

**Idaho State Department of Agriculture**  
**IDAPA 02.06.22 Noxious Weed Rules**  
**June 6, 2017**  
**Jim Caswell, Facilitator**

Present: Terry Lee, Idaho Association of Weed Control Superintendents; Dennis Fix, Far West Garden Center; Ann Bates, Idaho Nursery and Landscape Association; Madison Grady, Office of the Governor; Benjamin Kelly, Idaho Weed Control Association; Rick Waitley, Idaho Weed Control Association; Jonathon Oppenheimer, Idaho Conservation League; Will Wicherski, Idaho Conservation League; Angela Rossmann, Great Old Broads for Wilderness; Forrest Goodrum, Ada County Fish & Game League; Dr. Dawn Sessions, Broadway Vet Hospital and Ada County Fish & Game League; Brian Brooks, Idaho Wildlife Federation; Sean Finn, Golden Eagle Audubon Society; John Cenarrusa, Blaine County Weed Superintendent; Eileen Thuesen; Melinda Marks; Clayton King, Association Management Group; Nic Zurfluh, ISDA; Lloyd Knight, ISDA; Adam Schroeder, ISDA; J.D. Slater, ISDA; Brigitta Gruenberg, ISDA; Brian Oakey, ISDA; W. Dallas Burkhalter, ISDA/Office of the Attorney General; Janis Perry, ISDA; Jim Caswell.

## **AGENDA ITEMS**

### **WELCOME**

Jim Caswell convened the meeting at 1:30 pm. He reviewed the ground rules for the discussion including: be respectful, listen for understanding, share the air time, and honor the time limits.

All members present introduced themselves.

Jim Caswell reviewed the previous meeting. He reviewed the four options presented and had asked for comments on the options:

**Option A:** Add Japanese and English yew to the statewide containment list for noxious weeds.

**Option B:** Create a warning label for yews.

**Option C:** Create a poisonous plants designation that would allow county weed superintendents to designate areas as high or low risk for wildlife.

**Option D:** Add *Taxus* plants (yew) to the statewide prohibited list.

All the comments submitted by May 30 were posted on the website, along with answers posed to Fish and Game at the last meeting. To summarize the 79 responses, Jim Caswell stated the feedback fell into three district categories:

1. Prohibit this plant since it is toxic
2. Should not regulate a plant that is not invasive
3. Not a priority of weed superintendents since it is not noxious on statewide basis

Some question on whether plant can be sold if listed on any option, so may need a legal opinion. Jim Caswell asked the group if given the polarity if we could find consensus and cautioned that the rule should be achievable and should be enforceable. He opened the meeting for discussion.

Forrest Goodrum stated that he had friends in the nursery business and he recognized that the weed superintendents were focused on protecting agriculture, but that this plant was causing carnage. With only a couple of out-of-state suppliers he felt that regulating sales could be accomplished.

Jonathon Oppenheimer mentioned that it sounds like Option A would not require removal of existing plants.

Angela Rossmann explained that a waiver to wrap existing plants in the winter was a possibility

Ann Bates indicated that not another state has it on their noxious weed list. California has it on a poisonous list.

Brian Brooks stated that his group is concerned about a plant being sold that takes a resource of wildlife from the state.

Jonathon Oppenheimer responded that even though species that are currently on the noxious weed list are difficult to control, it should not preclude us from including other plants in another category that are relatively easy to control.

Dawn Sessions read her comment letter from a veterinarian point of view on how toxic yew ingestion can be.

Melinda Marks stated that, as a cardiologist, she had contacted the poison control center and learned that four children had ingested yew berries in Idaho since 2012.

Brian Oakey explained that the agency can move to formal rulemaking after the July 15 comment period ends if it feels that we did not achieve consensus. At that point the public (with 25 people) can petition the agency for a hearing.

Angela Rossmann stated that Blaine County had trouble coordinating with cities when it passed its ordinance. She said the state has funding where the counties do not.

John Cenarrusa, as Blaine County weed superintendent, found that the environment and wildlife were important to people in that area and they were very supportive. However, no two counties are alike. He also found the Blaine County nurseries to be helpful.

Dennis Fix responded that sometimes the issue can be site specific. He was recently in Salt Lake City where they had no issue with yews even though they too had a harsh winter. He advocated for the right plant for the right place.

Angela Rossmann stated that there has not been an inventory done of yews statewide. She has talked to developers to encourage them not to use yews. However, she has found lots of yews in Cassia County at the hospital and at CSI.

Dawn Sessions indicated that she visited with another vet from eastern Idaho who hired two landscapers

that both recommended using yews

Melinda Marks asked if the nursery association would support any scenario where the sale of yews would be prohibited.

Ann Bates stated that her organization only addressed that the yew does not belong on the noxious weed list. She wondered who figures out the additional cost of the rulemaking.

Angela Rossmann interjected that homeowners pay to have their yews removed.

Adam Schroeder clarified that the cost of the weed superintendent investigating the weed infestation is born by the county and then the landowner pays to control the noxious weed.

Brian Brooks asked the nursery people at the table if they want to keep selling yew and how do we meet in the middle?

Dennis Fix responded by saying that he feels this opens Pandora's box. It may benefit the nurseries since consumers would have to buy replacements. His nursery already has a buy-back program. He felt that growers would help compensate Fish and Game. He also felt that this is a weather related issue. He supports the labeling option.

Sean Finn stated that the Audubon Society does not want plants available that harm children and wildlife. He would like to set a precedent to compensate through rulemaking. He would focus on no harm and ways to educate.

Madison Grady asked the petitioners if they are open to options that are not statewide.

Angela Rossmann responded if we could identify the counties.

Melinda Marks commented that the human exposures were in Bonneville and Ada Counties.

Dawn Sessions remarked that we are not dealing with a permanent list of noxious weeds.

Jim Caswell asked if this rule is the right vehicle for this issue.

Forrest Goodrum suggested we look for common denominators.

Rick Waitley asked what the toxic list is. He mentioned that the noxious seed list is much larger than the noxious weed list, because the groups agreed to disagree. He suggested that perhaps we look at an option creating a poisonous plants list. We may be better in another place, other than Noxious Weeds.

Ann Bates commented that we only addressed the noxious weeds list.

Terry Lee, representing the Idaho Association of Weed Control Superintendents, stated his group still opposes all options.

Brian Oakey reminded the group that any of the options could be tweaked but the agency authority only lies within the noxious weed law. If we create a new list, we will have to go back to the legislature for authority.

Dawn Sessions stated that another meeting does not make sense.

Angela Rossman said perhaps more information would help.

Jim Casswell stated that it seems like the ball is in ISDA's court with five weeks left for comments.

Brian Oakey stated that what would really be helpful from people would be:

- What options could you not live with?
- What options could you live with?
- How would you change the options that you could live with?

Angela Rossman asked if we have given up a small group working on this.

Jim Casswell responded yes, although we are willing to hold as many meetings as are beneficial if we can come to consensus.

Angela Rossman stated that maybe there are counties that are clean.

Jonathon Oppenheimer asked what can we do as a group to move forward.

Ann Bates said this time of year I cannot get my group together. They are too busy with their businesses.

Brian Oakey suggested that with a tight agenda the group could come up with something or not.

Dennis Fix stated that if we can move off the prohibited and do not sell, we might be able to talk.

A small group agreed to meet Tuesday, June 20, from 1:30 to 3:30 pm at ISDA.

Jim Caswell adjourned the meeting at 3:45 pm.

Respectfully submitted by Janis Perry.