

1 LENA D. WADE, ESQ., SBN 258356
2 **SLOVAK BARON EMPEY MURPHY & PINKNEY LLP**
3 74785 Highway 111, Suite 105
4 Indian Wells, CA 92210
5 Telephone: (760) 322-9240
6 Facsimile: (760) 322-565-1189
7 Email: wade@sbemp.com

8 Attorneys for Petitioner
9 COACHELLA VALLEY MOSQUITO AND VECTOR
10 CONTROL DISTRICT

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **COUNTY OF RIVERSIDE — ~~PALM SPRINGS BRANCH~~**

13 Riverside Historic Courthouse

14 IN THE MATTER OF THE
15 COACHELLA VALLEY MOSQUITO
16 AND VECTOR CONTROL DISTRICT

17 Case No. **CVRI 2400093**

18 **WARRANT TO INSPECT AND ABATE**

19 **INSPECTION AND ABATEMENT**

20
21 TO THE GENERAL MANAGER OF THE COACHELLA VALLEY MOSQUITO AND
22 VECTOR CONTROL DISTRICT (“DISTRICT”), ANY REPRESENTATIVE OR DESIGNEE
23 THEREOF, AND ANY SHERIFF, POLICE OFFICER OR PEACE OFFICER IN THE COUNTY OF
24 RIVERSIDE:

25 Proof by Affidavit of Gregorio Alvarado of the District (“Alvarado Declaration”), having been
26 made before the above-entitled Court, that there is probable cause to believe that all neglected
27 swimming pools or other stagnant water sources on the properties within the District’s Jurisdiction, as
28 defined below, are potential breeding sources of mosquitoes that can transmit West Nile and other

1 arthropod-borne viruses and must be inspected and treated. By this reference, the Alvarado
2 Declaration, which accompanies this warrant, is incorporated herein as if fully set forth.

3 The District’s jurisdiction includes the following Coachella Valley cities: Palm Springs,
4 Cathedral City, Desert Hot Springs, Rancho Mirage, Palm Desert, Indian Wells, La Quinta, Indio and
5 Coachella, and also the unincorporated portions of Riverside County as further depicted on the service
6 area map attached hereto as Exhibit A and incorporated herein (collectively, “District’s Jurisdiction”).

7 **I. IDENTIFYING PROPERTIES WITH NEGLECTED SWIMMING POOLS OR**
8 **OTHER STAGNANT WATER SOURCES**

9 This area warrant authorizes the District to enter all properties within the District’s Jurisdiction
10 for purposes of inspecting and abating health and safety conditions described more fully in the
11 Alvarado Declaration. When identifying properties to inspect and abate, the District places emphasis
12 on neglected water including, specifically, neglected pools. The District conducts regular aerial
13 reconnaissance over the District’s Jurisdiction to locate neglected pools. At times, the District also
14 receives calls from concerned citizens, homeowners’ associations and/or neighbors regarding neglected
15 sources of water and potential breeding grounds for mosquitoes and other vectors. During aerial
16 surveillance and/or permissible visual observation, District personnel often confirm the suspected
17 presence of neglected sources of water and potential breeding grounds for mosquitoes and other
18 vectors. Potential breeding grounds may be any container that can hold water which is a potential
19 breeding source. These may include buckets, pots (with/or without plants), pot bases, ornamental
20 ponds, decorative fountains, birdbaths, animal water dishes, bowls, toys, broken appliances, discarded
21 tires, portable pools, cisterns, leaking water supplies, evaporative coolers, gutters, yard drains,
22 drainpipes, among others.

23 **II. AREA WARRANT**

24 Justification for this expanded authority for an area warrant lies in a discovery of *Aedes aegypti* made
25 by the District in the District’s Jurisdiction, as more specifically discussed in attached and incorporated
26 Alvarado Declaration. Area warrants of this type were upheld in the case of *Camara v. Municipal*
27 *Court of San Francisco* (1967) 387 U.S. 523. As the United States Supreme Court recognized in that
28 case, when health and safety issues arise, an agency’s need “to conduct an area inspection is

1 unavoidably based on its appraisal of conditions in the area as a whole, not on its knowledge of
2 conditions in each particular building.” (*Id.* at 536.) For this reason, the Court further noted that area
3 warrants have historically been used to prevent epidemics and are therefore of “indispensable
4 importance to the maintenance of community health.” (*Id.* at 537.). Likewise, California law
5 recognizes the need for area warrants within established geographic areas under these types of
6 circumstances. Specifically, under Code of Civil Procedure section 1822.59 (covering inspection and
7 abatement warrants), State law recognizes area warrants “for the purposes of an animal or plant pest or
8 disease eradication” (Cal. Code of Civ. Proc. § 1822.59 [authorizing entry for the Department of Food
9 and Agriculture].)

10 **YOU ARE THEREFORE AUTHORIZED:**

11 Commencing on the date this warrant is issued, or as soon thereafter as practicable, and for a
12 period extended through and including January 31, 2025, to enter the exterior of any property in the
13 District’s Jurisdiction when the District has reasonable cause to believe that said property contains a
14 neglected swimming pool or other stagnant body of water. You may enter the exterior area of these
15 properties for the purpose of inspecting for the presence of mosquito larvae that are potentially capable
16 of transmitting West Nile virus and other arboviruses once they become adults. If it is determined by
17 you that mosquito breeding is occurring, you may examine water quality and identify the various
18 mosquito stages that are present and utilize larvicides or mosquitofish as control measures. Treatment
19 may also be made as a preventive measure if conditions of mosquito breeding do exist. Adulticides
20 may also be used if large numbers of adult mosquitoes are present to reduce risk of disease
21 transmission.

22 **PRIOR TO ENTERING PROPERTY:**

23 Prior to entering each said property, you shall knock on the front door of the property and
24 request voluntary consent to enter such property. **IF YOU DO NOT RECEIVE CONSENT FOR**
25 **ANY REASON, YOU SHALL POST A NOTICE FROM THE DISTRICT ON THE**
26 **PROPERTY** stating that there is reasonable cause to believe there is a source of water and/or potential
27 breeding grounds for mosquitoes and/or other vectors on the property. The notice shall also state that
28 pursuant to a warrant issued by the Riverside County Superior Court, District personnel will enter the

1 exterior of the property on a succeeding day, identified in the notice, to conduct the inspection, testing,
2 and treatment. Following notice as set forth above, you may use minimal reasonable force to enter an
3 area (e.g., opening, unlocking, or otherwise entering into areas behind locked fences and gates) of any
4 property within the District's Jurisdiction if the District believes said area contains a neglected
5 swimming pool or other stagnant body of water. If entry requires the destruction of any locks, the
6 Court will require separate warrants based on a more particularized showing of probable cause.

7 **INSPECTION, TESTING AND TREATMENT:**

8 Upon identifying a neglected swimming pool or stagnant body of water on the property that
9 either is currently breeding mosquitoes or has conditions conducive to breeding mosquitoes that are
10 potentially capable of transmitting West Nile and other arthropod-borne viruses once they become
11 adults, the District may take any and all necessary actions to test, treat, remediate, and abate such
12 conditions consistent with applicable Federal, State, and local regulations. INSPECTION CONSISTS
13 OF sampling for mosquito larvae, adults and/or collecting *prima facie* evidence of stagnant water (such
14 as, but not limited to, include buckets, pots with or without plants, pot bases, ornamental ponds,
15 decorative fountains, birdbaths, animal water dishes, bowls, toys, broken appliances, discarded tires,
16 portable pools, cisterns, leaking water supplies, evaporative coolers, gutters, yard drains, drain pipes).
17 samples of water containing larvae or adult mosquitoes collected will be returned to the district lab for
18 species identification and/or virus testing.

19 **THE CONTROL MEASURES TO BE UTILIZED BY THE DISTRICT ON THE**
20 **NEGLECTED SWIMMING POOLS AND OTHER STANDING WATER SOURCES**

21 **INCLUDE:** The control measures to be utilized by the district on the neglected swimming pools and
22 other standing water sources include application of one of the following public health control products
23 that is categorized as biochemical (such as insect growth regulators), microbial (such as mosquito
24 specific bacterial toxins), mosquitofish, or mineral oils. These products are registered by the
25 environmental protection agency (EPA) for use in California and have a low level of toxicity against
26 non-target organisms. The products are target-specific affecting mosquito larvae when applied as
27 recommended on the label. In backyards where large populations of adult mosquitoes may be detected,
28 small amounts of EPA approved mosquito adulticides may also be used to reduce the risk of virus

1 transmission and adult mosquito biting nuisance. Possible stagnant water sources will physically be
2 drained in an effort to eliminate future breeding potential.

3 It is necessary to perform door to door inspections within “neighborhoods” where *Aedes aegypti*
4 are found in order to find, treat, or eliminate all potential breeding containers to prevent this invasive
5 species from spreading further in the District’s Jurisdiction. For purposes of the warrant, **THE TERM**
6 **“NEIGHBORHOOD” IS DEFINED AS 450 FOOT RADIUS OF ADULT, LARVA, AND/OR**
7 **EGG DISCOVERY OF *Aedes aegypti* ARE FOUND.** The District’s inspections will be limited
8 to backyard/exterior areas of properties. If *Aedes aegypti* is confirmed on any given property in an area
9 without its prior finding, the District will place a written notice on all properties found within the 450-
10 foot radius of said location where the *Aedes aegypti* has been identified. In addition, if this mosquito
11 is confirmed in an area with existing and current populations, the District shall place notices on the
12 index property and eight other properties around it in what the District calls the “Rule of Nine.” The
13 notice will inform the property owner that within 48 hours, the District will be performing an inspection
14 on said property in an effort to determine whether any water sources on said property is infested with
15 *Aedes aegypti*. Notifications will consist of information about *Aedes aegypti*, public health significance,
16 and what the District will do while performing the inspection and treatments. A phone number for the
17 District will be included with the posting asking residents to contact the District to schedule an
18 inspection appointment. The resident will be informed that if he/she does not contact the District within
19 24 hours to schedule an appointment, District staff will return to the residence to request entry to the
20 yard for inspection and, if resident is not present or refuses to allow an inspection, the District will
21 move forward with execution of the warrant and, in furtherance of obtaining entry thereon, the District
22 shall use reasonable force to secure access, including specifically be so authorized to enter through side
23 gates (including undoing any latches) and/or climb over such gates and/or any perimeter walls. District
24 staff will then perform an inspection of the front and backyard for stagnant water (such as, but not
25 limited to, include buckets, pots with or without plants, pot bases, ornamental ponds, decorative
26 fountains, birdbaths, animal water dishes, bowls, toys, broken appliances, discarded tires, portable
27 pools, cisterns, leaking water supplies, evaporative coolers, gutters, yard drains, drain pipes) and take
28 the necessary action to abate mosquito breeding, all consistent with the attached and incorporated in

1 the Alvarado Declaration.

2 This warrant may only be executed between the hours of 7:00 a.m. and 6:00 p.m. each day that
3 it is in effect.

4 The District shall file periodic returns with the court on or before the last business day of each
5 quarter commencing, March 31, 2024 and continuing through December 31, 2024. Each return shall
6 identify the address of each property being inspected, how the District determined the property had a
7 neglected pool or stagnant water sources; the method of notice used; the date and time of inspection;
8 and a description of the steps of abatement taken.

9
10
11 Dated: January J __, 2024



Handwritten signature of Harold W. Hopp

JUDGE OF SUPERIOR COURT
Honorable Harold W. Hopp

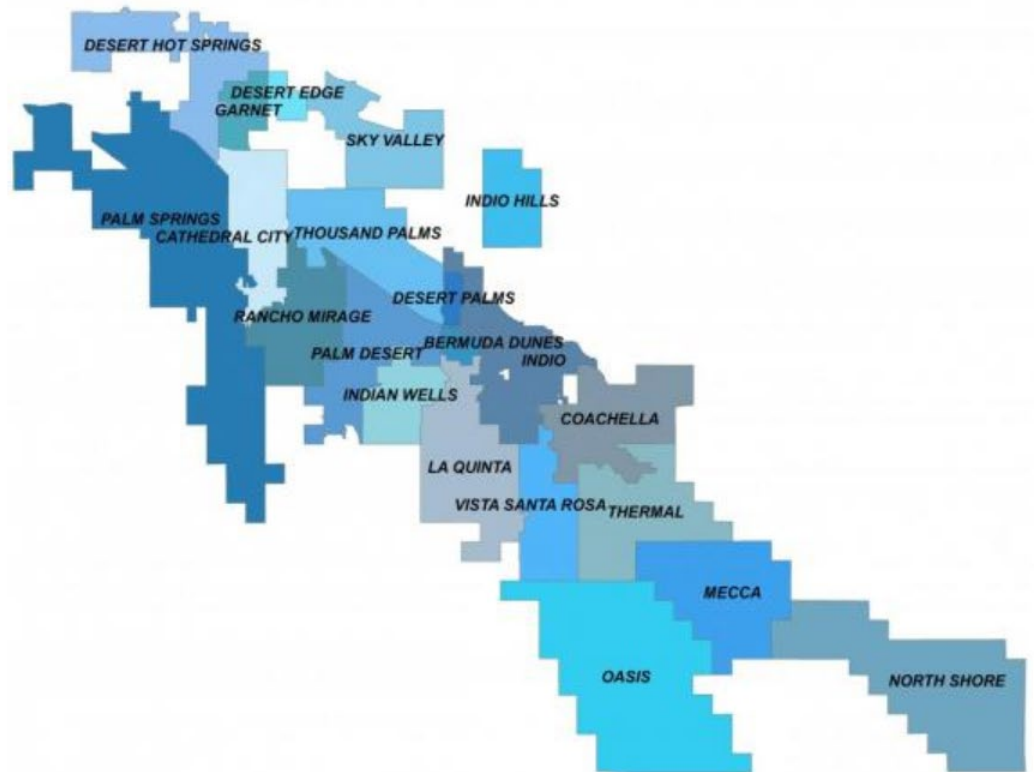
1 COACHELLA VALLEY MOSQUITO AND VECTOR CONTROL DISTRICT

2
3 EXHIBIT A

4 TO

5 WARRANT TO INSPECT AND ABATE

6
7
8 SERVICE AREA MAP



Slovak Baron Empey Murphy & Pinkney LLP
74-785 Highway 111, Suite 105
Indian Wells, CA 92210