February 14, 2014

Mr. Chris Calfee  
Senior Counsel  
Office of Planning and Research  
1400 10th Street  
Sacramento, California 95814

VIA EMAIL: CEQA.Guidelines@ceres.ca.gov

Dear Mr. Calfee:

The Mosquito and Vector Control Association of California (MVCAC) sincerely appreciates the Office of Planning and Research (OPR) and the Natural Resources Agency’s recognition of the serious public health consequences from diseases transmitted by mosquitoes and other vectors that has occurred since the previous update to the State CEQA Guidelines, 14 CCR §§ 15000, et seq. This recognition is an important first step in educating and providing tools to project proponents that can assist them in implementing inexpensive techniques that can avoid serious public health consequences and the project proponent’s liability for abatement costs.

As noted previously, the last major revision to the CEQA Guidelines was in the late 1990s. The first case of West Nile virus (“WNV”) in California was detected in 2003. Since then, WNV has spread to all 58 counties in California. Over the past 10 years, the rapid spread of WNV has resulted in over 3,997 cases in human with 144 human fatalities and more than 16,289 bird deaths. (See http://westnile.ca.gov/). Additionally, two new invasive mosquito species in California are posing even further public health threats. Aedes albopictus (the Asian tiger mosquito) detected in 2011 in southern California and Aedes aegypti (the yellow fever mosquito) detected in 2013 in central and northern California. These species are a serious threat due to their capability to transmit potentially deadly or debilitating diseases such as dengue, yellow fever, and chikungunya (diseases currently not transmitted in California), as well as other encephalitis-causing viruses. Thus, this update to the CEQA Guidelines is the first time that the regulations can address the important issue of preventing the spread of WNV and other mosquito-borne diseases.
MVCAC has no intent to complicate CEQA. Instead these changes are meant to ensure project proponents have an understanding of how to avoid the negative public health consequences of improperly designed or maintained measures for wetlands mitigation, stormwater and other aspects of a project. In addition, this improper design or maintenance may require the project to be deemed a public nuisance which routinely requires abatement by the MVCAC member districts whose costs are recoverable from the project proponent or the subsequent owners; in addition to civil penalties of up to $1,000 per day the nuisance exists. Subsequent owners may include business owners, Home Owner Associations or state or local government agencies that hold mitigation lands in the public trust. Thus, an improperly designed project or mitigation lands could impose additional costs to subsequent owners that they have no ability to be aware of under the current process.

Under the California Health & Safety Code, local vector control agencies have a responsibility to protect the public from mosquito-borne disease and property owners have a responsibility to maintain their property in such a way as to avoid breeding mosquitoes.

The good news is that by securing a bit of text early in the CEQA process abatement costs, civil penalties and negative health impacts can be avoided. The Department of Public Health has developed a Best Management and Practices Guidance (BMP Guidance) document that contains simple, low cost methods to add movement to water or design features to reduce the desirability of the water feature for mosquito habitat, reduce the spread of disease and reduce the need for use of chemical pesticides. A copy of the most recent July 2012 update can be viewed here:  
http://www.cdph.ca.gov/HealthInfo/discond/Documents/BMPforMosquitoControl07-12.pdf

MVCAC believes it is critically important for project planners and designers to use the BMP Guidance as a reference tool at the project design phase and when designing their mitigation measures. The CEQA Guidelines is the principle tool used to ensure that project designs do not significantly impact the environment and that all feasible care is taken at the outset to minimize adverse impacts. We therefore urge OPR and the Natural Resources Agency to take this first step and include a reference to the BMP Guidance in its upcoming CEQA Guidelines revision as indicated in the list of issues to be addressed.

As noted in our August 27, 2013 letter, MVCAC recommends the following language:

*Section 15126.4 Consideration and Discussion of Mitigation Measures Proposed to Minimize Significant Effects (a) Mitigation Measures in General.*

(1) An EIR shall describe feasible measures which could minimize significant adverse impacts, including where relevant, inefficient and unnecessary consumption of energy.
(A) The discussion of mitigation measures shall distinguish between the measures which are proposed by project proponents to be included in the project and other measures proposed by the lead, responsible or trustee agency or other persons which are not included but the lead agency determines could reasonably be expected to reduce adverse impacts if required as conditions of approving the project. This discussion shall identify mitigation measures for each significant environmental effect identified in the EIR.

(B) . . .

(C) Energy conservation measures, as well as other appropriate mitigation measures, shall be discussed when relevant. Examples of energy conservation measures are provided in Appendix F.

(D) To the extent the project’s mitigation measures, or any project element, results in creation of standing water, an EIR shall describe feasible measures to reduce the potential to create habitat for mosquitoes. Examples of appropriate measures are found in the California Department of Public Health Best Management Practices Guidance., http://www.cdph.ca.gov/HealthInfo/discond/Documents/BMPforMosquitoControl07-12.pdf.

The addition of this language would be beneficial to all project proponents. It would add no additional burdens to approval of projects. Rather it would reduce any potential future liability for project proponents from increased pesticide loads on their properties, as well as risk to the neighboring residents from mosquito-borne illness such as West Nile virus or other mosquito-borne diseases. It may also avoid unforeseen costs from subsequent property owners including state and local agencies that hold mitigation lands in trust.

The MVCAC and their member districts throughout the State of California work closely with the United States Environmental Protection Agency and the State Department of Public Health to reduce pesticide risks to humans, animals, and the environment while protecting human health from mosquito- and vector-borne diseases and nuisance attacks. The BMP Guidance document emphasizes non-chemical approaches that have been developed to guide mosquito control to significantly reduce mosquito populations for new development and on state or private lands. We strongly urge the inclusion of this reference as a means to benefit project proponents and landowners.

If you have any questions regarding this request, or the attached information, please do not hesitate to contact me. Thank you for your consideration.

Sincerely,

Greg Hurner