (expedited permitting, reduced inspections, cost savings) offered through Clean Texas, Cleaner World.
Ashay Ajgaonkar, Applied Materials
Jimmy Salinas Strategic Petroleum Reserve
Bob Gifford, TCEQ

Tuesday, May 9, 2006
2:15 - 3:15 p.m.
Real World Experiences: TCEQ EMS Audits
Hear from organizations that have received performance-based audits by TCEQ.
Randy Doyle, Fort Hood
Max Jones, Texas Petrochemicals

Tuesday, May 9, 2006
4:00 - 5:00 p.m.
Opening Your Doors: Stakeholder and Community Involvement
Real world experiences in engaging stakeholders and developing community outreach.
Aleisha Knochenhauer, Vulcan Materials
Wendy Schreiber, LCRA Thomas C. Ferguson Power Plant

Wednesday, May 10, 2006 EIP-W-1
8:30 - 9:30 a.m.
Green Purchasing: Making Your Money Matter
Learn how to get the most environmental bang for your organization's buck using an innovative, free, and easy online tool.
Grace Hsieh, TCEQ
Woody Raine, TxDOT

Wednesday, May 10, 2006
10:30 - 11:30 a.m.
Go Green, Go Global
Global Extended Producer Responsibility (EPR) initiatives that can affect the way you do business.
Harvey Stone, Goodbye Chain Group