

***Idaho State Department of Agriculture***  
***IDAPA 02.06.22 Noxious Weed Rules***  
***May 16, 2017***  
***Jim Caswell, Facilitator***

Present: Kali Sherrill, Twin Falls County Weed Superintendent; Brian Wilbur, Ada County Weed Superintendent; Jim Martell, Canyon County Weed Superintendent; Mitch Whitmill, Jefferson County Weed Superintendent; Terry Lee, Idaho Association of Weed Control Superintendents; Dennis Fix, Far West Garden Center; Seneca Hull, Franz Witte; Ann Bates, Idaho Nursery and Landscape Association; Rep. Judy Boyle, House Agriculture Chair; Madison Grady, Office of the Governor; Don Kemner, Idaho Fish and Game; Benjamin Kelly, Idaho Weed Control Association; Rick Waitley, Idaho Weed Control Association; John Caywood; Jim Shane; Dwight J. Allen, Retired Nurseryman; John Robison, Idaho Conservation League; Angela Rossmann, Great Old Broads for Wilderness; Cay Marquart, Great Old Broads for Wilderness; Ron Marquart, Volunteer conservationist; Kay Hummel, Boise Heights Neighborhood Association; Bob DiGrazio, Table Rock Neighbor; Sarah Martz, Harris Ranch; Forrest Goodrum, Ada County Fish & Game League; Chad Cripe, Idaho Statesman; Lloyd Knight, ISDA; Adam Schroeder, ISDA; J.D. Slater, ISDA; W. Dallas Burkhalter, ISDA/Office of the Attorney General; Owen Moroney, ISDA/Office of the Attorney General; Janis Perry, ISDA; Jim Caswell.

**AGENDA ITEMS**

**WELCOME**

Jim Caswell convened the meeting at 1:30 pm. He explained that the two hours would be structured time following the agenda provided. There will be no breaks. Please sign in on the attendance sheet. The end game would be to review the four options. The ground rules for the discussion include: be respectful, listen for understanding, share the air time, and honor the time limits.

All members present introduced themselves.

Brian Oakey, Deputy Director of ISDA, provided an overview of the rulemaking process according to the Idaho Administrative Procedures Act. He stated that this is the negotiated rulemaking phase where the purpose is to facilitate discussion with diverse points of view, to create a rulemaking record with written comments, and hopefully reach consensus to publish a proposed rule prior to September 1. Prior to this step the department received governor's office approval. Mr. Oakey emphasized that the department does not support a particular option. If a hearing is requested it would take place in September or October. Then a pending rule would be published for legislative review in December.

Angela Rossmann, petitioner, explained that she feels that yew is not just toxic, but lethal. She hopes that prohibiting the sale statewide would save counties the trouble after what happened in Blaine County. She indicated that Costco threw out \$5,000 worth of plant material, but other retailers were unwilling unless the sale was illegal. Her dream come true would be to not sell the plants in Idaho.

Don Kemner, Idaho Fish and Game, provided technical background on yew biology including yew-

related wildlife deaths. Fish and Games counts 101 known or suspected big-game deaths from the 2016-17 winter because of yew poisoning. That includes 55 pronghorn in Payette in two separate incidents; eight mule deer in Boise; one moose in Hailey; and 37 elk in Boise, Preston, Ammon, Challis and North Fork. Previous reported incidents include about 25 elk in 2015-16 in Blaine County, two elk in 2011-12 and two moose in 2010-11.

Yew's toxic effects act quickly; too fast for treatment, according to Mr. Kemner. Eating a small amount of all parts of the plant can cause death. English yew is known as poisonous to humans for greater than 2000 years. The landscape species is toxic to many mammals and to chickens and many birds. The native pacific species is not toxic.

Mr. Kemner reviewed the four types of yews used in western US landscaping that are all poisonous: Japanese, English, Chinese, and Canadian. Pacific yew is native to northern Idaho needs a lot of water and can be a big tree so is not generally used in landscaping. None of these are known to spread in Idaho.

Fish and Game addressed yews that are a hazard by covering them with a protective covering or disposing of them in a covered landfill. They focused on education and alternative plantings through newsletters and on their website.

A participant asked if there is data for other poisonous plants. Mr. Kemner mentioned loco weed, but data is not available according to Lloyd Knight. Another participant asked how many man hours have been spent to handle the yew issue by Fish and Game this past winter. Mr. Kemner indicated he would try to get that figure.

Representing the Idaho Nursery and Landscape Association, Dennis Fix from Far West Garden Center and a big game hunter, explained that his company offers a replacement plan for customers who bring a yew into his store. He advocated for education helping customers who live in the foothills find a replacement. He stated it has ornamental value in certain shady places. He also felt that it would be a big burden financially to police.

Seneca Hull of Franz Witte in Boise and McCall stated that she also was not happy with the animal deaths but cautioned with making a "knee-jerk reaction." "How many big game were killed by car?" she asked. She felt that the rulemaking opens Pandora's box since a number of other plants that are harmful to animals. She indicated that yew does not spread and is not a noxious weed. She felt that education is the answer.

Terry Lee, representing the Idaho Association of Weed Control Superintendents, addressed the group with concerns he said were not unanimous but represented the majority of his group. He indicated that this record breaking winter forced animals into residential areas. The weed control superintendents are concerned that the financial burden to remove yews could overwhelm them and over burden their county weed program budgets. He suggested that the use of the warning label might work. He also suggested that a change to Title 22, Chapter 23, the Nurseries and Florists Law might be in order.

Forrest Goodrum of the Ada County Fish and Game League complimented Fix and Hull on their

attempts to educate customers but pointed out that many yews likely will be purchased at big-box stores that aren't set up to deliver that type of service. He indicated that he supported the petition. He offered a fifth option to add the yews to the control list. He reminded the group that the yew has been called "the tree of death." He asked that two articles be placed in the rulemaking record.

Kay Hummel, representing the Boise Heights Noxious Weeds Committee, said she has lived in the area for 29 years. The neighborhood didn't attract deer when she moved in but now there's a resident herd that hangs out in the area. She also indicated that ungulates are not just in the foothills but along the Barber pool. She advocates that people work together to have something with some teeth in it. She asked if Montana had banned yews.

Bob DeGrazio, a hunter who lives near Table Rock, explained that he found 13 elk that died of yew poisoning. Elk have used that area for the 28 years he has lived there, he said. He wondered why there's no penalty for poisoning wildlife with yew plants while there are stiff penalties for poaching the animals.

John Caywood suggested that we work together so that we don't grow the problem and continue the problem for next year.

Mitch Whitmill, Jefferson County Weed Superintendent, asked what the legal ramifications would be.

Mr. Caswell distributed four "straw man" rules for the group to consider. The rules can be discarded or changed by the rulemaking group, which is open to all interested parties. The options presented:

**Option A:** Add Japanese and English yew to the statewide containment list for noxious weeds. This would permit weed control efforts to target yews, but not require it. The sale of yews in Idaho would be banned. Are there other poisonous plants? Yes, is there data on deaths for hemlock deaths?

**Option B:** Create a warning label for yews. Would anything be permanent?

**Option C:** Create a poisonous plants designation that would allow county weed superintendents to designate areas as high or low risk for wildlife. The superintendent could require all poisonous plants located in the high-risk areas to be destroyed. The weeds superintendents didn't like this option because they would be making decisions concerning residents' personal property.

**Option D:** Add *Taxus* plants (yew) to the statewide prohibited list. However, the category doesn't allow for exceptions. Since the Pacific yew is native to Idaho and creates important forage for big game in some parts of the state, this option likely won't work.

Mr. Caswell asked that all participants respond to the website with comments about the preferred option to work on by May 30, 2017.

Ann Bates reported she contacted the Montana Department of Agriculture and that Montana had not banned yews in answer to Ms. Hummel's question.

Next meeting will be Tuesday, June 6, from 1:30 to 3:30 pm at ISDA.

Jim Caswell adjourned the meeting at 3:40 pm.

Respectfully submitted by Janis Perry.