

**RESOLUTION 7-2016**  
**MONTEZUMA COUNTY WEED PLAN (amended)**

WHEREAS, under C.R.S. 35-5.5, et. Seq, “Colorado Noxious Weed Act”, the Board of County Commissioners of each county shall adopt an undesirable plant management plan for all the unincorporated lands within the county; and

WHEREAS, this plan represents a coordinated effort of the Montezuma County Weed Program and the Montezuma County Weed Advisory Board, after deliberation and study, recommends the adoption of the weed plan as presented, and to be known and referred to as the **MONTEZUMA COUNTY WEED PLAN**; and,

WHEREAS, the Board of County Commissioners of Montezuma County, Colorado, wish to comply fully and fairly with all provisions of the Colorado Weed Management Act as adopted wherein it finds that noxious weeds have become a threat to the natural resources of Colorado and that an organized and coordinated effort must be made to stop the spread of noxious weeds.

WHEREAS, this plan is designed in accordance with the statutory provisions of the Colorado Noxious Weed Act. The provisions of this plan do not interpret, apply, or incorporate any provisions of the Colorado Pest Control District Act, codified at C.R.S. § 35-5-101, et seq.

WHEREAS, it is recognized that ownership of private property assumes management and stewardship of the land. This management is with the intent of maintaining and protecting property values of property owners and their adjacent properties.

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners of Montezuma County, Colorado:

THAT Montezuma County Resolution #4-93, the Montezuma County Comprehensive Weed Management Plan, be revised WHEREBY adopting all amendments herein, the Montezuma County Weed Plan, becomes effective immediately and shall be enforced throughout the unincorporated areas of Montezuma County.

**Section 1      Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- **Advisory Board** means the individuals appointed by the Board of County Commissioners to the Montezuma County Weed Advisory Board to advise on matters of noxious weed program direction.
- **BOCC** means the Board of County Commissioners of Montezuma County, Colorado.
- **Colorado Noxious Weed Act** means the provisions contained in C.R.S. § 35-5.5-101 et seq.

- **Commissioner** means the commissioner of the Colorado Department of Agriculture or his or her designee.
- **Department** means the Colorado Department of Agriculture.
- **Federal agency** means each agency, bureau or department of the federal government responsible for administering or managing federal land.
- **Federal land manager** means the federal agency having jurisdiction over any federal land affected by the provisions of this article.
- **Integrated management** means the planning and implementation of a coordinated program utilizing a variety of methods for management of noxious weeds, the purpose of which is to achieve specified management objectives and promote desirable plant communities. Such methods may include, but are not limited to education, preventive measures, good stewardship, and the following integrated management techniques:
  - a) Biological management, which means the use of an organism to disrupt the growth of noxious weeds.
  - b) Chemical management, which means the use of herbicides or plant growth regulators to disrupt the growth of noxious weeds.
  - c) Cultural management, which means methodologies or management practices that favor the growth of desirable plants over noxious weeds, including maintaining an optimum fertility and plant moisture status in an area, planting at optimum density and spatial arrangement in an area, and planting species most suited to an area.
  - d) Mechanical management, which means methodologies or management practices that physically disrupt plant growth including tilling, mowing, burning, flooding, mulching, hand-pulling, hoeing, and grazing.
- **Invasive species** means a plant species which is not indigenous to the State of Colorado.
- **Landowner** means any owner of record of federal, tribal, state, county, municipal, or private land.
- **Local noxious weed** means any plant, indigenous or exotic, of local importance that has been declared a noxious weed by the BOCC.
- **Management** means any activity that prevents a plant from establishing, reproducing, or dispersing itself.
- **Management objective** means the specific, desired result of integrated management efforts and includes:
  - a) Eradication, which means reducing the reproductive success of a noxious weed species or specified noxious weed population in largely un-infested regions to zero and permanently eliminating the species or population within a specified period of time. Once all specified weed populations are eliminated or prevented from reproducing, intensive efforts continue until the existing seed bank is exhausted.
  - b) Containment, which means maintaining an intensively managed buffer zone that separates infested regions, where suppression activities prevail, from largely un-infested regions, where eradication activities prevail.
  - c) Suppression, which means reducing the vigor of noxious weed populations within an infested region, decreasing the propensity of noxious weed species to spread to surrounding lands, and mitigating the negative effects of noxious weed populations on infested lands. Suppression efforts may employ a wide variety of integrated management techniques.

- d) Restoration, which means the removal of noxious weed species and reestablishment of desirable plant communities on lands of significant environmental or agricultural value in order to help restore or maintain said value.
- **MCWP** means Montezuma County Weed Program.
  - **Native plant** means a plant species which is indigenous to the State of Colorado.
  - **Noxious weed** means an invasive species or parts of an invasive plant that have been designated by rule by the Commissioner or the Department as being noxious or any plant that has been declared a Local Noxious Weed by the BOCC, and which meets one or more of the following criteria:
    - a) It aggressively invades or is detrimental to economic crops or native plant communities;
    - b) It is poisonous to livestock;
    - c) It is a carrier of detrimental insects, diseases or parasites; or
    - d) The direct or indirect effect of the presence of this plant is detrimental to the environmentally sound management of natural or agricultural ecosystems.
  - **Person or occupant** means an individual, partnership, corporation, association or federal, state or local government or agency thereof owning, occupying or controlling any land, easement or right-of-way, including any city, county, state or federally owned and controlled highway, drainage or irrigation ditch, spoil bank, borrow pit, gas and oil pipeline, high voltage electrical transmission line, or right-of-way for a canal or lateral.
  - **Plan** means a Montezuma County Weed Management and Enforcement Plan as developed by the Advisory Board and approved by the BOCC.
  - **Plant growth regulator** means a substance used for controlling or modifying plant growth processes without appreciable phytotoxic effect at the dosage applied.
  - **State noxious weed** means any noxious weed identified by the Commissioner or the Department by rule pursuant to the terms and provisions of the Colorado Noxious Weed Act. Such weeds may be referred to herein as “State A List,” “State B List” or “State C List” weeds depending upon their designation as such by the Commissioner pursuant to the terms of C.R.S. § 35-5.5-108.
  - **Undesirable plant** means a noxious plant species that is designated as undesirable by this article, the Commissioner or by the BOCC.
    - **A List Weeds** shall mean all populations of Noxious Weeds in Montezuma County that are designated for eradication, either by the Commissioner pursuant to the terms of C.R.S. § 35-5.5-108 or by local designation by the BOCC.
    - **B List Weeds** shall mean all populations of Noxious Weeds in Montezuma County that are designated for required management, either by the Commissioner pursuant to the terms of C.R.S. § 35-5.5-108 or by local designation by the BOCC.
    - **C List Weeds** shall mean all populations of Noxious Weeds in Montezuma County that are designated for recommended management, either by the Commissioner pursuant to the terms of C.R.S. § 35-5.5-108 or by local designation by the BOCC.
  - **Undesirable plant management** means the planning and implementation of an integrated program to manage undesirable plant species.
  - **Weed** means any undesirable plant.
  - **Weed Office** means the Montezuma County Weed Office.

## **Section 2 Introduction.**

- A. The provisions of this plan relate to the Colorado General Assembly's findings that noxious weeds have become a threat to the natural resources of Colorado and that an organized and coordinated effort must be made to stop the spread of noxious weeds.
- B. This plan represents a coordinated effort of the Weed Program and the Advisory Board to develop and oversee a comprehensive management plan for the control of noxious weeds in Montezuma County.
- C. The weed management area covers all of Montezuma County with the exception of incorporated municipalities within the County. Intergovernmental Agreements may be entered into with municipalities wherein this plan would apply to that municipality.
- D. This plan further recognizes that because the spread of noxious weeds can largely be attributed to the movement of seed and plant parts on motor vehicles and noxious weeds are becoming an increasing maintenance problem on highway right-of-ways in the state, local CSU efforts have been undertaken to proceed with noxious weed management.
- E. This plan is designed in accordance with the statutory provisions of the Colorado Noxious Weed Act.

## **Section 3 Objectives and Goals of the Montezuma County Weed Program.**

- A. Road-side Spraying
  - 1. Montezuma County shall be responsible for managing County maintained roadsides of noxious weed species and tall vegetation that could impair vision or compromise road structure.
- B. Education.
  - 1. Educate the public on the state mandated weed law (the Colorado Noxious Weed Act) and the State's mandate that Montezuma County act to manage, and sometimes to eradicate, certain noxious weeds so designated by the Department.
  - 2. Raise public awareness that noxious weeds disrupt intended land use and degrade the environment.
  - 3. Raise public awareness that the county has limited funds with which to control noxious weeds.
  - 4. Assist landowners and private enterprise occupants in preparing integrated weed management plans.
  - 5. Educate and make the public aware of the State of Colorado A, B and C weed species, and additional weeds designated for management by the BOCC.
- C. Mapping.
  - 1. Continue noxious weed mapping countywide.
  - 2. Identify weed mapping priorities annually and document in the annual plan of work.
  - 3. Continue to compile and share information in cooperation with other agencies.
- D. Support of Private Enterprise
  - 1. It is the intent of the BOCC not to compete with private enterprise.
  - 2. Encourage an expansion in services by existing commercially licensed applicators.
  - 3. Encourage the development of new weed management businesses.

- E. Environment. Environmental quality shall always remain a high priority of the Montezuma County Weed Management Plan.

#### **Section 4 Management Plan.**

- A. Program of integrated management.
  - 1. It is the intent of the BOCC to implement a coordinated program of integrated management (“IM”). The purpose of integrated management is to achieve healthy and productive natural and agricultural ecosystems through a balanced program. This program will include, but not be limited to, education, prevention measures, good stewardship and control methods.
  - 2. Integrated management is a strategy using a comprehensive, interdisciplinary approach to plant management. By viewing a problem in its entirety, one is better able to design a management plan that is safe, cost effective and gets results, without unreasonable damage to natural controls and the environment. An IM approach to weed management includes choosing from a variety of available weed control strategies and predicting their long term effects.
  - 3. The major weed control tactics to be considered in an IM program are:
    - a) Education should be considered the number one priority (e.g., plant identification, life cycles, mapping infestations).
    - b) Prevention (e.g., eliminate the undesirable plant seeds dispersal, irrigation management, soil fertility and range management).
    - c) Mechanical and physical (e.g., cutting, mowing, burning, cultivation and cross fencing).
    - d) Cultural (e.g., crop rotation, establishment of competitive crops and mulching).
    - e) Biological (e.g., grazing, predators, parasites and pathogens).
    - f) Chemical (e.g., weed oils, nonselective and selective herbicides, and plant growth regulators).
  - 4. Promote competition through re-vegetation; without competition, treated areas often return to a degraded state.

While these tactics can be used singularly, they are usually most effective when used in combination. Once it is determined why the weeds are occurring in the first place, strategies can be developed not only to reduce existing weed populations and change the size of infestations, but also to prevent future weed problems.

- A. Noxious Weed List A Species Management Requirements
  - 1. All populations of List A species in Colorado are designated by the Commissioner for eradication.
  - 2. Prescribed management techniques must be applied to every population of List A noxious weeds present in Colorado to achieve the following objectives:
    - a. The plants of every population of List A species must be eliminated prior to seed development.
    - b. Once all mature plants are eliminated, appropriate efforts must be made to detect and eliminate new plants arising from seed, reproductive

propagule, or root stock for the duration of the seed longevity for the particular species.

- C. In order to ensure that seeds or other reproductive propagules are not produced or spread, any plant with flowers, seeds, or other reproductive propagules must be disposed of by;
  - i. High intensity burning in a controlled environment that completely destroys seed viability;
  - ii. Removal of plant materials to a solid waste landfill which covers refuse daily with six inches of soil or alternative material; or
  - iii. Any other method approved by the Montezuma County Noxious Weed Program.

B. Noxious Weed List B Species Management Requirements

- 1. List B noxious weed species must be managed to control and contain the population.
  - a. Reduce or eliminate ability of the plant to produce seed or develop other reproductive propagules.
  - b. In order to ensure that seeds or other reproductive propagules are not produced or spread, any plant with flowers, seeds, or other reproductive propagules must be placed in sealed plastic bags and disposed of by:
    - i. High intensity burning in a controlled environment that completely destroys seed viability;
    - ii. Removal of plant materials to a solid waste landfill which covers refuse daily with six inches of soil or alternative material; or
    - iii. Any other method approved by the Montezuma County Noxious Weed Program.

C. Noxious Weed List C Species Management Goals

- 1. List C noxious weed species are recommended for control and suppression.

**Section 5 Road-side Spraying**

- a. The primary roadside vegetation management objectives are in relation to traffic safety and preservation of the highway infrastructure. Additionally, Montezuma County is required to control all listed noxious weeds that occur on the right-of-way by state law (RCW 17.10 and 15.15.010). It is important the Montezuma County not only meet the legal requirements for weed control, but also consider the needs and concerns of adjacent landowners.
- b. Noxious weed control operations are timed and carried out throughout the season to prevent the spread of legally designated noxious weed species, and to reduce or eliminate populations wherever possible. Integrated treatment plans combine field monitoring and a mixture of seasonally timed treatment methods with proven effectiveness on designated species. Successful plans are consistently implemented over a series of years and annually adjusted as necessary based on field observations. Care must be taken in all cases to avoid damage to surrounding desirable / native vegetation.

- c. The bareground objective includes all gravel and paved county maintained roads. These roads are maintained of a 2 to 3 foot gravel shoulder strip that is free of vegetation. This treatment is necessary to provide visibility and maintainability of roadside.
- d. Nuisance Vegetation Control includes control / management of weed species that are recommended but not mandated by state and or county law. These maintenance activities also may address vegetation growth that presents a publically perceived negative visual impact, or neighboring property concerns. Because nuisance weed control activities are not legally mandated and they do not pose a safety risk, they are considered to the last priority vegetation management needs. These species include but aren't limited to: Foxtail, Milkweeds, Yellow clover, Sunflower species, Kochia, Russian thistle, Buffalo bur, Horehound, Ragweed, Flixweed, Tumble mustard, Lambsquarters, and Claspig Pepperweed.

**Section 6 CSU Extension**

- A. Education will be an ongoing process, ever changing and utilizing all available resources.
- B. Colorado State University Extension (“CSU Extension”) will partner with the BOCC and the Montezuma County Weed Advisory Board in communicating to the public broad, efficient, and cost effective weed management programs.
- C. The role of CSU Extension in the management of noxious weeds will be that of education. CSU Extension will help people identify and understand their needs and problems in regard to noxious weed management and will provide practical solutions to these problems using research-based information and new technology.
- D. The objective of the Advisory Board, in partnership with CSU Extension and other governmental agencies, will be to provide the community with the necessary educational and technical assistance required to implement this plan.
- E. The overall goal of CSU Extension will be to provide a forum, on a continuous basis, for the education process to occur. Activities may include, but not limited to, the following:
  - 1. Newsletters on a timely basis providing research based information;
  - 2. Workshops and educational seminars in weed management techniques;
  - 3. Communication with the local press and the placement of new technology articles and releases on weed management;
  - 4. Advising individual producers on developing weed management plans;
  - 5. Private pesticide certification workshops;
  - 6. Development and implementation of test plots demonstrating effective weed management techniques and recommendations;
  - 7. Identification of noxious weeds;
- F. The Extension Office will report to the BOCC and the Advisory Board on an annual basis, as to activities in the educational arena of weed management.

**Section 7 Implementation.**

The Weed Program Office through its officers and agents will:  
*Montezuma County Comprehensive Weed Management & Enforcement Plan*  
*Resolution 7-2016*

- A. Assist CSU Extension with public awareness and education programs.
- B. Comply with laws governing pest application and licensing and follow label directions.
- C. Maintain a current list of designated noxious weeds for the state.
- D. Maintain a reference library of related materials for management of designated and noxious weeds.
- E. Strive to obtain, complete and update a set of maps showing designated weed infestations within the county.
- F. Assist county property owners and managers in preparation of Weed Management Plans. Each individual undesirable plant management plan should be an integrated plan utilizing all effective tools. A plan must be sustainable and financially sound. The plan should provide short term control, containment, reduction strategies and long term management and monitoring activities. It will take an active concentrated effort by all landowners in the county to bring weeds under control and allow intended land utilization. Cooperation will be the key to the success of this plan.
- G. Develop a set of standards and guidelines outlining steps to be taken in the preparation of these plans.
- H. Prepare a complete set of standard operating procedures detailing how recommendations for individual management plans will be prepared.
- I. The Weed Supervisor will set a time table for response after learning of a suspected noxious weed infestation. These steps are:
  - 1. Request for inspection or observation from right-of-way;
  - 2. Notification of inspection;
  - 3. Inspection;
  - 4. Notification of infestation and control recommendation;
  - 5. Approve or cooperate with landowner to prepare a Management Plan or wait for the Management Plan from the arbitration panel per CRS 35-5.5-109(5)(a);
  - 6. Supervise Plan as necessary;
  - 7. Inspect results of control measures;
  - 8. Submit invoices for all enforcement work;
  - 9. Certify any unpaid assessments with the county treasurer to be added to tax role; and
  - 10. Submit any unpaid invoices for the state board, department or agency to the controller.
- J. Maintain an adequate set of records showing purchases, inventory application and billing of chemicals.
- K. Supervise the application of weed control on county property and rights-of-way within the county.
- L. Report to the BOCC and the Montezuma County Weed Advisory Board on an annual basis or as requested at any other time.

## **Section 8      Prevention Measures.**

- A. The first priority is to prevent the introduction of any noxious weed to any area not previously infested.



- B. The most obvious method is to stop transporting viable seed or propagating plant parts by mechanical means. All equipment should be cleaned when leaving all infested areas to prevent contaminating rights-of-way and the next area entered.
- C. It is strongly recommended to use noxious weed-free certified seed. Seed containing viable noxious weed seeds should not be purchased, transported, or used: Since designated weeds will set seed prior to normal harvest dates, crops need to be treated if they are to be moved from the infested area.
- D. Once seed has reached maturity, it can remain viable for years; therefore, it can re-infest the same area or transported to other areas long after the weed problem appears to have been solved. This can occur naturally, by wind and water, or mechanically by the movement of vehicles, ATVs, equipment, etc. Seeds can also be transported great distances by domestic animals and wildlife.
- E. Common weed problems can occur in response to disturbed soils; other disturbances can result from a number of conditions including gravel pits, overgrazed pastures, overused turf, clear cut woodlands, pipeline construction and energy/gravel development, improperly maintained road edges, land development, etc. Land management practices that minimize soil disturbance are invaluable in prevention and control of undesirable plant species.
- F. Prevent the spread of noxious weed seeds via water ways:
  1. Map and monitor noxious weeds along waterways.
  2. Raise awareness of spread of noxious weeds via waterways and promote weed management.
- G. Prevent the spread of invasive weed seeds from gravel pits.
  1. Herbicide management required of all Montezuma County Listed A, B, and C species in all active gravel pits.
  2. Gravel pits will be inspected yearly by Montezuma County Noxious Weed Program.

## **Section 9 Mechanical Control.**

Mechanical control includes cultivation, mowing, hand pulling and burning. All of these measures, when used correctly, can be of great help when used in conjunction with another type of control. When used alone, they rarely have a positive long-range effect due to the excellent survival ability of noxious weeds. It may, in fact, make the problem worse through spreading seed or plant parts and by eliminating the desirable competitive species on site.

## **Section 10 Biological Control.**

- A. Biological control is the control of undesirable plants through the use of living organisms. The organism may be an insect, plant, pathogen or livestock, such as sheep, goats or cattle.
- B. Recent programs have shown livestock to be very valuable in controlling many weed species. This is especially true in instances of large infestations and in environmentally sensitive areas. When moving livestock from such an infested area for biological control, care should be taken to prevent transportation of seeds. Livestock should be quarantined for five (5) days to allow all seed to pass through the digestive track. Seed may also need to be sterilized or removed from the animals' hair or wool.

- C. Several varieties of insects which can be used on various plants are commercially available. This type of control is still in its infancy. It is being researched and directed by the Colorado Department of Agriculture Insectary in Palisade, Colorado, where insects may be purchased to be used as part of an integrated plan. Ideally, insects provide an economical and environmentally safe control method. However, there are certain problems associated with this type of control (e.g. there is a limited supply of all species and purchasing insects may require a large initial investment). Compatibility of herbicides and insects is not well known therefore participation in this project may preclude certain types of control which would allow infestations to multiply and set seed. Land operators must prepare an integrated plan to effectively control these infestations.

## **Section 11 Chemical Control.**

- A. All chemical application must be done according to the label for each individual product.
- B. The choice of chemicals and application rates that are used should be the least environmentally damaging as determined by information currently available. This determination may come first from the recommendations in the Colorado Pesticide Guide from CSU Extension. It may also be tempered by the wishes of land owners and the experience of trained personnel associated with the program.
- C. While chemicals are a powerful tool, it must be realized that they are just a tool and must be used only as a part of an integrated Management Plan.
- D. The focus of this plan is excerpted from the Colorado Weed Management Act, C.R.S. § 35-5.5 et seq., and is on file in the clerk and recorder's office.

## **Section 12 Duty to Manage Undesirable Plants, Landowner's Responsibility.**

*Stewardship of the Land* is an ethic that embodies the responsible use and management of a property owner with their property to protect them as well as adjacent properties.

It is the duty of all persons to use integrated methods to manage and prevent the spread of all Noxious Weeds if the plants are likely to be ecologically destructive or materially damaging to neighboring lands.

### **Section 12.1 Local Priority Weed List.**

The BOCC, after consultation with the Advisory Board, may elevate the status of any State B List Noxious Weed or State C List Noxious Weed that are located within Montezuma County from the State B or C lists to that of an A or B List Weed as deemed necessary. The BOCC, after consultation with the Advisory Board, may also at any time apply to the Commissioner for a waiver of compliance with an eradication designation set forth by the Commissioner for any particular State A List Noxious Weed or State B List Noxious Weed designated for eradication in Montezuma County, pursuant to the terms of C.R.S. § 35-5.5-108.5(3)(c). If such a waiver is approved, the Noxious Weed in question shall be reclassified as either a B or C List Weed as may be determined by the BOCC.

## **Section 12.2 Designation of Additional Undesirable Plants.**

The BOCC may designate additional undesirable plants or weeds not otherwise designated as State Noxious Weeds for eradication or management within Montezuma County pursuant to the terms of C.R.S. § 35-5.5-108(3), after a public hearing with thirty (30) days prior notice to the public.

## **Section 12.3 Annual Review of the Annual Montezuma County Weed Management Plan.**

The Advisory Board has, pursuant to the direction of the BOCC, originally developed the Management Plan, and will review such Management Plan on an annual basis for any desirable changes or adjustments to the Plan and shall report to the BOCC with any recommended changes or adjustments. As part of such review, the Advisory Board will review the list of noxious weeds to consider additional weeds and to prioritize control efforts. The Management Plan must be renewed and approved by the BOCC not less than once every three years, but nothing shall prevent the BOCC from approving any interim changes or adjustments to the Management Plan in any interim years. The MCWP shall maintain the Management Plan and the priority weed list and make them available to the general public.

## **Section 12.4 Importation and Cultivation.**

Persons are prohibited from importing seeds, propagative plant parts or live plants and cultivating any Noxious Weed within Montezuma County, and any such Person doing so shall be fully prosecutable pursuant to the terms of C.R.S. § 35-5.5-104.5.

## **Section 13 Administration and Enforcement**

### **Section 13.1 Administering Agency.**

The BOCC shall provide for the administration and enforcement of the Plan authorized by this article through the use of agents, delegates or employees, and may hire additional staff or provide for the performance of all or part of the Plan through outside contract. The primary duty and responsibility of administering the Plan is hereby delegated to the Weed Office, and the MCWP shall be the BOCC's primary agent in enforcement and administration thereof. Any agent, delegate, employee, staff or contractor applying or recommending the use of chemical control methods shall be licensed by the Colorado Department of Ag for such application or recommendation. Costs associated with administering or enforcing the Plan shall be paid from the general fund of the county.

### **Section 13.2 Advisory Board.**

The BOCC appoints the Advisory Board from landowners and operators living within the county boundaries. The Advisory Board shall have all of the authority and powers set forth in C.R.S. § 35-5.5-107. The BOCC shall be entitled to appoint ex-officio members, as in their sole discretion they shall determine.

### **Section 13.3 Identification and Inspection of Noxious Weeds – Methods of Identification.**

- A. Private and Public Lands
  - 1. The MCWP, acting as agent, delegate, or staff of the BOCC, shall have the right to enter upon any premises, lands, or places whether public or private, during reasonable business hours for the purpose of inspecting for the existence of noxious weed infestations, when at least one of the following has occurred:
    - a) The landowner or occupant has requested an inspection;
    - b) A neighboring landowner or occupant has reported a suspected noxious weed infestation and requested an inspection;
    - c) An authorized agent of the BOCC has made a visual inspection from a public right-of-way or area and has reason to believe that a noxious weed infestation exists; or
    - d) A MCWP agent has inspected a current aerial map or taken personal site visit to the property and determined there is reason to believe that a noxious weed infestation exists.
    - e) Yearly inspections required on all active gravel pits and main irrigation canals / ditches within the county. Main irrigation canals and ditches are: Big Corkscrew Ditch, Dove Creek Canal, Duncan, East Lateral, Gerrett Ridge Canal, Goodland Ditch / Canal, Hermana Ditch / Canal, Jackson Gulch Outlet, Little Corkscrew Canal, Lone Pine Canal, Lower Arichkaree Canal, Moon Light Canal, Rocky Ford Ditch, Towaoc Canal Ditch, U-ditch, Upper Arickaree, and West Lateral Canal.
- B. Where entry onto private premises is required to investigate the existence of noxious weeds, on-site inspections may be scheduled at any reasonable time upon the landowner or occupant's consent. No entry onto such lands shall be permitted unless one of the following occurs:
  - 1. Verbal permission to inspect the property is granted by the landowner or occupant of said property, or
  - 2. Such landowner or occupant is notified of such pending inspection by certified mail at least 10 days prior to such inspection. If after notification landowner or occupant fails to respond within ten (10) days to the request to inspect the premises or otherwise denies access to the inspector, the inspector may seek an inspection warrant issued by a municipal, county or district court having jurisdiction over the land pursuant to the provisions of C.R.S. § 35-5.5-109(2)(b) or 35-5.5-08.5(5)(b)(I).

### **Section 13.4 Notice of Presence of Noxious Weeds - Notice Letter.**

- A. Private Lands.
  - 1. Upon a discovery of the presence of noxious weeds on private premises, the MCWP, acting as agent, delegate, or staff of the BOCC has the authority to notify the landowner or occupant of the presence of noxious weeds. The Notice from the Weed Office includes the following:
    - a) The property inspection date;
    - b) The landowner and/or occupant of record;

- c) The property tax ID number or legal description of the property, and/or aerial map;
  - d) Noxious weeds to be managed;
    - i) Management requirements as detailed in section 4.
  - e) Advisement to the landowner or occupant to commence management of the noxious weeds within (14) days after receipt of notice or submit an acceptable plan and schedule for the completion of the plan for compliance;
  - f) Identification of the integrated weed management techniques for eradication or the best available control methods of integrated management;
  - g) The options of notice compliance;
  - h) The consequences for non-compliance with the notice, an offer of MCWP consultation in management plan development, and notice of landowner and/or occupant's right to request a hearing before the arbitration panel;
  - i) Statement that Weed Office will seek an inspection warrant (right of entry) from the municipal, county or district court having jurisdiction over the land, to enter property and manage identified noxious weeds unless landowner and/or occupant complies with notice, submits an acceptable plan and schedule for completion of the plan or submits a written request for a hearing before the arbitration panel within fourteen (14) days.
2. Public Lands
1. The MCWP, acting as agent, delegate, or staff of the BOCC, may give notice to any state board, department, or agency that administers or supervises state lands or right-of-ways within Montezuma County, to manage noxious weeds on its land and naming them.
    - a) Such notice shall specify the best available method(s) of integrated management and will include the same information as itemized in Section 4-A- 3 (a-f) of this Code.

**Section 13.5 Duty to Consult.**

When possible, the MCWP shall consult with the affected landowner, occupant, state board, department or agency for the development of a plan for the management of noxious weeds on the premises or lands.

**Section 13.6 Eradication and Management of Weeds; Landowner, Occupant or Public Agency Response.**

1. A Landowner, occupant or state board, department or agency receiving notification of the presence of noxious weeds pursuant to Section 12.4 above shall respond within a reasonable time after receipt thereof, but in no event to exceed fourteen (14) days if management is ordered, by any of the following:
  2. Complying with the terms of the notification and approved by a MCWP agent.
  3. Acknowledging the terms of the notification and submitting an acceptable plan and schedule for the completion of the plan for compliance. If only management is ordered, requesting an arbitration panel to determine the final management

plan. The panel shall be selected by the BOCC, through its delegates, agents, and employees, and shall include:

- a) A weed management specialist or weed scientist;
- b) A landowner of similar land in Montezuma County; and
- c) A third member chosen by agreement of the first two panel members.
- d) The landowner or occupant is entitled to challenge any one member of the panel, and the BOCC, through its delegates, agents and employees shall name a new panel member from the same category. Costs for the arbitration panel shall be split between the requesting landowner or occupants and the BOCC. The decision of the arbitration panel shall be final.

### **Section 13.7 Enforcement - Direct Action by County to Manage Weeds.**

In the event that the landowner, occupant or state board, department or agency fails to comply with any notice to eradicate or manage the identified weeds or implement the plan developed by the arbitration panel, the MCWP shall provide for and compel the eradication or management of such weeds in any manner deemed necessary and in compliance with the provisions of C.R.S. § 35-5-108.5, 35-5.5-109(5) or 35-5-110(3).

### **Section 13.8 Restrictions.**

No eradication or management of noxious weeds on private property shall occur without applying the same or greater management measures to any land or rights-of-way owned or administered by the BOCC that are adjacent to the private property or notifying party.

### **Section 13.9 Assessment of Costs for Treatment and Eradication of Noxious Weeds - Private Lands.**

If the BOCC, or its agents and employees, provide for and/or compel the management or eradication of noxious weeds on private lands, the BOCC is entitled to recover costs.

### **Section 13.10 Recoverable Costs/Method of Collection - Management.**

1. If the BOCC compels and provides for the management of noxious weeds pursuant to the provisions of C.R.S. § 35-5-109, the BOCC is entitled to assess the entire cost (time and materials used) thereof, including an additional twenty percent (20%) for inspection and other incidental costs in connection therewith, upon the lot or tract of land where the noxious weeds are located.
2. Such assessment shall be 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.
3. Such assessment may be certified to the Montezuma County Treasurer for the collection of taxes.
4. Any monies collected shall be deposited in an account designated for the enforcement of noxious weeds within Montezuma County. This account shall strictly be used for enforcement without prior approval by the BOCC for alternative disbursement.

- i. "Occupants" that are the owners of an easement or right of way, including easements and rights of way for irrigation ditches, canals or laterals, are not subject the provisions of this Section 13.11.

#### **Section 13.11 Recoverable Costs/Method of Collection – Eradication of List A Species.**

1. If the BOCC compels and provides for the eradication of noxious weeds on a tract of land pursuant to their classification as List A Weeds, the BOCC is entitled to assess the whole cost of eradicating such weeds, including up to one hundred percent (100%) of inspection, eradication and other incidental costs in connection therewith, upon the lot or tract of land where the noxious weeds are located.
2. Such assessment shall be 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.
3. Such assessment may be certified to the Montezuma County Treasurer for the collection of taxes.
4. Any monies collected shall be deposited in an account designated for the enforcement of noxious weeds within Montezuma County. This account shall strictly be used for enforcement without prior approval by the BOCC for alternative disbursement.
5. "Occupants" that are the owners of an easement or right of way, including easements and rights of way for irrigation ditches, canals or laterals, are not subject to the provisions of this Section 12.11.

#### **Section 13.12 Landowner or Occupant Protest.**

1. The MCWP shall send a "Payment Notice/Potential Lien Assessment" letter by certified and regular mail to the landowner or occupant prior to any assessment on landowner or occupant's property.
2. Landowner or occupant shall be given thirty (30) days from the date on the Payment Notice/Potential Lien Assessment Letter to respond.
  - A. In the event landowner or occupant fails to respond to the letter within the prescribed thirty (30) days, the MCWP shall assess a lien on landowner or occupant's property and may certify such lien with the Montezuma County Treasurer.
  - B. If the landowner or occupant responds within the prescribed thirty (30) days and disputes the amount of the assessment, he or she is entitled to be heard before the BOCC as to his or her concerns.

#### **Section 13.13 Scheduling a Hearing.**

- A. The landowner or occupant, or an attorney on his or her behalf, will be allowed to present testimony to the BOCC as to why they should not assess a tax lien on landowner or occupant's property for the costs outlined in the Payment Notice/Potential Lien Assessment letter.
- B. A member of the MCWP will need to be present at the hearing to provide evidence favoring the imposition of a tax lien on landowner or occupant's property.

- C. The Weed Program Office must show that prior to compelling the management of noxious weeds on landowner and/or occupant's property the MCWP applied the same or greater management measures to any land or rights-of-way owned or administered by the BOCC that are adjacent to the private property pursuant to Section 12.14 of this Code.
- D. The MCWP must show that the level of management called for in the notice or the management plan developed by the arbitration panel has been successfully achieved pursuant to Section 16.5 of this Plan.
- E. The BOCC may either grant or deny the lien assessment or continue the matter to a subsequent date certain.
- F. If the BOCC grants the lien assessment, the Resolution for Certification of Assessed Costs as granted by the BOCC is filed with the County Treasurer's Office.

**Section 13.14 Limitations.**

The BOCC shall not assess the cost of providing for or compelling the management of noxious weeds on private property until the level of management called for in the notice or the management plan developed by the arbitration panel has been completed.

**Section 13.15 Recoverable Costs/Method of Collection – Public Lands.**

- A. Any expenses incurred by the County in the undertaking of the eradication or management of noxious weeds on public lands shall be 100% of time and materials used against such state board, department, or agency that has jurisdiction over the lands.
- B. An agreement for the reimbursement of such expenses shall be reached within two (2) weeks after the date such an expense is submitted to such state board, department or agency, such agreement to be set forth in writing.
- C. If an agreement is not reached or the charge is not immediately paid, such charge shall be submitted to the controller, who shall treat such amount as an encumbrance on the budget of the state board, department or agency involved or such charge may be recovered in any court with jurisdiction over such lands.

**Companion Documents: (available on website: [www.montezumacounty.org](http://www.montezumacounty.org))**

- 1. Montezuma County Weed Management Priority Plan A, B & C Weed Lists.
- 2. 8 CCR 1206-2 Rules Pertaining to the Administration and Enforcement of the Colorado Noxious Weed Act



