

**Opening Statement of Chairman Doug Ose**  
**Current Challenges in Combating the West Nile Virus**  
**October 6, 2004**

It has been 5 years since public health officials diagnosed the first case of West Nile Virus in the United States. Since then, the virus has crisscrossed this nation leaving thousands sick from a debilitating form of meningitis and encephalitis, and about 622 people dead. This year, while many parts of the country have a respite, people in the Southwest are fiercely combating the West Nile Virus as the epidemic rages in California and Arizona.

Over the last several years, the Centers for Disease Control and Prevention (CDC) and the Environmental Protection Agency (EPA) have coordinated with local vector control districts and public health officials to control and eliminate mosquitoes from spreading the virus. Meanwhile, the National Institutes of Health (NIH), States, and private companies have been conducting research to develop better treatments for those who suffer from encephalitis and to develop a vaccine. Together, with State and local officials, Federal agencies have also organized a national public education effort to encourage individual bite prevention and source reduction. Today, our vector control districts are working around the clock to locate and diagnose infected dead birds and kill virus infected mosquitoes before they infect people.

While local health and abatement officials work tirelessly to reduce the threat posed by mosquitoes, a vocal minority is using our Federal court system to insert regulatory obstacles to obstruct efforts to end this epidemic. Since the 9<sup>th</sup> Circuit decided in March 2001, that pesticide applicators required Clean Water Act (CWA) National Pollutant Discharge Elimination System (NPDES) permits to apply aquatic pesticides to waters of the United States, California and Washington have required mosquito control professionals to obtain NPDES permits. With similar challenges pending in the 2<sup>nd</sup> Circuit, local officials await court decisions that would determine whether NPDES permits are needed in those jurisdictions as well.

In July 2003, EPA issued an "Interim Statement and Guidance" memorandum to its regional offices in an effort to clarify whether pesticide applications required NPDES permits. The guidance stated EPA's position that, under certain circumstances, Federal, Insecticide, Fungicide, Rodenticide Act (FIFRA) compliant pesticide applications do not require NPDES permits for purposes of mosquito abatement. Agency guidance, however, is not binding on non-Federal entities; therefore, a few States continue to require NPDES permits because of the 9<sup>th</sup> Circuit legal precedent.

Unfortunately, EPA's guidance has not protected vector control districts from citizen lawsuits under the CWA. Indeed, the vector control district in Gem County, Idaho, was sued under the CWA for application of pesticides to waters of the United States, even after EPA decided in August 2003, that Gem County did not need a NPDES permit to conduct its mosquito abatement activities. The result of the Gem County case, and other lawsuits still pending, is to add legal, permit application, and water quality monitoring

costs to vector control districts already strapped for funds to control mosquitoes. Moreover, in controlling mosquito born illnesses, time is of the essence and the addition of regulatory obstacles hampers the efforts of our public health officials.

We must support the efforts of local officials in combating the West Nile Virus, not add additional uncertainty. I strongly urge EPA to promulgate a regulation to replace its non-binding guidance and to provide unchallengeable clarity for this issue. We can protect people from the West Nile Virus while still maintaining the health of our aquatic ecosystems.

Today, we will discuss those challenges and other challenges facing the eradication of the West Nile Virus. We will hear testimony from Federal, State and local experts in order to gain a better understanding of why the West Nile Virus continues to be a public health threat and how close are we to eliminating it and other mosquito-borne illnesses.

Today's witnesses include: Dr. Anthony S. Fauci, Director, National Institute of Allergy and Infectious Diseases, NIH, Department of Health and Human Services (HHS); Dr. Stephen M. Ostroff, Deputy Director, National Center for Infectious Diseases, CDC, HHS; Benjamin J. Grumbles, Acting Assistant Administrator, Office of Water, EPA; John Pape, Chief Epidemiologist; Colorado Department of Public Health & Environment; Dr. Jonathan Weisbuch, Director of Public Health Maricopa County, Arizona; Joe Conlon, Technical Advisor, American Mosquito Control Association; David Brown, Chair of Integrated Pest Management, Mosquito and Vector Control Association of California; Wendy Station, Founder, Encephalitis Global; and, Dr. A. Marm Kilpatrick, Senior Research Scientist, Consortium for Conservation Medicine at Wildlife Trust.