

RIGHT OF ENTRY PROCEDURE

If there is a call for service which indicates that breeding may be occurring at a residential or commercial location, the technician will

1. Attempt to contact the owner of the property to obtain permission to inspect and abate. If permission is given then the technician can inspect and treat freely.
2. If there is no one home the technician may inspect the area which is commonly open to the public. This would include the unfenced front yard or a front yard fenced with cyclone fence and no locked gate. The rule of thumb is whether the owner would have a reasonable expectation of privacy to that area. Unfenced front yards, and large agricultural areas with a fence are part of the open fields exception and a technician can enter without permission so long as permission has not been denied.
3. If the area to be inspected is a private area then the technician should take these steps:
 - A.1) If there is no one at home, leave a door hanger asking them to contact the office. Then depending on the urgency you want to attempt personal contact the following day or wait for them to contact the District.
 - 2) If there is no further contact with the occupant of the residence, check the assessor's records to find the owner. If the residence is not owner occupied then attempt to contact the owner at his or her residence either by telephone or mail depending on the urgency.
 - 3) If there have been several attempts to contact the occupant and owner with no success, then, if there is sufficient urgency the District may attempt to gain a warrant to enter and abate. See C below.

B]If the owner is contacted and refuses to give permission, record that fact. Then try to find out why permission was refused. Try to obtain information that would resolve whether breeding was occurring, i.e. were there any mosquitoes noted at the site. You might contact neighbors to determine if there is a possible breeding site there i.e. swimming pool or pond or old tires. If there is reason to believe that breeding is occurring then get warrant.

C]Procedures to get a warrant.

1]Technician will fill out an affidavit [statement under penalty of perjury] which will show:

a]that District has tried unsuccessfully to contact the occupant and owner or the occupant has refused permission to enter

b) that there is reason to believe that there are mosquitoes breeding on the property. The district can't know there is breeding until we inspect but we can have reason to believe there is breeding if we know

i] there are reports of mosquitoes in the immediate area

ii] there is a water source at the residence for instance if the neighbor tells you that the residence has a swimming pool or fish pond or if you can see through the fence that there is a bucket of water and

iii] if the residence is vacant then you have reason to believe that nobody is taking care of the water sources. Also if you can state that your inspection of the surrounding area shows that there is no other source in the vicinity. The more facts to show why you believe there are mosquitoes breeding there the better. Evidence of mosquito breeding in the past at that location will be helpful also.

[see attached sample affidavit]

2] Application for warrant: Supervisor or manager will fill out application for warrant and attach that to affidavit. Once the warrant is obtained it is good for a limited time, usually no more than 14 days.

3] Service of Warrant If the occupant or owner has been contacted and refused permission to enter he must be given 24-hour notice before one can enter. Notice should be given personally if possible. If not then mail and post at the premises. If no contact was made with the owner then no further notice is necessary.

If the property can not be entered without force i.e. breaking a locked gate or forcing a door this must be stated in the affidavit and permission placed in the warrant to use force. If the owner or occupant has not been contacted then you will need to have the warrant state that the entry can be made without the presence of the owner or occupant.

4. Entry can be made without permission and without a warrant only under emergency circumstances. The decision whether 'emergency circumstances' exist will usually be made by a supervisor. Generally the only time an 'emergency circumstance' will exist is if there is an immediate threat to health. The best example of that is a hive of Africanized honey bees which has been disturbed or is likely to be disturbed because of its location to the public. If the technician encounters what appears to him or her to be circumstances posing an immediate threat to health and which would require entry onto a private area, he or she should contact his supervisor for directions.

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SUPERIOR COURT OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN JOAQUIN
STOCKTON BRANCH

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11 1431 BLACK FOREST DRIVE,
STOCKTON, CALIFORNIA

) CASE NO:

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) **AFFIDAVIT OF RANDY**

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Plaintiff(s),

) **NEBUCHADNEZZAR FOR**

14

Vs

) **INSPECTION WARRANT AND**

) **AUTHORIZATION FOR RIGHT OF**

15

) **ENTRY**

) **(Code Civil Procedure § 1822.51, et seq.)**

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Defendant(s).

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I, Randy Nebuchadnezzar, being duly sworn declare as follows:

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I am a Mosquito Control Technician II with the San Joaquin Mosquito and Vector Control District.

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As a part of my duties I am responsible for inspecting land for mosquito breeding sources and abating those sources once I find them.

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On July 19, 2000, I received a call for service for the area of 1441 Black Forest Drive in Stockton. The caller complained of large numbers of mosquitoes in the area especially around dusk. The area is residential with single family dwellings on large one-acre lots.

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I arrived at 1441 Black Forest Drive and met Mrs. Ida Lupino. I notice several mosquitoes in the area immediately upon my arrival. I did a survey of 1441 Black Forest Drive

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1 and found no source for breeding at that location. My Lupino told me that there was an old
2 fishpond next door at 1431 Black Forest Drive that could be the source of the breeding.

3 I attempted to contact the occupant at 1431 Black Forest Drive but there was no response
4 when I rang the doorbell and knocked. The place looked vacant, as there was an accumulation of
5 leaves and debris on the porch indicating that the front door had not been used recently. The
6 backyard is fenced with a wrought iron gate. I was able to see through the wrought iron gate and
7 in the back yard there was a pond with water in it. I did notice mosquitoes in some number at
8 1431 Black Forest Drive.

9 I then inspected several of the others houses in the area. I found no source of breeding
10 mosquitoes, but did notice adult mosquitoes in the area.

11 The District maintains a data bank of property owners in the county with information
12 obtained through the San Joaquin County Assessor's office. On July 20, 1999, I determined that
13 1431 Black Forest Drive was owned by Ogg Oggleby whose residence was in San Mateo. I
14 called Mr. Oggleby's residence and left a message on the answering machine identifying myself
15 and the purpose of my call. On that day I again went to 1431 Black Forest Drive to attempt to
16 contact the occupant. Again I was not successful. I again left my card. My card from the
17 previous day was still in the screen door. On that same day I mailed a post card to Ogg Oggleby
18 at his address 123 Vanilla Street, San Mateo. The post card requested he contact me regarding
19 possible mosquito breeding at his property at 1431 Black Forest Drive.

20 On July 25 I had not had any response to attempts to contact either the occupant of 1431
21 Black Forest Drive or Mr. Oggleby. I went to 1431 on July 25 and determined that no one was
22 home and that the residence appeared vacant. Both of my cards were still stuck in the screen
23 door and the debris and leaves continued to accumulate on the front porch. Moreover, the grass
24 was uncut and the whole exterior had an air of vacancy. The area continues to have large
25 numbers of adult mosquitoes. The mosquitoes are Culex Horribilus, which are capable of
26 carrying Spring Fever.

27 The fishpond on the premises provides a breeding source for mosquitoes. Unless the
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1 pond is stocked with fish it will produce mosquitoes in the hot temperature which we have had.
2 The average day time temperature for the last week has been 81degrees. The Culex Horribilus
3 mosquito does breed in shallow ponds such as the one in the backyard at 1431 Black Forest
4 Drive.

5 I swear under penalty of perjury under the laws of the State of California that the above
6 information is true and correct.

7 Executed this _____ day of _____, 2000.

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9 _____
10 RANDY NEBUCHADNEZZAR
11 Mosquito Control Technician II
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