



November 16, 2005

Nathan Moore
Colo. Dept. of Public Health & Environment
WQCD-P-B24300 Cherry Creek Cr. S.
Denver, CO 80246

Re: Proposal for CSEP Pilot Stage II

Dear Mr. Moore:

Participants of the Colorado Stormwater Excellence Program (CSEP), Pilot, Stage I demonstrated positive and measured performance improvement in stormwater compliance proving the effectiveness of implementing the standardized, EMS-based compliance program. Based on the positive results of Stage I, Stormwater Risk Management, Inc. (SRMI) recommended in its Final Report for CSEP-Pilot Stage I that a Pilot Stage II be subsequently run on an expanded basis utilizing trade associations to promote program acceptance and increased participation. SRMI asserts that broader program participation will result in greater levels of permit compliance and will significantly and measurably decrease the potential negative impacts construction activities have on water quality in the state.

Based on the lessons learned from Stage I of the Pilot Program, SRMI believes that the most efficient way to expand the CSEP and maintain the integrity and credibility of the program is through the involvement of industry trade associations. Stage II of the CSEP-Pilot would task an industry trade association with many of the administrative functions of the program and would promote enrollment in the CSEP to entire industry sectors as apposed to only individual organizations. The purpose of most trade associations is to provide useful member services and promote the positive image of the industry sector they represent. The CSEP could be a program that can be utilized to serve this purpose. Many well established trade associations are already structured to facilitate the rapid and efficient expansion of the CSEP. Trade associations will have an interest in maintaining program quality and credibility and could serve to greatly reduce the resources required of the Division to organize, promote, expand and duplicate the CSEP if the Pilot stage II proves successful.

The Association of General Contractors, Colorado Chapter (AGC), representing a large segment of the commercial contracting industry in Colorado, has expressed their support for the CSEP concepts and their interest in being the first trade association to help administer the CSEP-Pilot Stage II. The AGC understands that additional trade association participation will be sought at some point during CSEP-Pilot Stage II to test the transferability of the standardized systems developed in the commercial construction industry to other building sectors, such as residential and highway construction.

The initial emphasis of CSEP-Pilot Stage II will be on developing the systems and procedures that will facilitate trade association administration of many aspects of the CSEP while maintaining the compliance effectiveness of the original CSEP-Pilot Stage I structure. Upon

acceptance of this proposal by the Division, minor program adjustments will begin immediately between the AGC and SRMI and will address items like establishing standard working agreements between a trade association and a third-party auditor, for example. The process of developing systems with the AGC that can then be duplicated with other trade associations will not preclude other trade associations from involvement in the CSEP-Pilot Stage II and SRMI will continue to pursue new trade associations and participants from all building sectors.

Another emphasis early in Stage II will be to establish a functional CSEP-Pilot Board of Directors that would eventually provide oversight of CSEP-Pilot Stage II standards. The board, as envisioned, would be made up of State and local (MS4) stormwater regulatory officials and other select industry representatives, who would, among other things, review and approve proposed CSEP-Pilot Stage II standard guidelines for participation, support the inclusion of other building sectors in the program when appropriate and promote the implementation of state-of-the-art technologies to support compliance. The goal will be to incrementally transfer many aspects of the CSEP-Pilot Stage II oversight from SRMI to the CSEP Board at a pace that maintains continuity and supports program success.

Based on the successful implementation and positive results of the CSEP Pilot Stage I and the interest of the AGC, SRMI requests permission and support from the Division to facilitate a Stage II of the CSEP Pilot Program initially with the AGC, Colorado Chapter and potentially other interested trade associations for a period of one year, commencing on January 1st, 2006 and ending on December 31st, 2006. Following is the outline of the proposed structure, objectives and goals for Stage II of the CSEP Pilot for the Division's consideration. This outline incorporates the program modifications in the "Lessons Learned" section of the Final Report of CSEP Pilot, Stage I.

CSEP Pilot, Stage II

Purpose

The purpose of the CSEP-Pilot Stage II is to promote increased levels of stormwater permit compliance throughout all sectors of the construction industry in Colorado by developing and using the most beneficial combination of available public and private resources and state-of-the-art technology to improve the quality of stormwater discharges resulting from land development activities in the state.

Goals and Objectives

1. Implement the CSEP-Pilot Stage I concepts, systems and tools, including Division approved modifications initiated prior to the start of CSEP-Pilot Stage II, at a trade association level to:
 - a. Determine the extent to which trade associations can implement and successfully administer the CSEP-Pilot Stage I approach
 - b. Further develop the principles, systems and standardized tools used during the CSEP Pilot, Stage I in order to facilitate an effective expansion of the program's reach using trade associations.
 - c. Promote development of industry sector specific training curriculum that meets CSEP-Pilot certification standards (standards must be developed during Pilot)
 - d. Provide credibility for the CSEP program to industry and the public.

- e. Distribute CSEP-Pilot administrative responsibilities over a number of trade associations and other private organizations to minimize State and local regulatory resources required.
 - f. Provide industry sector representation on behalf of regulated participants
2. Increase CSEP-Pilot Stage II participation from CSEP-Pilot Stage I levels
 3. Create a CSEP-Pilot Stage II recognition and awards program that is credible and encourages the best compliance performance from participants.
 4. Gain the endorsement of private sponsors for the CSEP-Pilot Stage II. (Target potential sponsors whose consumer market can be found in the construction industry)
 5. Attract the participation and active involvement of MS4's in the CSEP-Pilot Stage II by improving stormwater permit compliance with local regulations in their jurisdictions
 6. Achieve and document participant improvements during CSEP-Pilot Stage II in each of the six categories measured. (The six categories will be the same as in CSEP-Pilot Stage I)
 7. Increase public awareness of the importance of improving the quality of stormwater runoff on construction sites by promoting the CSEP-Pilot benefits to the public in regional print and television media.
 8. Institute a regular series of articles in trade association publications to promote increased participation in the CSEP-Pilot Stage II.
 9. Pursue commitments from trade association to participate in and implement the CSEP-Pilot Stage II.
 10. Encourage CSEP-Pilot Stage II participants to enroll in the Colorado Environmental Leadership Program by the end of Stage II.
 11. Present the CSEP model and concepts at the national StormCon Conference and Exposition in Denver on July 24th, 2006 to gain additional program interest and support.
 12. Demonstrate sufficient CSEP-Pilot Stage II success to justify permanent continuation of the program
 13. Perform a survey of CSEP Pilot, Stage I participants who were also involved in CSEP Pilot, Stage II to determine whether the Stage II program enhancements were beneficial to the compliance performance of each participant. (SRMI will develop survey for Division or CSEP-Pilot Board approval and will conduct survey)

Stakeholder Roles and Responsibilities

The efforts of trade associations, SRMI, the Division, the CSEP-Pilot Board of Directors, Construction Reviewers and program participants will be necessary to successfully implement the CSEP Pilot, Stage II per this proposed structure and promote the programs ongoing and long-term success. However, in order to maintain program continuity and build upon the proven effectiveness of the CSEP-Pilot Stage I, SRMI will initially employ the proven Stage I systems and tools during Stage II, relatively unchanged, until such time as the CSEP-Pilot Board of Directors is created, organized and deems modifications are appropriate.

Following is a summary of the initial proposed responsibilities of each stakeholder during CSEP Pilot Stage II which may be modified later by the CSEP-Pilot Stage II Board of Directors.

Trade Associations (Initially to be focused on the AGC, but would be expanded to additional interested associations. Until such time as other trade associations become involved, the AGC will accept any participant regardless of membership in the AGC)

- Active marketing and promotion of the program
- Point of first contact for participant's concerns and disputes
- Active promotion of, and assistance with, stormwater training and education programs (the AGC already offers many stormwater courses available to anyone)

including non-AGC members. They are willing to partner with other trade associations to expand course availability or trade associations can offer their own)

- Help develop a credible CSEP-Pilot Stage II awards and recognition program
- Represent participant's interests with a seat on CSEP-Pilot Stage II Board
- Communication of program successes and failures, first with SRMI and then with the CSEP-Pilot Stage II Board, once created, to facilitate implementation of best current technologies and continuous program improvement
- Manage compilation of reports and other data interpretation functions for CSEP-Pilot Stage II participants
- Track performance of CSEP-Pilot Stage II Construction Reviewers and Participants
- Implement disciplinary actions, including removal from CSEP-Pilot Stage II, for member participants that fail to meet minimum performance standards or ethical standards. Review all decisions of termination with CSEP-Pilot Stage II Board (Performance standards will be similar to those in CSEP-Pilot Stage I. Ethical standards will be developed by SRMI and approved by the CSEP-Pilot Stage II Board)

SRMI

- Help develop and organize the CSEP-Pilot Stage II Board of Directors
- Continue to develop state-of-the-art technology and systems during the CSEP-Pilot Stage II
- Assist all CSEP-Pilot Stage II Stakeholders to continuously improve participant stormwater compliance
- Facilitate, coordinate and conduct CSEP-Pilot Stage II awards and recognition program
- Initially perform Construction Reviewer role during the CSEP-Pilot Stage II.
- Manage the technology side of the CSEP-Pilot Stage II database during the Pilot and strive to continue to create and provide the CSEP-Pilot with state-of-the-art technology (trade associations will manage compilation of reports and other data interpretation functions for their participants)
- Promote private sponsorships, public support and positive publicity for the Division and the CSEP-Pilot Stage II
- Assist trade associations and others to prepare compliance performance reports for their CSEP-Pilot Stage II participants and assist the CSEP-Pilot Board in creating standards for reporting
- SRMI, trade associations and the CSEP-Pilot Board will collectively manage the task of completing the Stage II Pilot program's final reports.
- Actively promote and market CSEP-Pilot Stage II participation to additional trade associations and companies in other construction sectors

CSEP Participants

- Agree to and comply with the CSEP-Pilot Stage II terms and conditions for participation. (Initially the CSEP-Pilot Stage I terms and conditions will be used. These may be modified with Division approval or, after formation, with the CSEP-Pilot Board's approval)
- Comply with all State and local permit requirements

Construction Reviewers

SRMI will initially perform this function during the CSEP-Pilot Stage II, using the same methodology as in CSEP-Pilot Stage I. No other inspectors are presently trained to utilize the database. If CSEP participant demands during Pilot Stage II exceed SRMI's ability to complete inspections, SRMI agrees to train inspectors

approved by the Division (or CSEP-Pilot Board) in the use of the database to meet the demand.

- Perform unbiased monthly oversight inspections (initial & follow-up)
- Enter inspection data into the database within 24 hours of the inspection
- Maintain current knowledge of all State and local stormwater permit requirements

Division

- Provide SRMI a statement of Division support for, and commitment to, the CSEP-Pilot, Stage II concepts as outlined in this document, for SRMI and trade association use in program promotion
- Act as the CSEP-Pilot Stage II liaison with the EPA
- Reasonably promote and support the CSEP-Pilot Stage II for the program's benefit and to maximize its chances for success
- Participate in the creation of, and attend, CSEP-Pilot Stage II awards and recognition programs
- Maintain active position on the CSEP-Pilot Stage II Board of Directors
- Recognize the efforts of the participating permittees to maintain compliance and take that into consideration in determining the appropriate level of response to any violations found during a Division inspection. Enforcement discretion would not automatically be granted to sites participating in the program, but would be based on an assessment of whether the permittee's actions have resulted in improved conditions at the site and the permittee has adhered to the CSEP Stage II Pilot guidelines.
- Develop a policy referencing inspection prioritization, enforcement response priorities, and penalty assessment. The policy may include criteria for using enforcement discretion for sites that demonstrate they are substantially maintaining permit compliance through the implementation of an EMS-based program as described in Division guidance.

Division and Participating MS4s

- Track compliance of CSEP-Pilot Stage II participants and report noncompliance to the Trade Associations and CSEP-Pilot Stage II Board of Directors
- Provide tangible regulatory benefits for CSEP-Pilot Stage II participants to the extent allowed. Benefits may include reduced inspection frequency and consideration of documentation of compliance assurance activities when responding to alleged violations.

CSEP Board of Directors

- Upon its formation, the CSEP-Pilot Stage II Board of Directors may evaluate, modify and approve existing CSEP-Pilot governing guidelines as proposed to them by SRMI, or, if not yet created, develop the following types of program guidelines as deemed necessary by the CSEP-Pilot Board or the Division:
 - CSEP-Pilot Stage II Board of Directors – Board By-Laws and operating procedures, standards for program ethics and integrity, dispute resolution process, CSEP-Pilot Stage II policy or mission statement and program goals
 - Construction Reviewer - Background and experience minimum requirements, application process, performance standards, removal procedures
 - Trade Association – Application process, removal process, performance standards and guidelines, training course approval process and standards, program cost sharing

- Participants - Application process, removal process, performance standards, Minimum requirements for participant site contact (e.g. training hours,
- Review an agreed upon amount of Construction Reviewer reports for quality assurance and program credibility
- Gather at intervals as deemed appropriate by the CSEP-Pilot Stage II Board
- Review and approve proposed changes to the CSEP-Pilot Stage II operating policies and procedures
- Review and approve proposed training curriculums for CSEP-Pilot training certification
- Review and approve nominations for awards and recognition
- Review and approve major participant disciplinary actions as referred by trade associations, specifically termination recommendations
- Certify Construction Reviewers for participation in the CSEP-Pilot Stage II and remove certifications when deemed appropriate by the Board

SRMI and the AGC have dedicated a great deal of time and financial resources to preparing and aligning its operations to successfully facilitate the CSEP-Pilot Stage II. Both organizations are ready to implement the program under the timeline proposed and will continue their vigorous efforts as soon as the Division is able to lend its support to the program via written confirmation. There are a number of organizations that have pre-registered for program participation and are ready for a January 1, 2006 start date. SRMI has also begun efforts with other industry sector organizations in order to facilitate their involvement and participation in the CSEP-Pilot Stage II.

Thank you for the Division's efforts in support of innovative approaches to improve water quality and in giving its consideration to this unique opportunity. Please contact our office prior to your response if you are in need of any additional information about this proposal.

Sincerely,

Bill Robinson
President, Stormwater Risk Management, Inc.

Cc: Dick O'Brecht, President, Associated General Contractors of Colorado