

FREMONT COUNTY MANAGEMENT AND CONTROL OF NOXIOUS WEEDS; PRIORITIES AND PROCEDURES

I. Introduction

It is in the best interest of all landowners in Fremont County to manage or control noxious weeds. The effect of noxious weeds on property values and agricultural productivity, including 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 numerous agricultural, domestic, and recreational uses. Many of these weeds reproduce profusely in the absence of their natural predators while costing billions of dollars in lost agricultural crop production and animal harm each year nationwide.

State law (CRS 35-5.5-101 et seq.) requires all landowners to manage noxious weeds on their property. Fremont County has adopted a Noxious Weed Management Plan, and noxious weeds are being aggressively managed on County Road rights-of-way, the cities of Florence and Canon City, and through the efforts of conscientious local landowners and managers. This Plan extends the responsibility of weed management to private landowners within the unincorporated County and establishes a grant-funded Cost Share program to assist landowners with the costs of noxious weed control.

Technical advice and recommendations are available to private landowners who request assistance through the Fremont County Weed Management Director, Fremont Conservation District, the Natural Resource Conservation Services, and Colorado State University 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 across property lines.

II. Requirements 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 all property within Fremont County. It is the policy of Fremont County to implement the Management of Noxious Weeds on private property as outlined in the following sections.

III. Implementation

This procedure will be implemented when the Weed Management Director receives a report of a noxious weed infestation. An initial screening of the property from public rights-of-way or a neighbor's property will be made to determine if the problem is significant. After determining the validity of the reported infestation, all efforts will be made by the Director to contact and/or meet with the landowner, get permission to enter the property to identify the weeds, develop a

Weed Management Plan (WMP) with the landowner, and follow up on control efforts. The Director 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 shall not be available to the landowner until a WMP for the property is approved, and costs are actually incurred by the landowner.

Cooperation between the landowner and the Director is essential to the proper management of noxious weeds. Cooperation by the landowner is defined as allowing the Director or assignee entry to the property in question for inspection and post-treatment follow-up, assisting with development of a WMP, and complying with the Management Plan. The Director will strive to work with the landowner to develop a WMP that considers the landowner's resources, reflects Best Management Practices (BMP) and incorporates scientifically proven methods of weed management. (A list of Best Management Practices for noxious weeds in Fremont County is available from the Director.) 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 Director 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 are 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 policies and procedures for the management of noxious weeds on private property will provide guidance to the Director 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 Fremont 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 BMP for noxious weeds in Fremont County, the Director 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 Director 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 Director;
- 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 State List A, B, and C noxious weeds or any Targeted Weeds stated in the Fremont County Noxious Weed List for management in Fremont County;
- Infestations noted by the Director 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 outlined herein will ensure that measures outlined in the Colorado Noxious Weed Act, CRS 35-5.5-101 et seq., for the management and control of noxious weeds on private property are followed.

B. Responsibility

It is the responsibility of the Fremont County Weed Management Director 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 Director 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 Director and submitted to County Finance Department for processing. It is the responsibility of the Director to work with the landowner to develop a WMP and to notify the landowner of any cost-share programs available for the management of noxious weeds. The Director will provide the landowner with cost-share information if available.

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 the management of non-noxious weeds will be given if necessary. If noxious weeds are found, the infestations will be recorded. A WMP may be developed in conjunction with the landowner, and an application for the Cost Share Program may 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 Director 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 Director 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 is given. If the landowner cannot be contacted by phone, a certified return receipt 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 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 the Fremont County Weed Management Director 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 Fremont County;
- Availability of cost-share program funding
- 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 Records 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.

3) NOTIFICATION: Once the Director 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 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 within three (3) business days of the conversation. The landowner shall be given the following information:

- Location of noxious weed infestations;
- Common and/or 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 best control;
- Any other information on BMP for the weeds of concern;
- Information on available Cost Share Programs;
- The date by which the landowner must contact the Director to begin developing a WMP 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 WMP and schedule completion of the plan for compliance; or
 - iii) request an arbitration panel to determine the final WMP; and
- Notification that failure to contact the Director by the specified date indicates non-compliance by the landowner and that noxious weed management procedures will be initiated by the County. Refer to Standard Operating Procedures; Complaints; sections ii, iv, and v.

ENFORCEMENT NOTICE:

- i) An Enforcement Notice will be sent in the following situations:
 - When the landowner refuses to contact the Director refuses to grant entry to the property, refuses to develop a WMP, or otherwise refuses to control the noxious weeds;
 - Weed control efforts have not been implemented within the time period specified in the WMP developed by the Director 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 and shall include:
 - Location of noxious weed infestations;
 - Common and/or scientific names of noxious weeds found;
 - Acceptable, effective control measures for the weeds;

- The stage, time of year, or a specific date when control measures must be performed for best control;
- Any other information on BMP 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 Director to develop a WMP; and
- Documentation of previous attempts to contact the landowner.

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

- i) The Director will review all information pertinent to the case.
- ii) If warranted, the Director will bring the case to the attention of the Advisory Board. The Advisory Board may, if necessary, recommend the case to the Fremont County Board of Commissioners for further action.
- iii) The Director 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 Director or her/his assignee may contact a designated private contractor or provide the control work.
- v) After control work is carried out on the private property, the Director or her/his assignee shall, if required, review the contractor's work for completeness. The Director'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 Director or her/his assignee will contact the Treasurer's Office for a 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 Fremont County's Weed Board Fund.

VI. Fremont County Noxious Weed Cost Share Program

The County shall provide a Noxious Weed Cost Share Program to assist landowners within unincorporated Fremont County with the cost of managing noxious weeds. The program will be administered by the Fremont County Weed Management Director. Allocation of funds will be only for those species listed in the Noxious Weed Management Plan and shall be listed as targeted weeds. Applications will be reviewed and approved by the Weed Management Director. Funds will not be available to landowners who have had a complaint lodged against them and/or who fail to cooperate with the Director.

A. Eligibility: Landowners with noxious weeds who own or operate the property on the Fremont 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. A WMP that has been approved by the Director is required for eligibility. The Director may be available to assist landowners with developing a WMP. Priority will be given to List –A and –B species on the Noxious Weed List. Consideration will be given to large monocultures of other invasive species with approval from the Director.

B. Reimbursement: The Cost Share Program will pay for up to 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 calendar year. 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 applicable WMP or other Federal or State requirements.

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 Fremont County Management and Control of Noxious Weeds, Priorities, and Procedures 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 Noxious 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.

8. Failure to release biocontrol in a timely manner and without justified circumstance.
(See F below)

E. Targeted Weeds: The following twenty two (22) weeds will receive priority for control or eradication according to the Noxious Weed Management Plan:

1. Giant reed (*Arundo donax*)
2. Myrtle spurge (*Euphorbia myrsinites*)
3. Knotweed (*Polygonum* spp.)
4. Elongated mustard (*Brassica elongate*)
5. Leafy spurge (*Euphorbia esula*)
6. Russian knapweed (*Acroptilon repens*)
7. Diffuse knapweed (*Centaurea diffusa*)
8. Canada thistle (*Cirsium nutans*)
9. Musk thistle (*Carduus nutans*)
10. Hoary cress "whitetop" (*Cardaria draba*)
11. Spotted knapweed (*Centaurea maculosa*)
12. Yellow toadflax (*Linaria vulgaris*)
13. Dalmatian toadflax (*Linaria genistifolia*)
14. Houndstongue (*Cynoglossum officinale*)
15. Tamarisk (*Tamarisk ramosissima*)
16. Russian olive (*Elaeagnus angustifolia*)
17. Bull thistle (*Cirsium vulgare*)
18. Bouncingbet (*Saponaria officinalis*)
19. Jointed goatgrass (*Aegilops cylindrica*)
20. Perennial pepperweed (*Lepidum latifolium*)
21. Scotch thistle (*Onopordum acanthium*)
22. Yellow starthistle (*Centaurea solstitialis*)

F. Biocontrol: Biocontrol Cost Share is available at \$20 per release of approved species. One release per land owner unless otherwise discussed with Director. Up to 15 releases per year or as available. *Scheduling of release is relevant to the peak timing of the specific species and its availability. One release per land owner in a calendar year. This method of control is not listed as a prescribed management plan for List A species by the State. Species covered for Biocontrol Cost Share are as follows:

- Canada thistle: Rust fungus (*Puccinia punctiformis*) (price may vary) ***Sep-Oct**
- Dalmatian Toadflax: Stem boring beetle (*Mecinus janthinus*) ***May-June**
- Diffuse Knapweed: Seed head weevil (*Larinus minutus*) ***May- July &**
Root-boring weevil (*Cyphocleonus achates*) ***July-Aug**
- Field Bindweed: Mites (*Aceria malherbae*) ***May-Aug**

- Leafy Spurge: Flea beetle (*Aphthona* spp.) ***June-July**
- Musk Thistle: Weevil (*Trichosirocalus horridus*) ***June-July**
- Puncturevine: Weevil (*Microlarinus* spp.) ***Sept**
- Russian Knapweed: Gall midge (*Jaapiella ivannikovi*) ***Apr-May**
- Spotted Knapweed: Seed head weevil (*Larinus minutus*) ***May- July** & Root-boring weevil (*Cyphocleonus achates*) ***July-Aug**
- Yellow Toadflax: Weevil (*Mecinus janthinus*) ***May-June**

Additional Biocontrol agents may be available upon site inspection and assessment and at a cost of \$50 per release.

- Bindweed Mites: (*Aceria malherbae*) (10 Releases for establishing a large area) ***May-Aug**
- Tamarisk: Leaf beetle (*Diorhabda carinulata*) ***June-July**
- Any new biocontrol agent approved by the Department of Agriculture as it becomes available.