

Mesa County Policy for Management of Noxious Weeds on Private Property

I. Introduction

It is in the best interest of all landowners in Mesa County to manage or control noxious weeds. The effect of noxious weeds on property values, agricultural productivity and economics, and native plants and animals is well documented. Non-native invasive species displace or compete with crops and native plants, usurp water otherwise used by desirable plants, and reproduce profusely in the absence of their natural predators. These invasive aliens cause approximately \$24 billion in lost agricultural crop production per year nationwide¹. Over \$4 billion per year is spent on agricultural herbicides in the U.S.¹

State law (CRS 35-5.5-101 et seq.) requires all landowners to manage noxious weeds on their property. Mesa County has adopted a Noxious Weed Management Plan and noxious weeds are being aggressively managed on County road rights-of-way and other County property. This policy extends the responsibility of weed management to private landowners within the unincorporated County and establishes a Cost Share program to assist landowners with the costs of noxious weed control.

Technical advice and recommendations are available to private landowners that request help through the County Pest and Weed Inspector and Colorado State University Cooperative Extension. However, many landowners are either unaware that they have noxious weeds or are unconcerned. Lack of weed control poses a threat to neighboring properties as weed infestations cross property lines.

II. Policy

State Law allows the County to pursue control of noxious weeds on private property. This document outlines the priorities and procedures to be taken to ensure that noxious weeds are controlled on private property within Mesa County. It is the policy of

¹ Pimental, D., L. Lach, R. Zuniga, & D. Morrison. 1999, Environmental and Economic Costs Associated with Non-Indigenous Species in the U.S. www.news.cornell.edu/releases/Jan99/species_costs.html

Mesa County to implement the Management of Noxious Weeds on Private Property as outlined below, beginning April 19, 2003.

III. Implementation

This policy will be implemented when the Pest and Weed Inspector receives a report of a noxious weed infestation. An initial screening of the property from public rights-of-way or a neighbor's properties will be made to determine if the problem is significant. After determining the validity of the reported infestation, all effort will be made by the Inspector to contact and/or meet with the landowner, get permission to enter the property to identify the weeds, develop a Weed Management Plan with the landowner, and follow up on control efforts. The Inspector will also inform the landowner of County Cost Share programs available to assist with the cost of controlling the weeds. Expenditure of Cost Share Funds must be approved by the Mesa County Weed Advisory Board (Advisory Board), but in any case shall not be available to the landowner until a Weed Management Plan for the property is approved and costs are actually incurred by the landowner.

Cooperation between the landowner and the Inspector is essential to the management of noxious weeds. Cooperation by the landowner is defined as allowing the Inspector or assignee entry to the property in question for inspection and post-treatment follow-up, assisting with development of a Weed Management Plan, and complying with the Management Plan. The Inspector will strive to work with the landowner to develop a Weed Management Plan that considers the landowner's resources, reflects Best Management Practices, and incorporates scientifically proven methods of weed management. (A list of Best Management Practices for Noxious Weeds in Mesa County is available from the Inspector.) Reduction, containment, or eradication of the weeds, depending on weed species and the specific situation, will be the desired outcome of the Management Plan. If the landowner and the Inspector cannot agree on a Management Plan, the landowner can request an arbitration panel to determine the final Management Plan. The composition and selection of the arbitration panel is defined by State Law

[C.R.S. 35-5.5-109 (4)(a)(III)]. Failure to manage the weeds according to the Management Plan will be deemed as non-cooperation.

State Law and the County Policy and Procedures for Management of Noxious Weeds on Private Property will provide guidance to the Inspector to ensure that the weeds are managed properly. A warrant must be obtained to enter the property to inspect and/or control the noxious weeds when a landowner refuses to cooperate. The cost of treating the weeds may be billed to the landowner. Unpaid bills may be placed as a lien on the property. Cost Share funds through Mesa County are not available to uncooperative landowners.

When cooperation is not forthcoming from the landowner and a noxious weed infestation is present and not being managed in accordance with acceptable Best Management Practices for noxious weeds in Mesa County, the Inspector will bring the case to the Advisory Board. The Advisory Board will decide whether or not the case should be pursued. Upon recommendation of the Advisory Board, the case will be brought to the Board of County Commissioners. The Commissioners will decide whether the Inspector should proceed with enforcement of the State Law and County Procedures, and will allocate funds to pay for treatment.

IV. Priorities for Implementing Action

The following situations are recognized as priorities for noxious weed management on private property:

- properties infested with noxious weeds that threaten productive agriculture where the landowner requests assistance or where a complaint has been filed with the Inspector;
- a complaint from an adjacent neighbor or a request for assistance from the landowner that noxious weeds are infesting or have the potential to infest their non-agricultural property;
- infestations of priority noxious weeds on any type of private property as stated in the Prioritized Noxious Weed List for Management on Private Property;

- infestations noted by the Inspector or other County employees that are encroaching on county road rights-of-way, making it difficult to control or eradicate such noxious weeds on county roads.

V. Standard Operating Procedures

A. Purpose

The procedures outline herein will ensure that measures outlined in the Colorado Noxious Weed Act, CRS 35-5.5-101 et seq., for management and control of noxious weeds on private property are followed.

B. Responsibility

It is the responsibility of the Mesa County Pest and Weed Inspector and her/his assignee to follow all procedures established in CRS 35-5.5-109 before any management or control of noxious weeds is carried out on privately owned land. The Inspector and her/his assignee will keep complete records of all interactions (conversations, phone calls, letters, actions taken, etc.) with landowners. Bills for the cost of control measures are to be prepared by the Inspector and submitted to County Finance Department for processing.

It is the responsibility of the Inspector to work with the landowner to develop a Weed Management Plan and to notify the landowner of any Cost Share Programs available for management of noxious weeds. The inspector will provide the landowner with a Cost Share application and assist with its completion.

C. Procedures

The following procedures must be followed before noxious weed management or control can be carried out on privately owned land:

1. **REQUESTS FOR ASSISTANCE:** When a request for assistance is received from a landowner, a field visit will be arranged to identify the weeds present. If no noxious weeds are found, recommendations for management of non-noxious weeds will be given, if necessary. If noxious weeds are found, the infestations will be mapped and a copy of the map will be given to the landowner. A Weed Management Plan will be developed in conjunction with the landowner and an application for the Cost Share Program will be offered to the landowner.

2. **COMPLAINTS:** When a complaint of a noxious weed infestation is received, the following procedure shall be followed:

a) **INSPECTION:** the Inspector shall verify the infestation before taking further action. The landowner shall then be notified of impending inspection of their property in the following ways:

i) If the presence of noxious weeds must be confirmed by an on-site inspection (i.e. cannot be confirmed from the right-of-way or neighboring property), the Inspector or her/his assignee will contact the landowner by **phone**, if possible, to get permission to enter the property. All phone calls will be documented as to date and information given. If the landowner cannot be contacted by phone, a **certified return receipt mail letter** shall be sent to the landowner, stating a specific date and time for the inspection. If the landowner wishes to be present during the inspection, the date and time of the inspection shall be adjusted to accommodate them.

ii) If noxious weeds can be confirmed from the right-of-way or neighboring property, the landowner can be contacted either by **phone or certified return receipt mail letter** to request an on-site inspection. A specific date and time for the inspection shall be given to the landowner. The letter shall ask the landowner to contact Pest Control Administration to acknowledge receipt of the letter at least one (1) business day before the pending inspection.

iii) The following information will be included in the Inspection letter:

- time and date of inspection;
- suspected noxious weed(s) present;
- landowner's responsibility to manage noxious weeds in Mesa County;
- availability of Cost Share Program funding; and
- consequences of non-cooperation. The landowner shall be given a full explanation of the importance of cooperating with the County to manage weeds on private property.

iv) If no response is forthcoming from the landowner or if access to the property is denied by the landowner, an **inspection warrant** will be sought and all associated court costs will be assessed against the landowner, unless good cause can be demonstrated by the landowner as to why the response was not given in a timely manner,

v) All possible methods shall be engaged to determine that the actual owner of the property has been contacted. This may include contacting the Clerk and Recorder's office to see if the deed has been transferred. If the property has been transferred, the new owner must be informed of the weed problem before any further action can be taken.

b) **NOTIFICATION**: Once the Inspector or her/his assignee has inspected the property and confirmed a noxious weed infestation on the property, the landowner shall be contacted **in person, by phone or by certified return receipt mail letter** to notify them of the presence of weeds. If contacted by **phone or in person**, a follow-up letter will be sent **via certified return receipt mail** within three (3) business days of the conversation. The landowner shall be given the following information:

- Location of noxious weed infestations;
- Common and scientific names of noxious weeds found;
- Acceptable, effective control measures for the weeds;

- The stage or time of year control measures must be performed for greatest control;
- Any other information on Best Management Practices for the weeds of concern;
- Information on available Cost Share Programs ;
- The date by which the landowner must contact the Inspector to begin developing a Weed Management Plan for the property;
- Notification that within ten (10) days from receipt of the notification letter the landowner shall indicate whether he/she will:
 - i) comply with the terms of the notification;
 - ii) acknowledge the terms of the notification and submit an acceptable alternative weed management plan and schedule for completion of the plan for compliance; or
 - iii) request an arbitration panel to determine the final weed management plan; and
- Notification that failure to contact the Inspector by the specified date indicates non-compliance by the landowner and that noxious weed management procedures will be initiated by the County.

c) ENFORCEMENT NOTICE:

- i) An Enforcement Notice will be sent in the following situations:
 - When the landowner refuses to contact the Inspector, refuses to grant entry to the property, refuses to develop a Weed Management Plan, or otherwise refuses to control the noxious weeds;
 - Weed control efforts have not been implemented within the time period specified in the Weed Management Plan developed by the Inspector and the landowner; or
 - When immediate action is necessary and the landowner has not been cooperative, i.e., when the weed is in the prime stage to be

controlled and any delay will either cause it to go to seed or postpone control until the following season.

ii) The Enforcement Notice will be sent by **certified return receipt mail** and shall include:

- Location of noxious weed infestations;
- Common and scientific names of noxious weeds found;
- Acceptable, effective control measures for the weeds;
- The stage, time of year or specific date when control measures must be performed for greatest control;
- Any other information on Best Management Practices for the weeds concerned;
- Notification that the landowner has ten (10) days from receipt of the enforcement notice to either comply with control procedures or submit in writing that he/she will cooperate with the Inspector to develop a Weed Management Plan; and
- Documentation of previous attempts to contact the landowner.

d) **ENFORCEMENT:** If a landowner receives an Enforcement Notice and does not contact the Inspector within ten (10) days of receiving the notice:

- i) The Inspector will review all information pertinent to the case.
- ii) The Inspector will bring the case to the attention of the Advisory Board. The Advisory Board will recommend the case to the Board of County Commissioners for further action if warranted.
- iii) The Inspector shall request a right-of-entry to control the weeds from the County Commissioners at a public hearing.
- iv) If right-of-entry is given, the Inspector or her/his assignee will contact the designated private contractor to schedule the control work.
- v) After control work is carried out on private property, the Inspector or her/his assignee shall check the contractor's work for completeness. The

inspector's check shall depend on the weed species and control method or methods used.

5. **BILLING:** After noxious weed control measures are carried out:

a) A bill will be prepared for the cost of control plus a 20% administrative fee as permitted under CRS 35-5.5-109.

b) The bill will be sent by certified return receipt mail.

c) If the bill is not paid after 30 days, an assessment may be placed ~~as a lien~~ against each lot or tract of land, until paid, and shall have priority over all other liens except general taxes and prior special assessments. Such assessment may be certified to the county treasurer and collected and paid in the same manner as provided for the collection of taxes.

d) The Inspector or her/his assignee will contact the Treasurer's Office for special assessment on the property which may result in a lien on the property.

e) Any funds collected for the management of noxious weeds on private property shall be deposited in Mesa County's Noxious Weed Fund.

VI. Mesa County Noxious Weed Cost Share Program

The County shall provide a Noxious Weed Cost Share Program to assist landowners within unincorporated Mesa County with the cost of managing noxious weeds. The program will be administered by the Mesa County Pest and Weed Inspector. Allocation of funds will be only for those species listed on the Prioritized Noxious Weed List for Management on Private Property and shall be prioritized. Applications will be reviewed and approved by the Advisory Board. Funds will not be available to landowners who have had a complaint lodged against them who fail to cooperate with the Inspector.

A. Application Process: An application may be acquired from the Inspector and must be complete to be considered for funding. The application must be accompanied by a Weed Management Plan that has been approved by the Inspector as well as a map of the property that delineates the weed infestations. The Inspector will be available to assist landowners with developing a Weed Management Plan.

Applications will be considered twice per year and prioritized according to the Prioritized Noxious Weed List and other criteria listed in the program documents. If all funds have been allocated for the year, the application may be considered for funding the following year. In the case of weed species that are a high priority for control, additional budget funds may be requested from the County. However, the funding limit for any one landowner shall be \$500.00 per application per year.

B. Eligibility: Landowners with noxious weeds who own or operate property on the Mesa County Tax rolls are eligible to apply for the Cost Share Program. Lessees and other property managers must submit written approval from the landowner to participate in the Cost Share Program.

C. Reimbursement: The Cost Share Program will pay for 50% of the cost of herbicides, the cost of professional herbicide application, and/or mechanical control, up to a total of \$500 per landowner per year. Costs other than those listed may be considered if appropriate documentation is provided. The noxious weeds may be treated with herbicide by the landowner or their assignee, or by a commercial applicator. Although landowners may personally apply herbicides to the weeds or utilize any agent for application purposes, reimbursement for labor costs shall only apply to a professional certified pesticide applicator. Any use of a landowner's employee for herbicide application purposes shall not be reimbursable. Cost Share funds may be withheld if it is found that treatment was not done in accordance with the Weed Management Plan.

D. Reasons For Disqualification or Denial: A landowner's Cost Share application may be denied in the following circumstances:

1. If the landowner has not cooperated with the Mesa County Policy for Management of Noxious Weeds on Private Property to the extent that a warrant for inspection was required.
2. Attempting to defraud the program in any manner.
3. Applying herbicides inconsistent with the product label.
4. Using program materials outside of the program guidelines.
5. Failure to follow weed control recommendations as described in the Weed Management Plan.
6. Using cost-share money to control weeds other than those eligible.
7. The budget of the Cost Share Program is exhausted.