

Message Points

The *Water Policy Report* headline of 10 September, “Despite Criticism, West Nile Spraying Unhindered By EPA Pesticide Permit” significantly misrepresents the extent to which mosquito control programs, both large and small, have reduced operations because of administrative costs and fears of potentially ruinous litigation attendant to compliance with new Clean Water Act (CWA) requirements mandated by the courts. This increases risk to vector-borne disease and results in the following documented impacts:

- **National Pollutant Discharge Elimination System (NPDES) compliance costs are forcing programs to redirect control resources to comply with the regulatory requirements.**
Rationale: Every dollar or man-hour needed to meet CWA requirements is a dollar not being put toward protecting the citizen’s health.
- **Commercial applicators historically serving rural communities and small municipalities are increasingly opting to cancel their programs out of fear of increased liability under the CWA.**
Rationale: This represents a social injustice to those rural poor most in need of these services.
- **In some states, preventive mosquito control strategies such as comprehensive larviciding are being curtailed in order to redirect resources toward increased administrative and water monitoring costs.**
Rationale: This pushes districts toward more extensive use of adulticides to provide the same measure of control.
- **Liability fears from adulticide applications are effectively pushing these control strategies farther down the control algorithm or eliminating them entirely.**
Rationale: Liability fears are fueling pressures to forego consideration of preventive adulticiding until human cases are identified, allowing for transmission to take place while diseases are incubating in the human population. This effectively makes humans disease sentinels.
- **Water monitoring costs now being levied on California mosquito control districts, if applicable nationwide, would close many districts in other states.**
Rationale: In the absence of a public health exception to NPDES, there will eventually be increased pressure for other states to adopt California’s monitoring policies.
- **Federal and State agencies are expending vital funds to initiate and maintain NPDES programs governing mosquito control applications.**
Rationale: There is no longer slack in government budgets at any level to absorb NPDES program maintenance costs.

Message Point Examples

- **National Pollutant Discharge Elimination System (NPDES) regulatory requirements are forcing programs to redirect control resources to comply with the increased costs resulting from their imposition.**
 - **Benton County, Washington Mosquito Control District NPDES Expenses**

2009/2010 Admin time for original state permit	\$4,778
2011/2012 Administrative cost to secure federal permit	\$3,060
2012 Administrative cost for weekly reporting to Corps	\$643
2012 Field employee for federally permitted lands	\$16,846
Admin cost to update mapping for federal permit	\$257
Annual administrative cost of maintaining state permit	\$612
Annual cost of Sentinel application record software	\$6,000
Annual WA Department of Ecology Permit Fee	\$360
Cost of aerial treatment due to delay of larviciding 5/20/12	\$4,778
Total	\$37,334

State NPDES Expenses	
Department of Ecology estimates they spent \$413,000 developing the Aquatic Use Permit (2008-2009)	\$413,000

What \$37,334 could buy at Benton County Mosquito Control	
Seasonal field workers (\$10,500-\$11,500 for starter)	3
Bti larvicide (\$1.44/lb)	25,926
Acres of standing water larvicided aerially (10lbs/acre + \$5.25 applicator=\$19.65)	1,900
Acres of water treated by ground crew (10 lbs./acre)	2,593
West Nile lab tests in-house (RAMP) \$19.36	1,928
West Nile lab tests (OSU lab) \$60 shipping + \$28/sample	424
30 second radio ads for public education (\$40-\$200)	186-933
Acres of aerial adult mosquito control (\$.89 applicator + \$.95 chemical)	20,290
Evening ground spraying hours (\$396/hr. for vehicle, employee, Anvil 10-10)	94

- Washington is considering raising permit fees as much as \$3,000 per year to cover the state's NPDES-related expenses.
- An industry spokesperson is quoted as saying, "We now sell many options for ground vehicles to make it easier to map, track, and record data for where their vehicles are spraying to meet NPDES requirements...which is all extra added unforeseen costs. Many of these new customers are smaller municipal users who have been doing the same type of mosquito control for years and are now forced to completely overhaul their programs due to unforeseen costs of compliance or recordkeeping."

- The Sacramento -Yolo County Mosquito and Vector Control District lost at least one field person based on staff time hours having to comply and coordinate activities with the permit.
- Prior to the NPDES permit, the Tulsa City-County Health Department was responsible for mosquito control operations within the City and County of Tulsa in addition to 5 independent municipalities within the county. Three of these municipalities have suspended or completely ceased their mosquito programs as a direct result of the permit requirements, thereby placing control responsibility on the Tulsa program. The increased workload was not compensated with an increase in funds for the Tulsa County mosquito control program.

Due to the complicated nature of the permit, the Tulsa program is now limited in the areas where they can apply both adulticide and larvicide. In fact, the larviciding program has been placed on hold because uncertainties with the legal definition of 'Waters of the United States.'

The write-up/finalization of the permit required approximately 5 months - roughly 260 man-hours total.

- To meet its NPDES administrative requirements, 3 to 4 personnel at the Orange County Vector Control District reviewed/edited nearly 2,000 pages of reports, requiring at least 1,600 hours and a cost outlay of \$115K-\$125K per year at a \$72.69/hr. rate.

This technical administrative overhead needed to meet permit requirements keeps inspectors from getting on to inspecting and treating the next site - resulting in more emergence of adults, prompting increased pesticide use and costs etc. It's a domino effect.

- **Commercial applicators serving rural communities and small municipalities are increasingly opting to cancel their programs out due to increased CWA liability.**

- Rick Reed, of Reed's Fly-in Farming and former National Agricultural Aviation Association president, "In speaking of the increased risk to applicators from NPDES permit requirements, he says, "A lot of applicators just simply don't want the hassle and potential liability." Reed claims that he is probably the only ag operator in Illinois that still does mosquito control.
- An aerial contractor that had been providing service to the City of Laramie, Wyoming and 10 surrounding jurisdictions for several years decided that the risk to his small family business from CWA litigation was too great to continue mosquito applications under NPDES rules.

As a result, contracts for these jurisdictions were only bid on by larger commercial applicators with high overhead and substantial cost per acre charges. The 500% mark-

up for aerial larvicide services and 200% for aerial adulticide services caused the City of Laramie to reduce by **half** the number of acres treated with their program. Other costs included hiring one extra employee to compile daily application data and purchase of GIS equipment and software for documentation ensure compliance with NPDES.

City of Laramie Council members, faced with a poor local economy and increased costs of all municipal programs, rejected a rate hike to citizens to cover the additional costs of keeping the program at traditional levels of control.

- Dean McClain, owner/operator of AG Flyers in Torrington, WY has historically sprayed several thousand acres but refuses to open himself up to lawsuits and fines involved with HR 872 and has ceased mosquito control services.
- Leonard Felix, owner of Olathe Spray Service, said his business used to spray mosquito control in the Montrose, Colorado area, but recent EPA regulation has increased his company's liability, making it difficult for him to carry out operations. "We just feel the liability far exceeded the benefit for us," Felix said.
- According to one public health pesticide distributor, a number of small mosquito control entities in Alabama, Georgia, North Carolina, Tennessee and South Carolina have indicated that they will no longer adulticide due to litigation fears.
- **In some states, preventive mosquito control strategies such as comprehensive larviciding are being curtailed in order to redirect resources toward increased administrative and water monitoring costs.**
 - The original California permit required visual monitoring of 10% of all applications made to waters of the US. The Mosquito and Vector Control Association of California argued that the provision was preventing control entities from treating larval sources in a timely manner, resulting in the need for more adult mosquito control. The permit was not amended, but water board staff allowed permittees to submit 10% of coalition applications (meaning 18 samples per larvicide) as opposed to the 10% of each District application (which could have been thousands of samples).
 - Benton County, WA, MCD was unable to commence larviciding until May 18th because of delays in getting the NPDES permit approved for salmon habitat. The delay prevented larviciding the first 3 broods of mosquitoes, resulting in an aerial adulticiding mission costing \$4,778.
 - St. Lucie County Mosquito Control & Coastal Management Services in Florida has 30% less full-time staff (reflecting 1970 staffing levels) than needed due to budget cuts with a concomitant 600% increase in population since that time. As a result, post-treatment NPDES compliance inspections have resulted in a loss of 20% efficiency. Combined with the 30% loss of manpower, the district is approximately 50% less effective in manpower utilization. This means that less actual larviciding is

done in the field due to manpower constraints, and more reliance upon ground adulticiding.

- **Liability fears from adulticide applications are effectively pushing them farther down the control algorithm or eliminating them entirely.**
 - The original California permit prohibited applications of any pyrethroids to impaired waterways for pyrethroids instead of the actual constituent ingredient, which stopped most adult mosquito control activities. Despite over 6 months of discussion with the State Board regarding the impact to public health, the Board amended the permit *only* after media made it public. The Permit was amended in March of 2012 to prohibit applications of the actual constituent ingredient.
 - Benton County Mosquito Control District budgeted \$540,000 to cover potential water monitoring requirements or a Clean Water Act related lawsuit.
 - The Tulsa County permit was finalized during the peak of the 2012 West Nile outbreak in the County. The permit process did not allow adulticiding in a timely and widespread manner needed to effectively prevent or contain the outbreak.
- **NPDES Water monitoring costs now being levied from California districts, if applicable nationwide, would close many districts in other states.**
 - An official in Jefferson County, MO has stated that “...if our office were to be required to do any thing even remotely similar to what other mosquito abatement districts/programs are being required to do under the NPDES rules that have been promulgated elsewhere, we would simply have to shut down all of our operations. Our budget is such that I can not even hire staff, much less do what other abatement districts are being required to do.”
 - In California, the San Gabriel Valley Mosquito and Vector Control District’s share of coalition water monitoring costs is over \$8,000 - which could pay for an extra seasonal employee for at least three months. This amount represents a \$.03 cent increase to property assessments in the jurisdiction. California law states that once assessments reach their maximum, subsequent increases may only be imposed by a vote of the property owners in the jurisdiction. The cost of holding such a vote would easily surpass \$250,000, so assessment increases should have a compelling rationale. The NPDES permit does not provide it.
 - Fresno Westside Mosquito Abatement District estimates that property assessments in agricultural districts will rise by a full \$1.00 due to monitoring costs.

- **Federal and State agencies are expending vital funds to initiate and maintain NPDES programs governing mosquito control applications.**
 - The Washington Department of Ecology estimates that they have spent \$413,000 developing the permit.
 - Fort Gordon, Georgia spent approximately \$40K to hire a consultant to write the NOI and PDMP.