

RESOLUTION 5-2023
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 Noxious Weed Department 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 Noxious 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 responsibility 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.

Definitions

See Appendix A, on pages 5-6.

Introduction

The mission of the Montezuma Noxious Weed Department (MCNWD) is to implement a coordinated program aimed at removing and eradicating undesirable plants. The program seeks to utilize integrated management methods to ensure that all lands within Montezuma County are effectively managed to meet the intent of the Colorado Noxious Weed Act. Management methods include, but are not limited to education, prevention, good land stewardship, biological control, chemical control, cultural control, and mechanical control.

The emphasis of MCNWD are public awareness, program development, and community supported programs for a productive agricultural and rural lifestyle. In addition, MCNWD is tasked with managing vegetation on county maintained right of ways to prevent the spread of noxious weeds to protect the road infrastructure and maintain adequate visibility for driver safety.

The Department's budget comes from three different sources: mill levy funds from the Montezuma County Road Department, Montezuma County general fund, and outside funding through grants and agreements. MCNWD uses 1% of the mill levy funds from the Road Department for managing vegetation along County right of ways. Funds from the general fund are used for the Cost Share Program, mapping/inventory costs, notification/enforcement costs, education/public awareness, Backpack Sprayer Loaner Program, and special projects. Grant / agreement funding is essential to support special projects such as the Non-native Phreatophyte Removal Project, Mancos River Project, Hermana Project, and other programs such as the Cost Share Program.

Administration 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 delegated to the MCNWD. This plan shall be the BOCC's primary agent for 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 Agriculture for such application or recommendation. Costs associated with administering or enforcing the Plan shall be paid from the County general fund.

Advisory Board

The BOCC appoints the Advisory Board comprised of landowners and operators who live within Montezuma County's boundaries. The Advisory Board shall have all of the authority and powers set forth in C.R.S. § 35-5.5-107.

Current Advisory Board:

- Brad White
- Eddy Lewis
- Joe Brunner
- Mark Tucker
- Steve Miles
- Walter Henes

MCNWD Goals and Objectives

- A. By 2030, complete a countywide noxious weed inventory.
 - a. Every year increase the inventory parameter to encompass 10% un-inventoried areas.
- B. Increase project follow-up / monitoring.
 - a. Create follow-up reports for all Phreatophyte Project properties on an annual basis up until 4 years after initial removal of phreatophytes.
 - b. Monitor all populations of A List species on a yearly basis.
- C. Improve the current compliance of private landowners with the Colorado Noxious Weed Act.
 - a. Increase in-person or verbal contact with landowners to decrease the number of enforcement letters 5% annually.
- D. Reduce herbicide treatments on county right of ways within 5 years.
 - a. Increase pre-emergent applications by 20% annually, in an effort to control seed bank, reducing post-emergent applications by 50%.
 - b. Continue to integrate mowing operations into MCNWD duties.
- E. Protect County road infrastructure and improve driver safety.
 - a. Continue to improve bareground strip success, 2-4' off edges of county managed roadsides.
 - b. Manage all tall vegetative species within County rights of way, that can pose a visible threat to drivers.
- F. Improve collaboration and communication among land managers in Montezuma County with regards to invasive plant species.
 - a. Coordinate and host a yearly meeting with all land managers in Montezuma County.
- G. Improve public awareness efforts of noxious weed identification and long-term management.
 - a. Host at least two seminars / workshops per year.
 - b. Increase property visits by 5% each year.
 - c. Increase social media followers by 5% each year.
 - d. Post inventory maps and other pertinent information as needed, on a yearly basis, on MCNWD's website.
- H. Support of private enterprise.
 - a. Maintain an accurate list of licensed contractors that serve Montezuma County and post the list on MCNWD's website, as well include the list with notification and enforcement letters.
 - b. Hire local licensed contractors for implementing enforcement treatments.
 - c. Hire local licensed contractors for implementing special projects.

Roadside Vegetation Management

Roadside vegetation management is undertaken for the purpose of promoting traffic safety and preserving highway infrastructure. Additionally, Montezuma County is required to control all listed noxious weeds that occur on rights-of-way by state law (RCW 17.10 and 15.15.010). It is important that Montezuma County meet legal requirements for weed control and consider the needs and concerns of adjacent landowners.

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 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 monitoring.

Prevention Methods

Early Detection and Rapid Response (EDRR) can stop the spread of new and emerging invasive plant species before they become established. It is one of the most cost-effective and ecologically viable methods for controlling invasive weeds and is well worth the effort to protect Colorado's natural and agricultural resources. Please refer to this website for more information: [Early Detection Rapid Response | Department of Agriculture \(colorado.gov\)](#).

Enforcement of the Colorado Noxious Weed Act

In the event that a 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 MCNWD 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).

Please refer to Appendix B, pages 7-9 for the enforcement procedure.

Appendices

Appendix A: Definitions

- **Advisory Board:** 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:** Board of County Commissioners of Montezuma County, Colorado.
- **Colorado Noxious Weed Act:** The provisions contained in C.R.S. § 35-5.5-101 et seq.
- **Commissioner:** The commissioner of the Colorado Department of Agriculture or his or her designee.
- **Federal agency:** Bureau or department of the federal government responsible for administering or managing federal land.
- **Integrated management:** 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:** A plant species which is not indigenous to the State of Colorado.
- **Landowner:** Any owner of record of federal, tribal, state, county, municipal, or private land.
- **Local noxious weed:** Any plant, indigenous or exotic, of local importance that has been declared a noxious weed by the BOCC.
- **Management:** Any activity that prevents a plant from establishing, reproducing, or dispersing itself.
- **Management objective:** 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) 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.
 - c) 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.
- **MCNWD:** Montezuma County Noxious Weed Department.
- **Native plant:** A plant species which is indigenous to the State of Colorado.
- **Noxious weed:** Non-native, invasive species, that have been designated by rule by the Colorado Department of Agriculture 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, pets, and/or humans;
 - c) It is a carrier of detrimental insects, diseases or parasites;

- 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:** 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. This includes 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:** Montezuma County Weed Management and Enforcement Plan as developed by the Advisory Board and approved by the BOCC.
 - **State noxious weed:** 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:** A noxious plant species that is designated as undesirable by this article, the Colorado Agriculture 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:** The planning and implementation of an integrated program to manage undesirable plant species.

Appendix B: Enforcement Procedure

Notice of Presence of Noxious Weeds - Notification Letter.

A. Private Lands.

1. Upon a discovery of the presence of noxious weeds on private premises, the MCNWD, 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 Noxious Weed Office includes the following:
 - a. The landowner and/or occupant of record;
 - b. Eagle Web property identification information;
 - c. Noxious weeds to be managed;
 - d. Colorado Department of Agriculture fact sheet(s);
 - e. Cost share application, and any other program information that may assist the landowner in managing noxious weeds.

Duty to Consult.

- A. When possible, the MCNWD shall consult with the affected landowner, occupant, State Land Board, department or agency for the development of a plan for the management of noxious.
 1. Check GIS map and notification records.
 2. MCNWD will make all reasonable efforts to make a personal contact either by phone or in person and explain the problem and pathway to correct the problem.
 - i. Will send the list of properties to the Advisory Board and BOCC to try and obtain phone numbers.
 3. MCNWD will make all efforts to make contact with landowner by going to a house on property.

Certified Enforcement Letter.

- A. MCNWD, acting as agent, delegate, or staff of the BOCC has the authority to send a certified letter with a return receipt, requiring a three-year management plan from the landowner or occupant for managing noxious weeds. The Notice from the Noxious Weed Office includes the following.
 1. The landowner and/or occupant of record;
 2. Eagle Web property identification information;
 3. Noxious weeds to be managed;
 - i) Management requirements as detailed in section 4.
 4. Advisement to the landowner or occupant to commence management of the noxious weeds within ten (10) days after receipt of notice or submit an acceptable plan and schedule for the completion of the plan for compliance;
 5. The options of notice compliance;
 6. 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;
 7. Statement that Noxious Weed Office will seek an inspection warrant (right of entry) from the county, 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 ten (10) days.
 8. Colorado Department of Agriculture fact sheet(s);
 9. Proposed management plan;
 10. Landowner response letter.

Eradication and Management of Weeds; Landowner Response.

1. A Landowner, occupant or state board, department or agency receiving notification of the presence of noxious weeds pursuant to Section 14.4 above shall respond within a reasonable time after receipt thereof, but in no event to exceed ten (10) days if management is ordered, by any of the following:
 - i. Complying with the terms of the notification and approved by a MCNWD agent.
 - ii. Acknowledging the terms of the notification and submitting an acceptable plan and schedule for the completion of the plan for compliance. The landowner can request 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.

Management Plans

Refer to the Department's website, montezumacounty.org/noxious-weed-program, or stop by the Noxious Weed office to obtain a copy of the local noxious weed list and management requirements. Management plans must outline yearly methods for control and suppression or eradication of the specific species present, incorporating at least three years of management. 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.

The major weed control tactics to be considered in an IM program are:

- Education is considered the number one priority (e.g., plant identification, life cycles, mapping infestations).
- Prevention (e.g., eliminate the undesirable plant seeds dispersal, irrigation management, soil fertility and range management).
- Mechanical and physical (e.g., cutting, mowing, burning, cultivation and cross fencing).
- Cultural (e.g., crop rotation, establishment of competitive crops and mulching).
- Biological (e.g., grazing, predators, parasites and pathogens).
- Chemical (e.g., weed oils, nonselective and selective herbicides, and plant growth regulators).

Enforcement - Direct Action by County to Manage Weeds.

In the event that the landowner fails to comply with the certified enforcement letter with the provisions of C.R.S. § 35-5-108.5, 35-5.5-109(5) or 35-5-110(3):

1. MCNWD will present the BOCC with a right of entry request to manage noxious weeds in pursuant to the management plan MCNWD developed for the property, which was sent with the enforcement letter.

2. 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.
3. Once a right of entry has been approved and signed by the BOCC, MCNWD will send the right of entry via certified mail.
4. MCNWD will hire a contractor to carry out a noxious weed treatment on the property from which the right of entry was granted for.

Recoverable Costs/Method of Collection - Management.

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.

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. An invoice will be sent certified, with a return signature, requiring full payment within 30 days of receipt.
3. If the invoice is not paid within 30 days MCNWD will request the BOCC to implement 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.
4. Such assessment may be certified to the Montezuma County Treasurer for the collection of taxes.
5. 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.

Landowner or Occupant Protest.

- 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 MCNWD 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. MCNWD must show that prior to compelling the management of noxious weeds on landowner and/or occupant's property that MCNWD 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 14.8 of this Code.
- D. The BOCC may either grant or deny the lien assessment or continue the matter to a subsequent date certain.
- E. 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.

NOW THEREFORE BE IT RESOLVED that the Board of County Commissioners for Montezuma County, Colorado, determine Resolution 4-93, First Amended, be GRANTED and become effective immediately.

Commissioners voting aye in favor of the Resolution were:

James Candelaria

Kent Lindsay

Gerald Koppenhafer

Hem Perrell 4/7/2023

County Clerk and Recorder
Montezuma County, Colorado



I certify that the above foregoing Amended Resolution is a true and correct copy of same as it appears in the minutes of the Board of County Commissioners for Montezuma County, Colorado, and the votes upon same are true and correct.