



Vol. 1/1 June 2009

Newsletter

MESSAGE FROM THE INTERIM EDITOR WCMVCA NEWSLETTER SEEKS REGULAR EDITOR

Welcome to the 1st news letter of the West Central Mosquito and Vector Control Association. With this newsletter we hope to inform our membership of what is going on between the international borders that are our boundaries. Yep, we span the country from Canada to Mexico, from the plains east of the Rockies to the Great Basin in the West. That is quite a lot of territory holding a lot of talent. The West Central Mosquito and Vector Control Association is made up of a wide variety of professionals, Program Personnel, State and Local Public Health Professionals, University Professors, Industry Personnel and more. We encourage and welcome any member to submit articles of interest to the newsletter. It can be an original note or article or even a clip from the local newspaper. As long as it is pertinent to vector control it will be considered for inclusion. We hope to publish 2 times per year with spring and fall editions. We are looking for an enthusiastic volunteer to solicit articles and format the newsletter. This is a great opportunity to put your graphic design skills to work. As editor you, get to set the tone and look for our future newsletters. If you are interested please contact **Sara Evans** at sevans@co.weld.co.us or **Janet McAllister** at jvm6@cdc.gov. Welcome again and I hope you find the following informative.

Regards,

Janet McAllister, Interim Editor

MESSAGE FROM THE PRESIDENT: MAY 1, 2009

I hope this message finds you all in good health and humor as a new vector control season looms on the horizon. As usual the weather has dealt many districts some poor hands this winter with a heavy snow pack and flooding to contend with. Here in Laramie we have been breaking the ice to treat early floodwater larvae and I am inside today dodging the wet snowflakes and trying to meet the deadline on this message for our newsletter.

The 2009 meeting in Rapid City proved to be a "cool" event as snow and below zero temps kept some members away but overall it was well attended. My thanks to the many new members from South Dakota that bolstered the attendance and provided some

outstanding content for the program. Elections held prior the 2009 meeting filled two seats formerly held by **John Pape**, who retired from Colorado Dept. of Health, and past president **Robert Brand** from Tooele Valley MAD in Utah. Congratulations to our new board members; **John Holick** from Teton County in Wyoming, and **Zane McCallister** from Grand Valley in Colorado. Thanks to **Janet McAllister**, **Tom Janousek** and **Steve Defeyter**, who did the work to organize and put on the meeting. Thanks to all the presenters for devoting their expertise and our vendors for supporting our organization year round. Extra special thanks to our secretary **Sara Evans** for keeping WCMVCA organized and moving forward.

The Student Paper Competition at the annual AMCA meeting in New Orleans was a great success with 9 students vying for the Hollandsworth prize. The winner was **Alexandra Chaskopoulou** from the University of Florida. Mark your calendar to see her award winning presentation at the 2010 WCMVCA meeting on February 24th and 25th at the Ft. Collins Hilton.

The immediate future of mosquito control operations nationwide is still up in the air as I write this message. The legal maneuvering in the 6th Circuit Court case is ongoing and a good deal of uncertainty is clouding our ability to focus on the task at hand. Hopefully the issue can be resolved favorably and in a timely fashion to allow districts to perform the needed applications to protect the health of our citizens. Keep the faith. You and I know that our work is important and beneficial to our communities.

Keith Wardlaw



WCMVCA President Keith Wardlaw presents Alexandra Chaskopoulou with the Gerald Hollandsworth Student Competition Prize at the AMCA Annual meeting in New Orleans. Alex won with her paper titled "Efficacy and non-target effects of aerial adulticiding utilizing modern guidance technology against rice-and mosquitoes of Greece". See <http://www.westcentralmosquitoandvector.org/hollandsworth.html> for a history of this award and its winners.

REPRINTED FROM THE AMCA NEWSLETTER

Editor's note:

The following article is copied from the June, 2009 American Mosquito Control Association Newsletter. This court case has the potential to put some mosquito control programs out of business either by excessive regulation or citizen lawsuits. The West Central Mosquito and Vector Control Association is a sustaining member of the AMCA. The dues from sustaining memberships fund legislative advocacy on behalf of all vector control programs to fight issues such as the one presented below. If your program or State Association is not a sustaining member of the AMCA they can contact AMCA at <http://www.mosquito.org> to find out more.



Notes from the Technical Advisor

Joseph Conlon

Most of you are now aware of the recent 6th Circuit Court vacatur of EPA's rule exempting mosquito control applications of registered public health pesticides to, over or near waters of the United States from National Pollutant Discharge Elimination System (NPDES) permitting requirements. In the 2007 rule, EPA exempted FIFRA-compliant mosquito control applications from the NPDES provisions of the Clean Water Act (CWA). The Court held this rule was in conflict with provisions of the Clean Water Act. The three-judge panel ruled residue or excess pesticides become de facto pollutants once their beneficial use is finished. Specifically, the court found, under the plain language of the statute:

- All biological pesticides (such as *Bti*, *Bs* and others) are "biological material," and, therefore "pollutants" by definition
- Excess or residual chemical is discharged "from a point source" (the application equipment) even though it becomes "excess" or "residue" at some time and/or distance after release.

The legal arguments supporting this decision are under challenge by CropLife America, RISE, BASF, FMC, Syngenta, Bayer, Delta Council, National Cotton Council, Illinois Fertilizer and Chemical Association, Agribusiness Association of Iowa and Southern Crop Production Association, who have requested a re-hearing by the full circuit. The American Farm Bureau Federation and American Forest and Paper Association have also filed a joint petition for re-hearing before the entire 24-member 6th Circuit.

If a re-hearing is granted, it could take up to six months for a final decision to be reached—particularly if additional papers or oral arguments are requested by the court. It is possible for the full 6th Circuit not to reach a decision for six months after the decision to rehear is reached.

Although AMCA has a distinct and abiding interest in the decision, we don't have the standing to request a re-hearing. AMCA is, however, providing an amicus curiae (friend of the court) brief in support of a request for re-hearing/stay by CropLife America, et al.

Having found a legal appeal to be untenable, the EPA has requested a two-year stay on the decision. According to officials at CropLife America, we can expect the court to rule on both the motion to re-hear and EPA's motion to stay within three months. In the meantime, the 2007 EPA NPDES Final Rule stays in effect until all appeals have been exhausted and all stays have been resolved. If the court

does not stay the mandate, the rule is void, and NPDES permits would be necessary. However, if the 6th Circuit does not grant a re-hearing, all parties with standing have the option to file a cert petition, or appeal, with the U.S. Supreme Court. Whether the litigants will actually exercise this option remains to be seen.

Prior to the current ruling by the 6th Circuit, NPDES permitting requirements have been the subject of a spate of decisions by the 9th Circuit Court. In *Headwaters, Inc. v. Talent Irrigation District* (2001), the court held application of pesticides to irrigation canals to control vegetation required an NPDES permit. The 9th Circuit Court, in *League of Wilderness Defenders v. Forsgren* (2002), held the CWA required an NPDES permit for the aerial application of a pesticide to waters of the United States. Ironically, the 9th Circuit Court, in *Fairhurst v. Hagener* (2005) further held the application of a pesticide applied to a water of the U.S. did not require an NPDES permit.

Be advised a great deal has been going on behind the scenes to ameliorate the anticipated effects from this adverse decision. Dr. Karl Malamud-Roam has been feverishly working the problem, speaking at length with senate and house staffs of key committee members about the dire ramifications of this court decision should it be allowed to stand as drafted.

According to EPA estimates, the ruling will affect approximately 365,000 pesticide applicators (including mosquito control operators) performing 5.6 million pesticide applications annually. This is probably an underestimate, as CropLife asserts there are at least three million registered applicators in the U.S. who perform at least one application a year. Thus, the decision could have profound repercussions if allowed to remain. Whether the EPA has the resources to issue and enforce this number of permits is exceedingly problematic. General permits without onerous monitoring requirements have been suggested as a possible compromise if the rehearings/stays are not granted, but it is unlikely The EPA would find these adequate, particularly with activist groups increasingly pursuing enhanced regulation of pesticide applications through the Clean Water Act.

In addition to provisions for citizen lawsuits for CWA violations, the NPDES allows for public comments for permits, which would further immensely complicate the process.

As if the ruling vacatur wasn't enough, the scope of the actual CWA is currently under serious challenge by various groups. The Clean Water Act refers to the term "navigable waters" in its jurisdictional scope. This has not satisfied activist groups, who believe the term unreasonably narrows the scope of EPA's jurisdiction over water. The Supreme Court addressed the issue most recently in 2006 in *Rapanos v. United States* (126 S. Ct. 2208, 62 ERC 1481 (2006)), although a majority of the justices in the decision failed to agree on the extent of federal jurisdiction over wetlands under the Clean Water Act. This has prompted Sen. Russ Feingold (D-Wis) and 23 co-sponsors to introduce the Clean Water

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Notes from the Technical Advisor *(Continued)*

Restoration Act (S. 787), which would replace the phrase “navigable waters” with “waters of the United States” in determining EPA jurisdiction. The bill currently has 23 co-sponsors, including several key Democratic leaders, such as Whip Richard Durbin (D-IL), Campaign Committee Chairman Charles Schumer (D-NY), environment committee Chairwoman Barbara Boxer (D-CA) and Judiciary Committee Chairman Patrick Leahy (D-VT). This would seem to indicate activist groups have been extensively lobbying behind the scenes prior to the bills introduction. We would be wise to do likewise at our upcoming Washington Legislative Conference in May. Lisa Jackson, EPA Administrator, has stated she believes a legislative fix might

be in order but has not endorsed any specific legislation such as Sen. Feingold’s. She recently stated, “We need to know what our jurisdictions are, and I believe that the country benefits from something broader rather than narrower.”

We’ll keep you posted on developments, but realize, in Senator David Vitter’s (R-LA) comments at the recent “Making Your Voice Heard on Capitol Hill: A Workshop for Beginners” symposium at the AMCA annual conference in New Orleans, “the stakes are very high.” It would behoove all mosquito control professionals to contact their local, state and federal legislators to remind them in no uncertain terms of the disastrous effects on their constituents if districts are subjected to onerous and prohibitively costly permitting requirements.



No Name Newsletter

Florida has Buzz Words, Virginia has The Skeeter, Louisiana has LeMaringouin. The WCMVCA is looking for a name for our new newsletter. Please send that great idea to Keith Wardlaw, kwardlaw@ci.laramie.wy.us by July 15. All you need to cash in on some free money is have the winning name. The winning entry will receive \$25.

NEWS FROM THE STATES

COLORADO

Submitted by **Aaron Doussett**

The Colorado Department of Public Health and Environment (CDPHE) had some familiar faces retire recently. **Dale Tanda** with the Consumer Protection Division and **John Pape** with the Division of Communicable Diseases are enjoying the next chapters in their lives. Dale has found a fun, low stress job with REI Outdoor Equipment stores, which allows him to continue helping others enjoy the beautiful Colorado outdoors (and the employee discounts don't hurt either). John is still seen at the CDPHE campus engaged in various contracts and projects.

New staff at CDPHE are **Aaron Doussett**, picking up where Dale left off, and **Janell Kenfield**, who is the primary contact until a person is hired for John's position. Their contact information is aaron.doussett@state.co.us and janell.kenfield@state.co.us. Both are eager to

grow in their new roles with CDPHE and look forward to meeting and working with the members of WCMVCA.

NEBRASKA

Submitted by **Tom Janousek**

The State of Nebraska does not have an organized Mosquito Control District, although most towns have some type of mosquito control. Mosquito and vector control is accomplished by either larval or adult control with approximately half of the communities doing both. Eastern Nebraska is dominated by floodwater species of *Aedes vexans*, and *Aedes trivittatus* with less than 5% being standing water *Culex spp.* Western Nebraska has 40% *Culex tarsalis* due to the high amount of surface irrigation. The Nebraska Mosquito & Vector Control Association has been in existence for 35 years and has 215 paid members from 105 communities.

New Mexico

Submitted by **Elizabeth Hatton**

The New Mexico Department of Health's Zoonotic Disease Unit has said goodbye to long-time team member **Pamela J. Reynolds**, who is enjoying retirement and working part-time at REI. **Elizabeth S. Hatton** has taken over where Pam left off, and is working with mosquito and vector control programs around the State to ensure that surveillance and public education are in place for the coming season. The State reported eight human cases of West Nile Virus infection in 2009, down from 60 in 2007. New Mexico's Scientific Laboratory Division tests tens of thousands of mosquitoes each year for west Nile Virus, Western Equine Encephalitis, and Saint Louis Encephalitis. In 2009, the State has already seen confirmed veterinary cases of plague and tularemia as well as a human case of Hantavirus pulmonary syndrome, so flea and rodent control and education continue to be a priority.

SOUTH DAKOTA

Submitted by **Lon Kightlinger**

The South Dakota Department of Health is distributing \$200,000 worth of mosquito control chemicals to 177 city, county and tribal programs. Since WNV first hit South Dakota in 2002, more than \$3.3 million in matching grants have been awarded to community mosquito control programs. When these grants were first started, there were only a handful of mosquito control programs in South Dakota. Now there are well-established programs in communities across the state.

The 2009 grant packages were valued at approximately \$1,100 each and included ULV adulticide, a larvacide, and either additional larvacide or a barrier treatment chemical. In addition to the Community control awards, the Department of Health and South Dakota State University will continue to do surveillance and laboratory testing for West Nile virus as in previous years.

South Dakota has reported 1,716 cases and 26 deaths since its first case of human WNV in 2002. While peak transmission in South Dakota occurs from July through early September, cases have also been reported in early June.

UTAH

Submitted by **Ken Minson**

Just a brief history of the Utah Mosquito Abatement Association and our participation in the West Central Mosquito and Vector Control Association follows. **Dr. Don M. Rees**, considered the Father of Mosquito Control in Utah, called a meeting in the spring of 1948 pulling together the four existing mosquito agencies in existence at the time. The UMAA was born. The purpose of the Association was to promote close cooperation among those directly and indirectly concerned with, or interested in mosquito control and related work: to increase the knowledge of mosquito abatement personnel and to advance the cause of mosquito abatement in the State of Utah. The UMAA members have lived by this standard for over 60 years.

Annual meetings have been held ever since with some outstanding papers presented by local, state and national workers over these many years. There are currently twenty-four functioning mosquito control agencies in the State of Utah. We meet on a monthly basis around the State to update each other on local problems, discuss better ways to effectively control mosquitoes, and to help train in areas that are perceived to be needed to keep all updated in current changes in pesticide labeling, EPA regulations, application practices and to help each other where needed. A spring workshop is held before each season startup to train all of the temporary and full time help that will be working during the coming season.

Our Association has been very active in the WCMVCA since the mid-80's and has contributed ideas and leadership as called upon. Our Association has also provided excellent leadership at the national level with several of our members elected President of the AMCA over the years. We are very involved in the AMCA Washington Day and encourage all of our peers in this industry to come to know the issues that are affecting us at every level and become personally involved in the legislative process at every level.

WYOMING

Submitted by **John Holick**

Last year at this time I would be reporting on the unusually high water table but every year there are new challenges for mosquito control. This year the flooding is normal but the budget crisis is the big problem for mosquito control and all government programs for that matter. Like many programs in Wyoming we are seeing cuts to our operating budget and we are also seeing a reduction in State funding. For the last several years, the Wyoming legislature and the Governor have provided funds to fight West Nile virus. As the state surplus decreases so do the available funds. Most mosquito programs have had their grants reduced and others were not issued grants at all this year. This will have a very big impact on mosquito control state wide. Wyoming's state budget is very closely linked to the price of natural gas. Many state programs are seeing cuts including the University of Wyoming. Being a boom and bust state we will adjust, seems we are more prepared than states not accustomed to such cycles. I look forward to the fall report where we will have some concrete results of the budget reductions. Any way if WCMVCA or I can assist your program, feel free to contact me john@tetoncountymosquito.org.

West Central Mosquito and Vector Control Association

2009 Membership Dues

Name _____
Agency _____
Address _____
City _____ State _____ Zip _____
Phone number _____ Email _____

West Central Mosquito and Vector Control Association 2009 Dues: \$20



2009 Regular Member:

- _____ \$20 dues for 2009 membership
- _____ Donation to Hollandsworth Scholarship Fund

Total Amount Enclosed

I give permission to publish my contact information on the WCMVCA Web site

Please make checks payable to West Central Mosquito & Vector Control Association. All fees must be paid by the day of registration. We will not bill agencies or issue purchase orders or invoices.

Return this registration form by July 1, 2009 to:

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