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May 21, 2017

TO: Lloyd Knight, Administrator, Plant Industries Division, Idaho Department of Agriculture

REGARDING: Negotiated Rule Making, 02.06.22 – Noxious Weed Rules, Docket No. 02-0522-17xx

Dear Mr Knight:

We request that this written comment be included in the record of the referenced Negotiated Rule Making.

The Ada County Fish & Game League, Inc. supports the petition of Angela Rossman to amend Department Rule 02.06.22 to list Japanese Yews, Chinese Yews and English Yews to the list of Noxious Weeds pursuant to the laws enacted by the Idaho Legislature.

THE "STRAWMAN OPTIONS" PROPOSED BY THE DEPARTMENT ARE NOT USEFUL

The four rules options you have proposed are not useful because they provide no realistic controls for the exposure of people and animals to one of the most toxic plants on earth, often referred to as "the tree of death". They divert attention from efforts to negotiate a rule which provides adequate protections.

We categorically reject the four rules options suggested by the Department for the reasons set forth below.

OPTION A

Adds toxic yews to the "containment list" in Rule 02.06.22.04 This would NOT require any action by weed control authorities. The Rule says they "may" take action, if they feel like it. This makes no change in the status quo, so it is, in effect a "no action" option Any discussion of it is pointless.

OPTION B

This requires a label on all toxic yews sold. The proposed label is inadequate on its face. At a minimum it should show a skull and crossbones, state that the plant is often called "the tree of death" and that ingestion of even a small quantity will result in severe sickness or death. We are not comfortable that labeling can be policed effectively in the first place. Then, sooner or later the label will get detached or lost. The public has no protection at all after the label is gone. We do not want protection that is only temporary.

OPTION C

This option says that the county weed superintendent "may", if he feels like it, designate "high risk" and "low risk" areas for wildlife and get rid of toxic yews in the high risk areas. This is another "no action" option which makes no change in the status quo. Any other county can do what Blaine County has done without a Department rule. Also, this rule speaks strictly to wildlife. It fails to address hazard to domestic animals and children which we value at least equally.

OPTION D

This option places all plants in the genera Taxus on the statewide prohibited genera noxious weed list. It ignores the existence of the pacific yew which is in the Taxus genera. It is a native plant in north Idaho and not dangerously toxic. This option is an obvious red herring and merits no further discussion.

A REALISTIC OPTION WHICH MERITS DISCUSSION

Rather than wasting time on “straw man” options which are ineffectual or unrealistic, we request that discussion be directed to a Rule proposal which actually addresses the problem of toxic yew poisoning.

We specifically advocate adding toxic yews to the existing list set forth in Rule 02.06.22.02, which provides: “Weeds listed in the control list are known to exist in varying populations throughout the state. The concentration of these weeds is at a level where control and/or eradication may be possible. A written plan for weeds on the Statewide Control Noxious Weed List shall be developed by the control authority that specifies active control methods to reduce known populations in not more than five (5) years, The plan shall be available to the Department upon request.”

We suggest this provides a measured approach which does not require out right eradication but does leave flexibility to minimize exposure of children, domestic and wild animals to these deadly toxic plants, and could include public education components as well.

A single mouthful can kill within minutes. We need a Rule that actually provides some protection. The rule which we have suggested above is workable and flexible enough to form a real basis for discussion.

It should be addressed in detail at the next negotiated rule making meeting. Please remember the Statutory Mandate imposed by the Idaho Legislature making the Department responsible for the control of noxious weeds. Please further remember that “noxious weeds” are defined by statute and toxic yew falls foursquare within the statutory definition. We look to you to meet your Statutory Duty.

Very truly yours,

ADA COUNTY FISH & GAME LEAGUE, INC.

By: /s/

Forrest R. Goodrum, Legislative Director