

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
11201 RENNER BLVD.  
LENEXA, KANSAS 66219

IN THE MATTER OF

Tom Villegas  
and  
Amy Villegas,  
Respondents  
Proceeding under Section 309(g) of  
the Clean Water Act, 33 U.S.C.  
§ 1919(g)

Docket No. CWA-07-2022-0104

RESPONDENTS' PREHEARING  
EXCHANGE

Pursuant to 40 C.F.R. § 22.19 of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," 40 C.F.R. Part 22, and the Presiding Officer's Order of September 8, 2022, Respondents Tom Villegas and Amy Villegas (collectively the "Villegas") submit the following Prehearing Exchange.

Please note that due to last-minute communications from Mr. Tillotson concerning his ability to testify, the Villegas respectfully request the right to supplement this Prehearing Exchange upon obtaining an alternate expert witness.

**I. WITNESSES**

1. Tom Villegas – Mr. Villegas is one of the Respondents in this matter, and the husband of Amy Villegas. He will testify as a fact witness to the activities undertaken at the Property.
2. Keith Tillotson – Mr. Tillotson is an Environmental Technician with MILCO Environmental Services Inc., and has been retained by the Villegas as an expert witness. Mr. Tillotson is expected to testify regarding the extent of wetlands present on the Property.

3. Tim Root – Mr. Root is a fact witness and is expected to testify regarding the presence of *Phragmites* on the Property, and activities undertaken to control the same.
4. Amy Villegas – Mrs. Villegas is one of the Respondents in this matter, and the wife of Tom Villegas. Mrs. Villegas is the record owner of the Property at issue. If called, Mrs. Villegas is expected to testify as a fact witness regarding Tom Villegas’ activities undertaken at the Property.
5. All witnesses listed on the Complainant’s Witness List.
6. Any witnesses needed for rebuttal.

## **II. EXHIBITS**

In addition to the exhibits listed in EPA’s Prehearing Exchange, the Villegas identify the following documents to be used as exhibits:

RX 1 – GIS Photos

RX 2 – Nebraska Noxious Weed Control Act

RX 3 – Nebraska Admin. Code Title 25 Chapter 10

RX 4 – Phragmites Publication by NDA

RX 5 – Phragmites Weed Spraying Invoices 2018-2021

RX 6 – Phragmites Photos

RX 7 – Neighboring Property Phragmites Photos

RX 8 – Tillotson Resume

## **III. ANTICIPATED LENGTH OF TRIAL**

The Villegas anticipate needing one day to present their evidence, subject to adjustment based on the evidence presented in the EPA’s case in chief.

## **IV. TRANSLATION SERVICES**

The Villegas do not anticipate the need for translation services for any of the Villegas’ anticipated witnesses.

## V. AFFIRMATIVE DEFENSES

### A. The Villegas' actions did not cause a discharge of fill material, nor did their actions excavate wetlands.

The Villegas dispute EPA's allegations that 5.696 acres of wetland were impacted. As demonstrated by Mr. Tillotson's site visit and report, EPA's site visit and report overstates the area of the Property that is wetlands. In other words, much of the activity on the Property impacted uplands, not wetlands. Accordingly, there is a factual dispute concerning the extent to which the Villegas' actions fall within the scope of activities regulated by the CWA.

### B. The proposed penalty in the sum of \$299,857 is unreasonable and unwarranted.

The proposed penalty in this matter is excessive, unreasonable, and unwarranted. Pursuant to 33 USC § 1319(g)(3), in determining the amount of penalty, the "the nature, circumstances, extent and gravity of the violation, or violations, and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such other matters as justice may require" shall be taken into account.

Here, EPA acknowledges that it has no evidence that the Villegas have a history CWA violations. Furthermore, while EPA attempts to fault the Villegas for making "improvements" to the Property, EPA fails to acknowledge that a substantial portion of the improvements came from removing and managing the *Phragmites* infestation on the Property, a noxious weed which the Villegas have a duty under Nebraska law to control.

## VI. ADDITIONAL DEFENSES

### A. The Stream Crossings are Non-Prohibited Discharges.

To the extent the EPA asserts that certain stream crossings on the Property are violations of the CWA, such crossings do not amount to prohibited discharges under 33 USC § 1344(f)(1)(E) and are not otherwise recaptured by § 1344(f)(2).

**VII. STATEMENT OF ABILITY TO PAY**

Although the Villegas believe that the fine sought is unreasonable, they do not intend to raise the defense of inability to pay at this time. The Villegas reserve the right to amend this section.

Dated: November 11, 2022

TOM VILLEGAS and AMY  
VILLEGAS, Respondents

MATTSON RICKETTS LAW FIRM  
134 S. 13th Street, Suite 1200  
Lincoln, NE 68508-1901  
Phone No.: (402) 475-8433  
Fax No.: (402) 625-0775  
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By:   
\_\_\_\_\_  
Stephen D. Mossman, #19859  
Andrew R. Spader, #27099

## CERTIFICATE OF SERVICE

The undersigned certifies that true and correct copies of the foregoing were served via on November 11, 2022, on the following, in the manner indicated below:

*Via OALJ E-Filing System*

Mary Angeles, Headquarters Hearing Clerk  
U.S. Environmental Protection Agency  
Office of Administrative Law Judges

*Via OALJ E-Filing System*

Susan L. Biro, Chief Administrative Law Judge  
U.S. Environmental Protection Agency

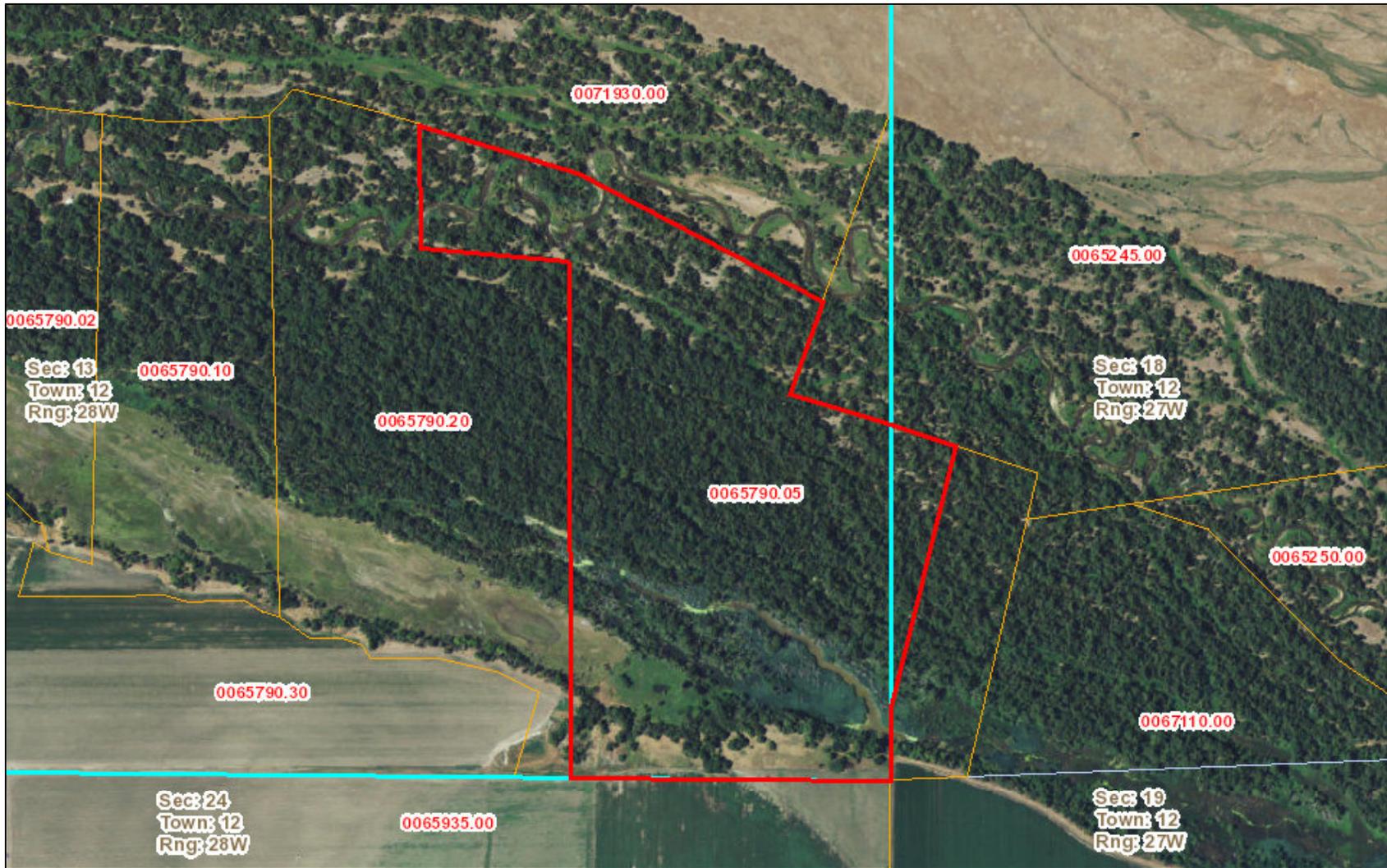
*Via Email*

Natasha Goss, Attorney-Advisor  
U.S. Environmental Protection Agency, Region 7  
11201 Renner Boulevard  
Lenexa, Kansas 66219  
[goss.natasha@epa.gov](mailto:goss.natasha@epa.gov)



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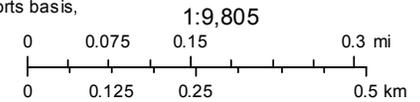
Attorney of Record

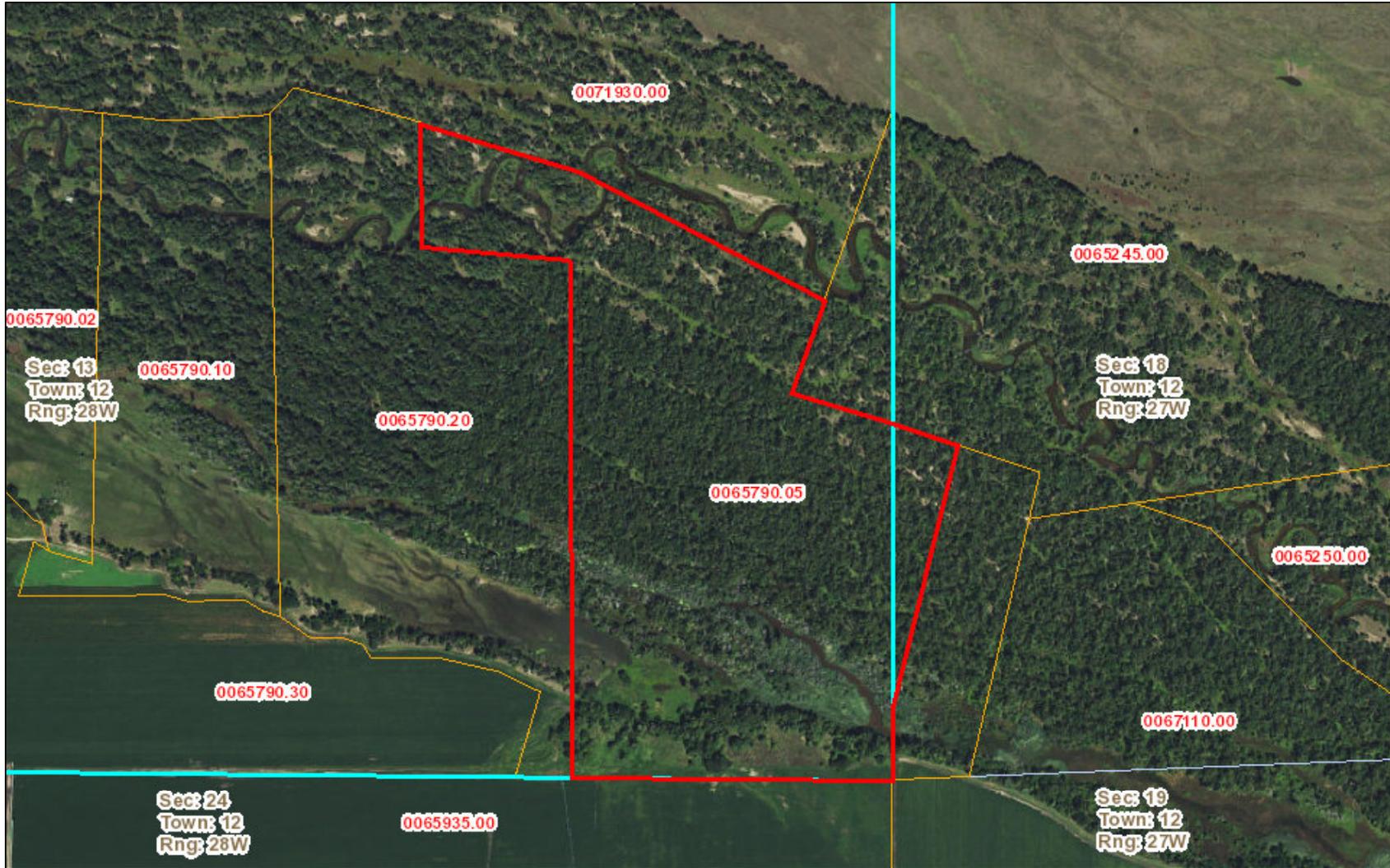


November 3, 2022

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- Parcels
- Sections

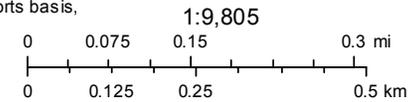


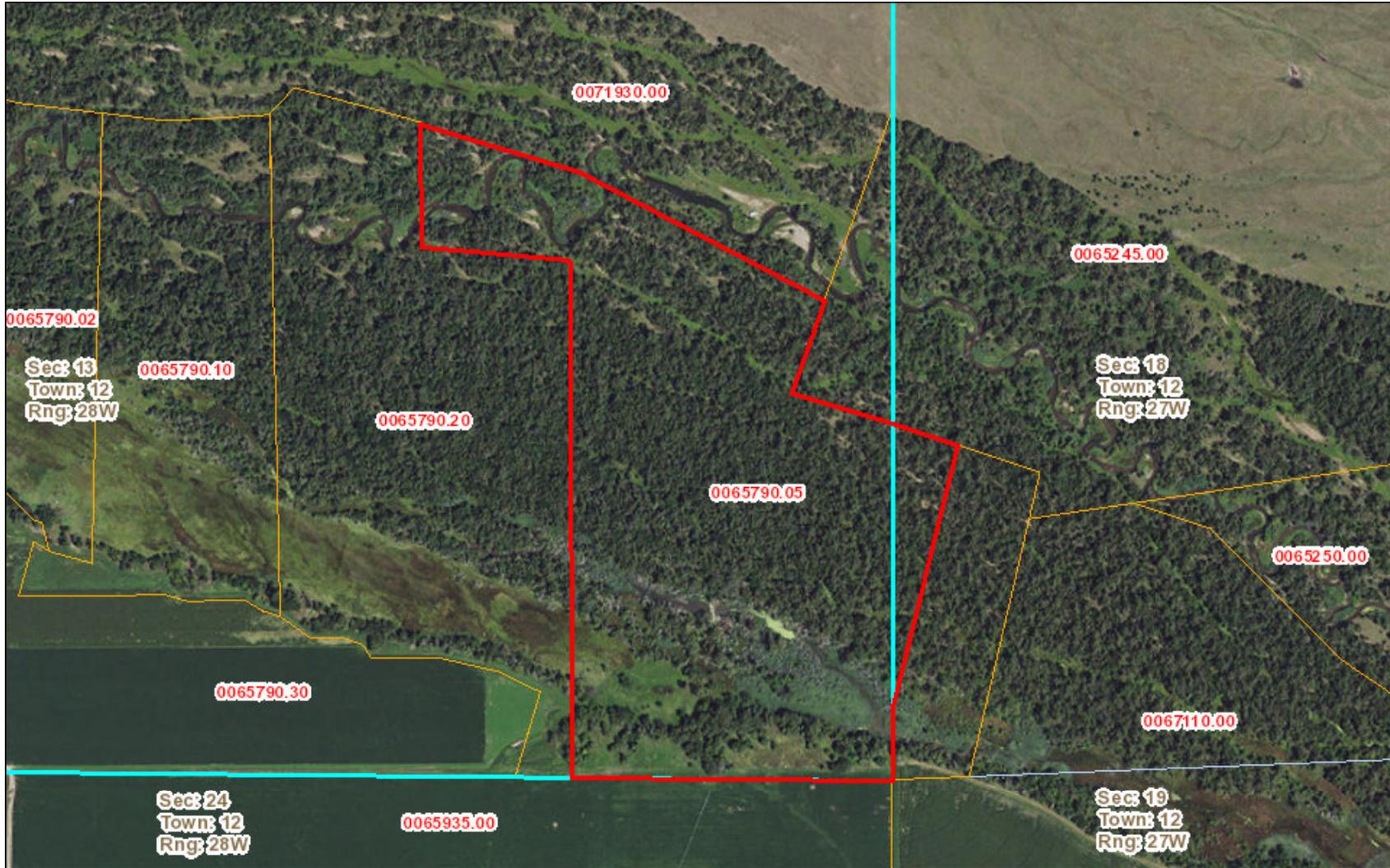


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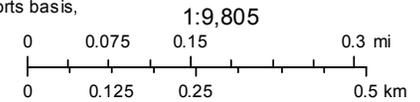


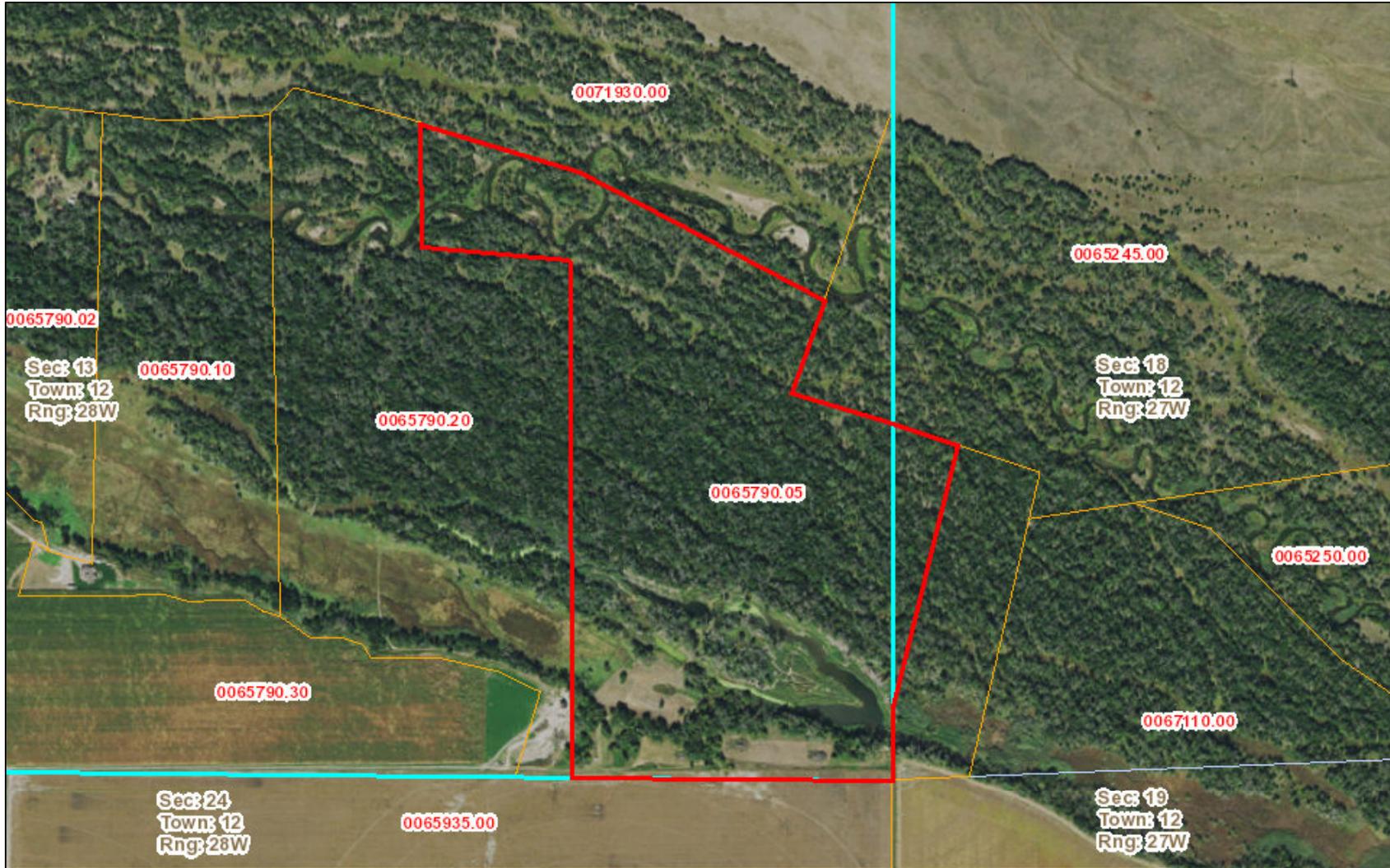


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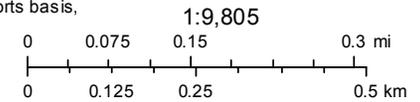


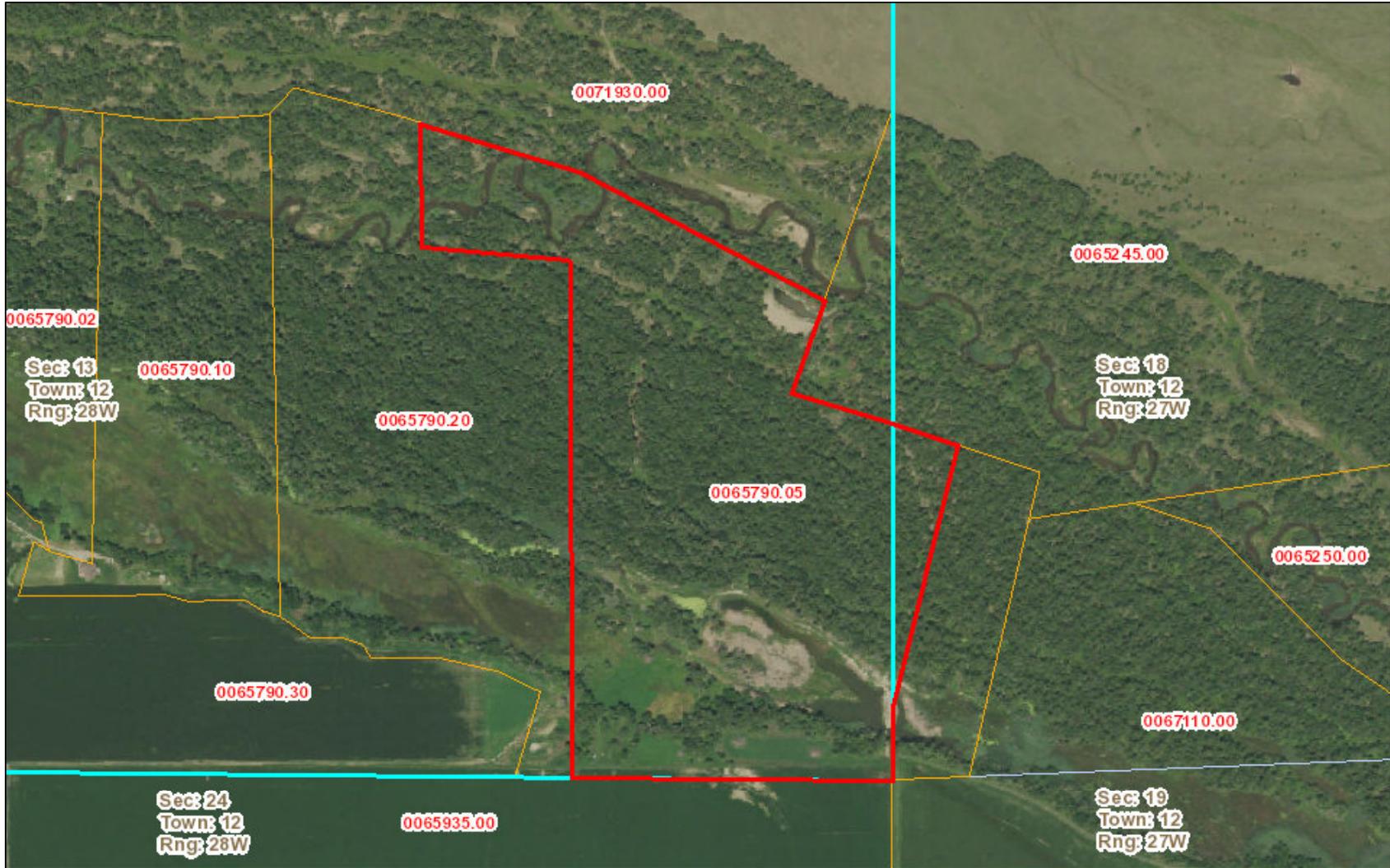


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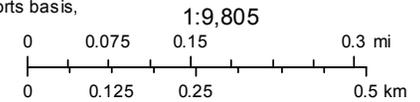


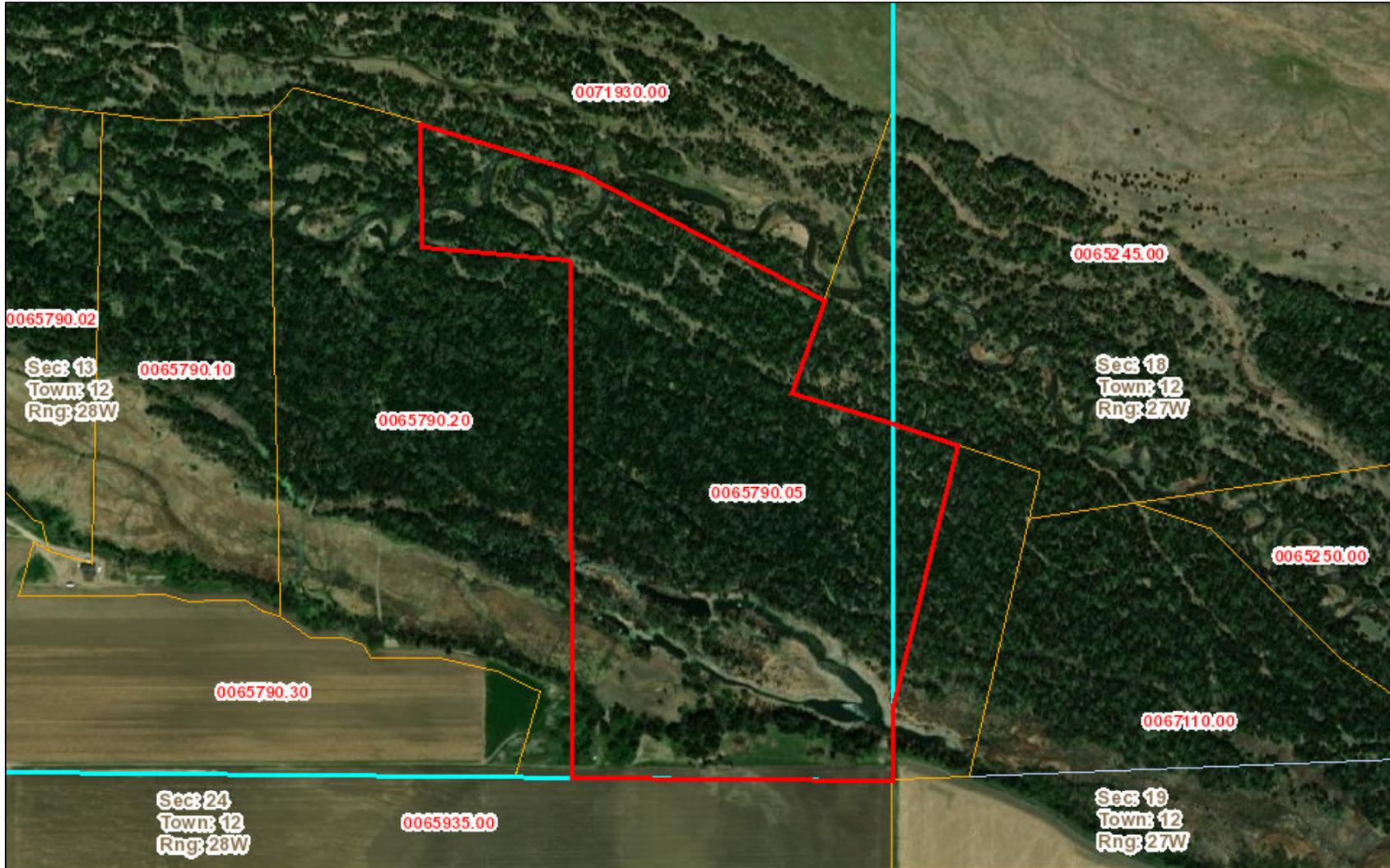


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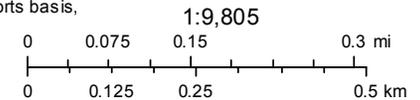




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-  Parcels
-  Sections



NOXIOUS WEED CONTROL ACT

- Administration: This Act generally pertains to the control of noxious weeds. The Nebraska Department of Agriculture, State Office Building, 301 Centennial Mall South, Lincoln, Nebraska 68509, telephone: (402) 471-2394, has certain duties under this Act.
- Revisions: This Act was last revised during the 2019 session of the Legislature.
- Rules: A regulation has been promulgated under this Act, known as Title 25, Chapter 10, Nebraska Administrative Code - Noxious Weed Regulations.

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**2-945.01. Act, how cited.**

Sections 2-945.01 to 2-970 shall be known and may be cited as the Noxious Weed Control Act.

**Source:** Laws 1989, LB 49, § 1; Laws 1994, LB 76, § 450; Laws 2004, LB 869, § 1; Laws 2006, LB 1226, § 2; Laws 2007, LB701, § 3; Laws 2016, LB1038, § 1.

**2-945.02. Legislative findings and declarations.**

The Legislature finds and declares that:

(1) The failure to control noxious weeds on lands in this state is a serious problem which is detrimental to the production of crops and livestock and to the welfare of residents of this state and which may devalue land and reduce tax revenue;

(2) It is the purpose of the Noxious Weed Control Act to establish a workable framework, delineate responsibilities, encourage education of the public concerning noxious weeds, and provide the necessary authority to effectively control noxious weeds;

(3) It is the duty of each person who owns or controls land to effectively control noxious weeds on such land. County boards or control authorities are responsible for administration of noxious weed control laws at the county level;

(4) The Department of Agriculture should have responsibility for (a) establishing basic standards such as designating which plants are to be considered noxious weeds and which control measures are to be used in particular situations and (b) monitoring implementation of the act by the control authorities; and

(5) A state noxious weed advisory committee shall be convened by the director with broad representation to advise the director.

**Source:** Laws 1989, LB 49, § 2.

**2-946. Repealed. Laws 1965, c. 8, § 58.**

**2-946.01. Counties; appropriate funds.**

Counties may appropriate and expend funds for the purchase of materials, machinery and equipment to assist the districts organized under this section and section 2-946.02. Cities or villages may appropriate and expend funds for the purchase of materials, machinery and equipment to assist districts organized within their corporate limits.

**Source:** Laws 1945, c. 2, § 22, p. 66.

**2-946.02. Noxious weed control; cities and villages; provide funds.**

All cities and villages in this state shall provide for the control of noxious weeds within their jurisdiction and may appropriate money for and make the necessary expenditures for noxious weed control. The director shall advise cities and villages concerning noxious weed control.

**Source:** Laws 1945, c. 2, § 23, p. 66; Laws 1975, LB 14, § 1; Laws 1987, LB 138, § 1; Laws 1989, LB 49, § 3.

**2-947. Repealed. Laws 1965, c. 7, § 15.**

**2-948. Repealed. Laws 1965, c. 7, § 15.**

**2-949. Repealed. Laws 1965, c. 7, § 15.**

**2-950. Repealed. Laws 1965, c. 7, § 15.**

**2-951. Repealed. Laws 1965, c. 7, § 15.**

**2-952. Methods.**

It shall be the duty of every person to control the spread of noxious weeds on lands owned or controlled by him or her and to use such methods for that purpose as are specified in rules and regulations adopted and promulgated by the director.

**Source:** Laws 1965, c. 7, § 1, p. 78; Laws 1975, LB 14, § 2; Laws 1987, LB 138, § 2; Laws 1989, LB 49, § 4.

**2-953. Terms, defined.**

For purposes of the Noxious Weed Control Act:

(1) Person means any individual, partnership, firm, limited liability company, corporation, company, society, or association, the state or any department, agency, or subdivision thereof, or any other public or private entity;

(2)(a) Control, with respect to land, means the authority to operate, manage, supervise, or exercise jurisdiction over or any similar power. The state or federal government or a political subdivision shall not be deemed to control land on which it has an easement as long as it does not otherwise operate, manage, supervise, or exercise jurisdiction over the land; and

(b) Control, with respect to weeds, means the prevention, suppression, or limitation of the growth, spread, propagation, or development or the eradication of weeds;

(3) County board means the county board of commissioners or supervisors;

(4) Noxious weeds means and includes any weeds designated and listed as noxious in rules and regulations adopted and promulgated by the director;

(5) Control authority means the county weed district board or the county board if it is designated as the control authority pursuant to section 2-953.01, which board shall represent all rural areas and cities, villages, and townships within the county boundaries;

(6) Director means the Director of Agriculture or his or her designated representative; and

(7) Weed management entity means an entity recognized by the director as being established by and consisting of local stakeholders, including tribal governments, for the purpose of controlling or eradicating harmful, invasive weeds and increasing public knowledge and education concerning the need to control or eradicate harmful, invasive weeds.

**Source:** Laws 1965, c. 7, § 2, p. 78; Laws 1969, c. 13, § 1, p. 151; Laws 1975, LB 14, § 3; Laws 1981, LB 204, § 2; Laws 1987, LB 1, § 1; Laws 1987, LB 138, § 3; Laws 1989, LB 49, § 5; Laws 1993, LB 121, § 61; Laws 1994, LB 76, § 453; Laws 2004, LB 869, § 2.

### **2-953.01. County weed district board; elections; membership.**

The county board may, following an election in which a majority of the votes cast are in favor of such action, function as and exercise the authority and carry out the duties of the county weed district board. To initiate such an election, the county board may, by resolution, require the county clerk of such county to have placed upon the ballot at the election next following such resolution, the question, Shall the county weed district board be dissolved and its duties and authority be exercised by the county board?

Yes .... No ....

If a majority of the votes cast on this question are opposed to dissolution of the county weed district board, the county shall remain subject to the direction and authority of the elected county weed district board. If a majority of the votes cast on this question are in favor of the dissolution of the county weed district board, the county board shall function as and exercise the authority and carry out the duties of the county weed district board. If, at any time following the dissolution of the county weed district board, county residents, representing at least ten percent of the votes cast in the preceding general election in such county, submit a petition to the county clerk for reestablishment

of the county weed district board as an independent elected body, the clerk shall place the following question on the next general election ballot: Shall the county weed district board be reestablished and elected independent of other county officials?

Yes .... No ....

If a majority of the ballots favor reestablishment of the independent board, the county board shall appoint an initial county weed district board and thereafter the county weed district board members shall be elected in conformity with section 32-531.

When the county board does not function as the county weed district board, such board shall be composed of five members, three of whom shall be from rural areas and two of whom shall be from cities, villages, or townships.

**Source:** Laws 1994, LB 76, § 451.

#### **Cross References**

- **Election of county weed district board members**, see section 32-531.

#### **2-953.02. County weed district board; per diem; expenses; ex officio member; appointment; when.**

The members of the county weed district board shall be paid a per diem of not less than twelve dollars for each day actually and necessarily engaged in the performance of their official duties as members of such board and shall be allowed mileage reimbursement on the same basis as provided in section 81-1176. The chairperson of the county board may appoint one additional member from the county board to serve as an ex officio member of the county weed district board to provide coordination between such boards, except that the county board member or commissioner so appointed shall not be entitled to the expense reimbursement allowed county weed district board members. The ex officio member shall possess the same authority as other members, including the right to vote.

**Source:** Laws 1994, LB 76, § 452; Laws 1996, LB 1011, § 1.

#### **2-954. Act; enforcement; director, control authorities, and superintendents; powers and duties; expenses.**

(1)(a) The duty of enforcing and carrying out the Noxious Weed Control Act shall be vested in the director and the control authorities as designated in the act. The director shall determine what weeds are noxious for purposes of the act. A list of such noxious weeds shall be included in the rules and regulations adopted and promulgated by the director. The director shall prepare, publish, and revise as necessary a list of noxious weeds. The list shall be distributed to the public by the director, the Cooperative Extension Service, the control authorities, and any other body the director deems appropriate. The director shall, from time to time, adopt and promulgate rules and regulations on methods for control of noxious weeds and adopt and promulgate such rules and regulations as are necessary to carry out the act. Whenever special weed control problems exist in a

county involving weeds not included in the rules and regulations, the control authority may petition the director to bring such weeds under the county control program. The petition shall contain the approval of the county board. Prior to petitioning the director, the control authority, in cooperation with the county board, shall hold a public hearing and take testimony upon the petition. Such hearing and the notice thereof shall be in the manner prescribed by the Administrative Procedure Act. A copy of the transcript of the public hearing shall accompany the petition filed with the director. The director may approve or disapprove the request. If approval is granted, the control authority may proceed under the forced control provisions of sections 2-953 to 2-955 and 2-958.

(b) The director shall (i) investigate the subject of noxious weeds, (ii) require information and reports from any control authority as to the presence of noxious weeds and other information relative to noxious weeds and the control thereof in localities where such control authority has jurisdiction, (iii) cooperate with control authorities in carrying out other laws administered by him or her, (iv) cooperate with agencies of federal and state governments and other persons in carrying out his or her duties under the Noxious Weed Control Act, (v) with the consent of the Governor, conduct investigations outside this state to protect the interest of the agricultural industry of this state from noxious weeds not generally distributed therein, (vi) with the consent of the federal agency involved, control noxious weeds on federal lands within this state, with reimbursement, when deemed by the director to be necessary to an effective weed control program, (vii) advise and confer as to the extent of noxious weed infestations and the methods determined best suited to the control thereof, (viii) call and attend meetings and conferences dealing with the subject of noxious weeds, (ix) disseminate information and conduct educational campaigns with respect to control of noxious weeds, (x) procure materials and equipment and employ personnel necessary to carry out the director's duties and responsibilities, and (xi) perform such other acts as may be necessary or appropriate to the administration of the act.

(c) The director may (i) temporarily designate a weed as a noxious weed for up to eighteen months if the director, in consultation with the advisory committee created under section 2-965.01, has adopted criteria for making temporary designations and (ii) apply for and accept any gift, grant, contract, or other funds or grants-in-aid from the federal government or other public and private sources for noxious weed control purposes and account for such funds as prescribed by the Auditor of Public Accounts.

(d) When the director determines that a control authority has substantively failed to carry out its duties and responsibilities as a control authority or has substantively failed to implement a county weed control program, he or she shall instruct the control authority regarding the measures necessary to fulfill such duties and responsibilities. The director shall establish a reasonable date by which the control authority shall fulfill such duties and responsibilities. If the control authority fails or refuses to comply with instructions by such date, the Attorney General shall file an action as provided by law against the control authority for such failure or refusal.

(2)(a) Each control authority shall carry out the duties and responsibilities vested in it under the act with respect to land under its jurisdiction in accordance with rules and regulations adopted and promulgated by the director. Such duties shall include the establishment of a coordinated program for control of noxious weeds within the county.

(b) A control authority may cooperate with any person in carrying out its duties and responsibilities under the act.

(3)(a) Each county board shall employ one or more weed control superintendents. Each such superintendent shall, as a condition precedent to employment, be certified in writing by the federal Environmental Protection Agency as a commercial applicator under the Federal Insecticide, Fungicide, and Rodenticide Act. Each superintendent shall be bonded for such sum as the county board shall prescribe. The same person may be a weed control superintendent for more than one county. Such employment may be for such tenure and at such rates of compensation and reimbursement for travel expenses as the county board may prescribe. Such superintendent shall be reimbursed for mileage at a rate equal to or greater than the rate provided in section 81-1176.

(b) Under the direction of the control authority, it shall be the duty of every weed control superintendent to examine all land under the jurisdiction of the control authority for the purpose of determining whether the Noxious Weed Control Act and the rules and regulations adopted and promulgated by the director have been complied with. The weed control superintendent shall: (i) Compile such data on infested areas and controlled areas and such other reports as the director or the control authority may require; (ii) consult and advise upon matters pertaining to the best and most practical methods of noxious weed control and render assistance and direction for the most effective control; (iii) investigate or aid in the investigation and prosecution of any violation of the act; and (iv) perform such other duties as required by the control authority in the performance of its duties. Weed control superintendents shall cooperate and assist one another to the extent practicable and shall supervise the carrying out of the coordinated control program within the county.

(c) In cases involving counties in which municipalities have ordinances for weed control, the control authority may enter into agreements with municipal authorities for the enforcement of local weed ordinances and may follow collection procedures established by such ordinances. All money received shall be deposited in the noxious weed control fund or, if no noxious weed control fund exists, in the county general fund.

**Source:** Laws 1965, c. 7, § 3, p. 79; Laws 1969, c. 13, § 2, p. 153; Laws 1975, LB 14, § 4; Laws 1981, LB 204, § 3; Laws 1987, LB 1, § 2; Laws 1987, LB 138, § 4; Laws 1988, LB 807, § 1; Laws 1989, LB 49, § 6; Laws 1991, LB 663, § 24; Laws 1996, LB 1011, § 2; Laws 2004, LB 869, § 3; Laws 2010, LB731, § 1.

#### **Cross References**

- **Administrative Procedure Act**, see section 84-920.

**2-954.01. Repealed. Laws 1975, LB 14, § 13.**

**2-954.02. Superintendent; continuing education.**

Beginning January 1, 1988, each county weed control superintendent shall be required to complete twenty hours of annual continuing education. The cost of continuing education shall be included in the annual budget of the weed control authority. Such continuing education shall focus on the use of equipment, drift control, calibration, proper selection of pesticides, legal

responsibilities, and duties of office. Any statewide association of county weed control superintendents or of local governments responsible for weed control may sponsor the required continuing education program. All continuing education programs shall be submitted to the director for review and approval. The sponsoring organization shall maintain records of attendance and notify each county board of the hours completed by its weed control superintendent by January 1 of each year. Failure to complete the required number of hours of continuing education shall subject such weed control superintendent to removal from office by the county board.

**Source: Laws 1987, LB 138, § 5.**

**2-955. Notice; kinds; effect; failure to comply; powers of control authority.**

(1) Notices for control of noxious weeds shall consist of two kinds: General notices, as prescribed by rules and regulations adopted and promulgated by the director, which notices shall be on a form prescribed by the director; and individual notices, which notices shall be on a form prescribed by this section. Failure to publish general weed notices or to serve individual notices as provided in this section shall not relieve any person from the necessity of full compliance with the Noxious Weed Control Act and rules and regulations adopted and promulgated pursuant to the act.

(a) General notice shall be published by each control authority, in one or more newspapers of general circulation throughout the area over which the control authority has jurisdiction, on or before May 1 of each year and at such other times as the director may require or the control authority may determine.

(b) Whenever any control authority finds it necessary to secure more prompt or definite control of weeds on particular land than is accomplished by the general published notice, it shall cause to be served individual notice upon the owner of record of such land at his or her last-known address, giving specific instructions and methods when and how certain named weeds are to be controlled. Such methods may include definite systems of tillage, cropping, management, and use of livestock.

Each control authority shall use one or both of the following forms for all individual notices: (i)

..... County Weed Control Authority

**OFFICIAL NOTICE**

Section 2-952, Reissue Revised Statutes of Nebraska, places an affirmative duty upon every person to control noxious weeds on land under such person's ownership or control. Information received by the control authority, including an onsite investigation by the county weed control superintendent or a deputy, indicated the existence of an uncontrolled noxious weed infestation on property owned by you at: .....

The noxious weed or weeds are ..... . The method of control recommended by the control authority is as follows: .....

Other appropriate control methods are acceptable if approved by the county weed control superintendent.

Because the stage of growth of the noxious weed infestation on the above-specified property warrants immediate control, if such infestation remains uncontrolled after ten days from the date specified at the bottom of this notice, the control authority may enter upon such property for the purpose of taking the appropriate weed control measures. Costs for the control activities of the control authority shall be at the expense of the owner of the property and shall become a lien on the property as a special assessment levied on the date of control.

..... Weed Control Superintendent  
Dated..... ;  
or (ii)

..... County Weed Control Authority  
OFFICIAL NOTICE

Section 2-952, Reissue Revised Statutes of Nebraska, places an affirmative duty upon every person to control noxious weeds on land under such person's ownership or control. Information received by the control authority, including an onsite investigation by the county weed control superintendent or a deputy, indicates the existence of an uncontrolled noxious weed infestation on property owned by you at: .....

The noxious weed or weeds are.....The method of control recommended by the control authority is as follows: .....

Other appropriate control methods are acceptable if approved by the county weed control superintendent. If, within fifteen days from the date specified at the bottom of this notice, the noxious weed infestation on such property, as specified above, has not been brought under control, you may, upon conviction, be subject to a fine of \$100.00 per day for each day of noncompliance beginning on ....., up to a maximum of fifteen days of noncompliance (maximum \$1,500).

Upon request to the control authority, within fifteen days from the date specified at the bottom of this notice, you are entitled to a hearing before the control authority to challenge the existence of a noxious weed infestation on property owned by you at .....

..... Weed Control Superintendent  
Dated.....

In all counties having a population of four hundred thousand or more inhabitants as determined by the most recent federal decennial census, the control authority may dispense with the individual notices and may publish general notices if published in one or more newspapers of general circulation throughout the area over which such control authority has jurisdiction. Such notice shall be published weekly for four successive weeks prior to May 1 of each year or at such other times as the control authority deems necessary. In no event shall a fine be assessed against a landowner as prescribed in subdivision (3)(a) of this section unless the control authority has caused individual notice to be served upon the landowner as specified in this subdivision.

(2) At the request of any owner served with an individual notice pursuant to subdivision (1)(b)(ii) of this section, the control authority shall hold an informal public hearing to allow such

landowner an opportunity to be heard on the question of the existence of an uncontrolled noxious weed infestation on such landowner's property.

(3) Whenever the owner of the land on which noxious weeds are present has neglected or failed to control them as required pursuant to the act and any notice given pursuant to subsection (1) of this section, the control authority having jurisdiction shall proceed as follows:

(a) If, within fifteen days from the date specified on the notice required by subdivision (1)(b)(ii) of this section, the owner has not taken action to control the noxious weeds on the specified property and has not requested a hearing pursuant to subsection (2) of this section, the control authority shall notify the county attorney who shall proceed against such owner as prescribed in this subdivision. A person who is responsible for an infestation of noxious weeds on particular land under his or her ownership and who refuses or fails to control the weeds on the infested area within the time designated in the notice delivered by the control authority shall, upon conviction, be guilty of an infraction pursuant to sections 29-431 to 29-438, except that the penalty shall be a fine of one hundred dollars per day for each day of violation up to a total of one thousand five hundred dollars for fifteen days of noncompliance; or

(b) If, within ten days from the date specified in the notice required by subdivision (1)(b)(i) of this section, the owner has not taken action to control the noxious weeds on the specified property and the stage of growth of such noxious weeds warrants immediate control to prevent spread of the infestation to neighboring property, the control authority may cause proper control methods to be used on such infested land, including necessary destruction of growing crops, and shall advise the record owner of the cost incurred in connection with such operation. The cost of any such control shall be at the expense of the owner. In addition the control authority shall immediately cause notice to be filed of possible unpaid weed control assessments against the property upon which the control measures were used in the register of deeds office in the county where the property is located. If unpaid for two months, the control authority shall certify to the county treasurer the amount of such expense and such expense shall become a lien on the property upon which the control measures were taken as a special assessment levied on the date of control. The county treasurer shall add such expense to and it shall become and form a part of the taxes upon such land and shall bear interest at the same rate as taxes.

Nothing contained in this section shall be construed to limit satisfaction of the obligation imposed hereby in whole or in part by tax foreclosure proceedings. The expense may be collected by suit instituted for that purpose as a debt due the county or by any other or additional remedy otherwise available. Amounts collected under subdivision (3)(b) of this section shall be deposited to the noxious weed control fund of the control authority or, if no noxious weed control fund exists, to the county general fund.

**Source:** Laws 1965, c. 7, § 4, p. 82; Laws 1969, c. 13, § 4, p. 158; Laws 1974, LB 694, § 1; Laws 1975, LB 14, § 5; Laws 1983, LB 154, § 1; Laws 1987, LB 1, § 3; Laws 1987, LB 138, § 6; Laws 1989, LB 49, § 7; Laws 1995, LB 589, § 1; Laws 2010, LB731, § 2; Laws 2016, LB742, § 1.

## **Annotations**

- Pursuant to subsection (3)(a) of this section, proof of proper notice is an element of the State's prima facie case. Pursuant to subsection (3)(a) of this section, in order to prove notice, it must be shown that the county control authority made a finding of uncontrolled noxious weeds and issued proper notice to defendant or delegated its statutory duty to the weed control superintendent to make such findings and to give such notice. *State v. Beethe*, 249 Neb. 743, 545 N.W.2d 108 (1996); *State v. Brozovsky*, 249 Neb. 723, 545 N.W.2d 98 (1996).
- A court may not impose probation upon a defendant convicted under subsection (3)(a) of this section. *State v. Martin*, 3 Neb. App. 555, 529 N.W.2d 545 (1995).

## **2-956. Public lands; cost of control.**

The cost of controlling noxious weeds on all land, including highways, roadways, streets, alleys, and rights-of-way, owned or controlled by a state department, agency, commission, or board or a political subdivision shall be paid by the state department, agency, commission, or board in control thereof or the political subdivision out of funds appropriated to the state department, agency, commission, or board or budgeted by the political subdivision for its use.

**Source:** Laws 1965, c. 7, § 5, p. 84; Laws 1975, LB 14, § 6; Laws 1989, LB 49, § 8.

## **2-957. List; publication; equipment; treatment; disposition; violation; penalty.**

To prevent the dissemination of noxious weeds through any article, including machinery, equipment, plants, materials, and other things, the director shall, from time to time, adopt and promulgate rules and regulations which shall include a list of noxious weeds which may be disseminated through articles and a list of articles capable of disseminating such weeds and shall designate in such rules and regulations treatment of such articles as, in the director's opinion, would prevent such dissemination. Until any such article is treated in accordance with the applicable rules and regulations, it shall not be moved from such premises except under and in accordance with the written permission of the control authority having jurisdiction of the area in which such article is located, and the control authority may hold or prevent its movement from such premises. The movement of any such article which has not been so decontaminated, except in accordance with such written permission, may be stopped by the control authority having jurisdiction over the place in which such movement is taking place and further movement and disposition shall only be in accordance with such control authority's direction. Any further movement of any such article not in accordance with the control authority's direction shall constitute a Class IV misdemeanor.

**Source:** Laws 1965, c. 7, § 6, p. 84; Laws 1987, LB 138, § 7; Laws 1989, LB 49, § 9.

## **2-958. Noxious weed control fund; authorized; Noxious Weed Cash Fund; created; use; investment.**

(1) A noxious weed control fund may be established for each control authority, which fund shall be available for expenses authorized to be paid from such fund, including necessary expenses of the control authority in carrying out its duties and responsibilities under the Noxious Weed Control Act.

The weed control superintendent within the county shall (a) ascertain and tabulate each year the approximate amount of land infested with noxious weeds and its location in the county, (b) ascertain and prepare all information required by the county board in the preparation of the county budget, including actual and expected revenue from all sources, cash balances, expenditures, amounts proposed to be expended during the year, and working capital, and (c) transmit such information tabulated by the control authority to the county board not later than June 1 of each year.

(2) The Noxious Weed Cash Fund is created. The fund shall consist of proceeds raised from fees imposed for the registration of pesticides and earmarked for the fund pursuant to section 2-2634, funds credited or transferred pursuant to sections 81-201 and 81-201.05, any gifts, grants, or donations from any source, and any reimbursement funds for control work done pursuant to subdivision (1)(b)(vi) of section 2-954. An amount from the General Fund may be appropriated annually for the Noxious Weed Control Act. The fund shall be administered and used by the director to maintain the noxious weed control program and for expenses directly related to the program. Until January 1, 2020, the fund may also be used to defray all reasonable and necessary costs related to the implementation of the Nebraska Hemp Farming Act. The Department of Agriculture shall document all costs incurred for such purpose. The budget administrator of the budget division of the Department of Administrative Services may transfer a like amount from the Nebraska Hemp Program Fund to the Noxious Weed Cash Fund no later than October 1, 2022.

(3) Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Source:** Laws 1965, c. 7, § 7, p. 84; Laws 1969, c. 13, § 5, p. 159; Laws 1969, c. 145, § 11, p. 675; Laws 1987, LB 1, § 4; Laws 1987, LB 138, § 8; Laws 1989, LB 49, § 10; Laws 1993, LB 588, § 35; Laws 1994, LB 1066, § 2; Laws 1996, LB 1114, § 11; Laws 1997, LB 269, § 1; Laws 2001, LB 541, § 1; Laws 2004, LB 869, § 6; Laws 2019, LB657, § 20.

**Operative Date:** May 31, 2019

#### **Cross References**

- **Nebraska Capital Expansion Act**, see section 72-1269.
- **Nebraska Hemp Farming Act**, see section 2-501.
- **Nebraska State Funds Investment Act**, see section 72-1260.

#### **2-958.01. Noxious Weed and Invasive Plant Species Assistance Fund; created; use; investment.**

The Noxious Weed and Invasive Plant Species Assistance Fund is created. The fund may be used to carry out the purposes of section 2-958.02. The State Treasurer shall credit to the fund any funds transferred or appropriated to the fund by the Legislature and funds received as gifts or grants or other private or public funds obtained for the purposes set forth in section 2-958.02. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Source:** Laws 2004, LB 869, § 4; Laws 2008, LB961, § 1; Laws 2009, LB98, § 1.

## **Cross References**

- **Nebraska Capital Expansion Act**, see section 72-1269.
- **Nebraska State Funds Investment Act**, see section 72-1260.

### **2-958.02. Grant program; applications; selection; considerations; priority; section, how construed; director; duties.**

(1) From funds available in the Noxious Weed and Invasive Plant Species Assistance Fund, the director may administer a grant program to assist local control authorities and other weed management entities in the cost of implementing and maintaining noxious weed control programs and in addressing special weed control problems as provided in this section.

(2) The director shall receive applications by local control authorities and weed management entities for assistance under this subsection and, in consultation with the advisory committee created under section 2-965.01, award grants for any of the following eligible purposes:

- (a) To conduct applied research to solve locally significant weed management problems;
  - (b) To demonstrate innovative control methods or land management practices which have the potential to reduce landowner costs to control noxious weeds or improve the effectiveness of noxious weed control;
  - (c) To encourage the formation of weed management entities;
  - (d) To respond to introductions or infestations of invasive plants that threaten or potentially threaten the productivity of cropland and rangeland over a wide area;
  - (e) To respond to introductions and infestations of invasive plant species that threaten or potentially threaten the productivity and biodiversity of wildlife and fishery habitats on public and private lands;
  - (f) To respond to special weed control problems involving weeds not included in the list of noxious weeds promulgated by rule and regulation of the director if the director has approved a petition to bring such weeds under the county control program;
  - (g) To conduct monitoring or surveillance activities to detect, map, or determine the distribution of invasive plant species and to determine susceptible locations for the introduction or spread of invasive plant species; and
  - (h) To conduct educational activities.
- (3) The director shall select and prioritize applications for assistance under subsection (2) of this section based on the following considerations:

- (a) The seriousness of the noxious weed or invasive plant problem or potential problem addressed by the project;
- (b) The ability of the project to provide timely intervention to save current and future costs of control and eradication;
- (c) The likelihood that the project will prevent or resolve the problem or increase knowledge about resolving similar problems in the future;
- (d) The extent to which the project will leverage federal funds and other nonstate funds;
- (e) The extent to which the applicant has made progress in addressing noxious weed or invasive plant problems;
- (f) The extent to which the project will provide a comprehensive approach to the control or eradication of noxious weeds or invasive plant species as identified and listed by the Nebraska Invasive Species Council;
- (g) The extent to which the project will reduce the total population or area of infestation of a noxious weed or invasive plant species as identified and listed by the Nebraska Invasive Species Council;
- (h) The extent to which the project uses the principles of integrated vegetation management and sound science; and
- (i) Such other factors that the director determines to be relevant.

(4) The director shall receive applications for grants under this subsection and shall award grants to recipients and programs eligible under this subsection. Priority shall be given to grant applicants whose proposed programs are consistent with vegetation management goals and priorities and plans and policies of the Riparian Vegetation Management Task Force established under section 2-970. Beginning in fiscal year 2016-17, it is the intent of the Legislature to appropriate one million dollars annually for the management of vegetation within the banks of a natural stream or within one hundred feet of the banks of a channel of any natural stream. Such funds shall only be used to pay for activities and equipment as part of vegetation management programs that have as their primary objective improving conveyance of streamflow in natural streams. Grants from funds appropriated as provided in this subsection shall be disbursed only to weed management entities, local weed control authorities, and natural resources districts whose territory includes river basins, with priority given to river basins that are the subject of an interstate compact or decree. The Game and Parks Commission shall assist grant recipients in implementing grant projects under this subsection, and interlocal agreements under the Interlocal Cooperation Act or the Joint Public Agency Act shall be utilized whenever possible in carrying out the grant projects.

(5) Nothing in this section shall be construed to relieve control authorities of their duties and responsibilities under the Noxious Weed Control Act or the duty of a person to control the spread of noxious weeds on lands owned and controlled by him or her.

(6) The Department of Agriculture may adopt and promulgate necessary rules and regulations to carry out this section.

(7) The director may annually apply for conservation funding from the Natural Resources Conservation Service of the United States Department of Agriculture.

**Source:** Laws 2004, LB 869, § 5; Laws 2007, LB701, § 4; Laws 2009, LB98, § 2; Laws 2016, LB1038, § 2.

#### **Cross References**

- **Interlocal Cooperation Act**, see section 13-801.
- **Joint Public Agency Act**, see section 13-2501.

#### **2-959. Control authorities; equipment and machinery; purchase; use; record.**

Control authorities, independently or in combination, may purchase or provide for needed or necessary equipment for the control of weeds, whether or not declared noxious, on land under their jurisdiction and may make available the use of machinery and other equipment and operators at such cost as may be deemed sufficient to cover the actual cost of operations, including depreciation, of such machinery and equipment. All funds so received shall be deposited to the noxious weed control fund or, if no noxious weed control fund exists, to the county general fund. Each control authority shall keep a record showing the procurement and rental of equipment, which record shall be open to inspection by citizens of this state.

**Source:** Laws 1965, c. 7, § 8, p. 85; Laws 1975, LB 14, § 7; Laws 2010, LB731, § 3.

#### **2-960. Charges; protest; hearing; appeal.**

If any person is dissatisfied with the amount of any charge made against him or her by a control authority for control work or for the purchase of materials or use of equipment, he or she may, within fifteen days after being advised of the amount of the charge, file a protest with the county board. The county board shall hold a hearing to determine whether the charges were appropriate, taking into consideration whether the control measures were conducted in a timely fashion. Following the hearing, the county board shall have the power to adjust or affirm such charge. If any person is dissatisfied with the decision of the county board or with charges made by the county board for control work performed, such person may appeal the decision, and the appeal shall be in accordance with the Administrative Procedure Act.

**Source:** Laws 1965, c. 7, § 9, p. 85; Laws 1975, LB 14, § 8; Laws 1982, LB 697, § 1; Laws 1987, LB 138, § 9; Laws 1988, LB 352, § 2.

## **Cross References**

- **Administrative Procedure Act**, see section 84-920.

### **2-961. Entry upon land.**

The director, any control authority, any weed control superintendent, or anyone authorized thereby may enter upon all land under his, her, or its respective jurisdiction for the purpose of performing the duties and exercising the powers under the rules and regulations adopted and promulgated by the director and the Noxious Weed Control Act, including the taking of specimens of weeds or other materials, without the consent of the person owning or controlling such land and without being subject to any action for trespass or damages, including damages for destruction of growing crops, if reasonable care is exercised.

**Source:** **Laws** 1965, c. 7, § 10, p. 86; **Laws** 1987, LB 1, § 5; **Laws** 1987, LB 138, § 10; **Laws** 1989, LB 49, § 11.

### **2-962. Notices; how served.**

All individual notices, service of which is provided for in the Noxious Weed Control Act, shall be in writing. Service of such notices shall be in the same manner as service of a summons in a civil action in the district court or by certified mail to the last-known address to be ascertained, if necessary, from the last tax list.

**Source:** **Laws** 1965, c. 7, § 11, p. 86; **Laws** 1987, LB 1, § 6; **Laws** 1987, LB 138, § 11; **Laws** 1989, LB 49, § 12.

### **2-963. Violations; penalty; county attorney; duties.**

(1) Any person who intrudes upon any land under quarantine, who moves or causes to be moved any article covered by section 2-957 except as provided in such section, who prevents or threatens to prevent entry upon land as provided in section 2-961, or who interferes with the carrying out of the Noxious Weed Control Act shall be guilty of a Class IV misdemeanor in addition to any penalty imposed pursuant to section 2-955.

(2) It shall be the duty of the county attorney of the county in which any violation of section 2-955 or this section occurs, when notified of such violation by the county board or control authority, to cause appropriate proceedings to be instituted and pursued in the appropriate court without delay.

**Source:** **Laws** 1965, c. 7, § 12, p. 86; **Laws** 1974, LB 694, § 2; **Laws** 1975, LB 14, § 9; **Laws** 1977, LB 40, § 5; **Laws** 1983, LB 154, § 2; **Laws** 1987, LB 1, § 7; **Laws** 1987, LB 138, § 12; **Laws** 1989, LB 49, § 13.

### **2-964. Repealed. Laws 1987, LB 138, § 14.**

### **2-964.01. Action for failure to comply; authorized.**

Any person or public agency may institute legal action for the failure to comply with the Noxious Weed Control Act.

**Source:** Laws 1989, LB 49, § 14.

### **2-965. Project of control without individual notice; control authority; powers.**

A control authority may direct and carry out projects of control for one or more specific noxious weeds without individual notice as prescribed in section 2-955 if the control authority has caused publication of notices of such project as provided in this section. The notice shall be published in one or more newspapers of general circulation throughout the area over which such control authority has jurisdiction and shall be published weekly for four successive weeks prior to the project commencement date specified in the notice for the control project. Such notice shall state the noxious weed or weeds to be controlled by the project, the date the project will commence, and the approximate period of time when the project will be carried out. In no event shall a fine or lien be assessed against a landowner as prescribed in section 2-955 for a project under this section unless the control authority has caused individual notice to be served upon the landowner as specified in section 2-955.

**Source:** Laws 2006, LB 1226, § 1.

### **2-965.01. Advisory committee; membership.**

The director shall convene an advisory committee to advise the director concerning his or her responsibilities under the noxious weed control program. Representatives from the Nebraska Weed Control Association, the leafy spurge task force, state or federal agencies actively concerned with the control of noxious weeds, the University of Nebraska Institute of Agriculture and Natural Resources, and cities and villages of this state, persons actively involved in agriculture, and others in the public and private sector may serve on such committee at the request of the director. If an advisory committee is convened, members shall not receive any reimbursement for expenses.

**Source:** Laws 1989, LB 49, § 15.

### **2-966. Certain noxious weed control districts; dissolution; title to real estate.**

Title to any real estate standing in the name of any noxious weed control district created under sections 2-910 to 2-951, which district was dissolved by the repeal of such sections by Laws 1965, chapter 7, section 15, is hereby quieted in the county in which such real estate is located. Any such real estate shall be held by the county for the use of the control authority created pursuant to sections 2-952 to 2-963 or may be sold and the proceeds from such sale deposited to the credit of the control authority.

**Source:** Laws 1969, c. 3, § 1, p. 66; Laws 1975, LB 14, § 11; Laws 1987, LB 1, § 9; Laws 1987, LB 138, § 13.

**2-967. Repealed. Laws 2016, LB1038, § 19.**

**2-968. Repealed. Laws 2016, LB1038, § 19.**

**2-969. Riparian Vegetation Management Task Force; created; members.**

The Riparian Vegetation Management Task Force is created. The Governor shall appoint the members of the task force. The members shall include one surface water project representative from each river basin that has ever been determined to be fully appropriated pursuant to section 46-714 or 46-720 or is designated as overappropriated pursuant to section 46-713 by the Department of Natural Resources; one surface water project representative from a river basin that has not been determined to be fully appropriated pursuant to section 46-714 or 46-720 or is not designated as overappropriated pursuant to section 46-713 by the Department of Natural Resources; one representative from the Department of Agriculture, the Department of Environmental Quality, the Department of Natural Resources, the office of the State Forester, the Game and Parks Commission, and the University of Nebraska; three representatives selected from a list of at least ten individuals nominated by the Nebraska Association of Resources Districts; two representatives selected from a list of at least five individuals nominated by the Nebraska Weed Control Association; one riparian landowner from each of the state's congressional districts; and one representative from the Nebraska Environmental Trust. In addition to such members, any member of the Legislature may serve as a nonvoting, ex officio member of the task force at his or her option. For administrative and budgetary purposes only, the task force shall be housed within the Department of Agriculture.

**Source:** Laws 2016, LB1038, § 3.

**2-970. Riparian Vegetation Management Task Force; duties; meetings; report.**

The Riparian Vegetation Management Task Force, in consultation with appropriate federal agencies, shall develop and prioritize vegetation management goals and objectives, analyze the cost-effectiveness of available vegetation treatment, and develop plans and policies to achieve such goals and objectives. Any plan shall utilize the principles of integrated vegetation management and sound science. The task force shall convene within thirty days after the appointment of the members is complete to elect a chairperson and conduct such other business as deemed necessary. An annual report shall be submitted to the Governor and the Legislature by June 30 each year with the first report due on June 30, 2017. The report submitted to the Legislature shall be submitted electronically. It is the intent of the Legislature that expenses of the task force not exceed twenty-five thousand dollars of the total appropriation to the program per fiscal year.

**Source:** Laws 2016, LB1038, § 4.

NEBRASKA ADMINISTRATIVE CODE

TITLE 25 NEBRASKA ADMINISTRATIVE CODE, CHAPTER 10

NEBRASKA DEPARTMENT OF AGRICULTURE

NOXIOUS WEED REGULATIONS

August 2014, Amendment

NEBRASKA ADMINISTRATIVE CODE

TITLE 25 - NEBRASKA DEPARTMENT OF AGRICULTURE, ANIMAL AND PLANT  
HEALTH PROTECTION

CHAPER 10 – NOXIOUS WEED REGULATIONS

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## NEBRASKA ADMINISTRATIVE CODE

LAST DATE AMENDED: April 26, 2012

TITLE 25 - NEBRASKA DEPARTMENT OF AGRICULTURE, ANIMAL AND PLANT

CHAPER 10 – NOXIOUS WEED REGULATIONS

001 Designation and Publication of Noxious Weeds. The following weeds are hereby officially designated and published as noxious: Canada thistle - Cirsium arvense (L.) Scop.; leafy spurge - Euphorbia esula L.; musk thistle - Carduus nutans L.; plumeless thistle - Carduus acanthoides L.; knapweed (spotted and diffuse) - Centaurea (maculosa Lam. and diffusa Lam.); Purple Loosestrife - Lythrum salicaria L. and L.virgatum (including any cultivars and hybrids) saltcedar - Tamarix ramosissima Ledeb; Japanese knotweed (Fallopia japonica including all cultivars and hybrids); and giant knotweed (Fallopia sachalinensis including all cultivars and hybrids); sericea lespedeza (Lespedeza cuneate G. Don) and phragmites australis, subspecies australis. Noxious weed shall mean the plant, seed, or seedlings of such weeds.

002 Methods and Times to Control Noxious Weeds.

002.01 The noxious weed control period shall be when noxious weeds are actively growing.

002.02 The following methods of controlling noxious weeds are hereby approved and adopted by the director, so long as such methods are employed during the noxious weed control period, are performed at such frequency to prevent the spread of noxious weeds, and have the approval of or meet the control standards of the control authority.

002.02A Mechanical methods. Mechanical noxious weed control methods include mowing, chopping, digging, shredding, and tillage.

002.02B Crop management methods. Crop management weed control methods include crop rotation and crop competition.

002.02C Herbicide methods. The use of herbicides to control noxious weeds under the guidelines set out in the publication known as EC130 "Guide for Weed Management" published by the University of Nebraska, Cooperative Extension Service, Institute of Agriculture and Natural Resources, a copy of which is attached and incorporated herein by reference and is hereby adopted and promulgated and may be used. Herbicide usage in a manner different from that set out in the aforementioned publication is approved under the following conditions:

002.02C1 The herbicide used shall be one that is approved or registered by the United States Environmental Protection Agency and the Nebraska Department of Agriculture for use on the noxious weeds to be controlled;

002.02C2 The method of applying the herbicide shall be in conformity with the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended on the effective date of these regulations, and the federal regulations duly adopted thereunder, and shall be consistent with label directions; and

002.02C3 The rate of application of the herbicide shall not be in excess of that specified on the label and shall not be at a rate less than that supported by the efficacy data filed with the Environmental Protection Agency in conjunction with the registration of the herbicide.

002.02D Biological methods. To be deemed acceptable, the use of livestock, predators, pathogens, and parasites as a method of controlling noxious weeds shall be as effective as the use of herbicides, as set forth in 002.02C and shall be approved by the control authority.

002.03 Any determination made as to the failure of any person to control the spread of noxious weeds on land owned or controlled by him or her including the issuance of individual notices pursuant to Neb. Rev. Stat. §2-955, shall be guided by consideration of the intent and purposes of the Noxious Weed Control Act and these regulations. These factors include, but are not limited to, the following:

002.03A The potential for spread of the noxious weeds to other land;

002.03B The potential adverse effect of the noxious weeds and the seeds thereof on commodities to be removed from the land; and

002.03C The degree of infestation of the noxious weeds. While any noxious weed infestation whatsoever is unacceptable, excessive degrees of infestation necessitates the taking of immediate and definite action. Such action shall be initiated in cases where the quantity of noxious weeds present reasonably indicates that current control methods are not satisfactorily controlling the spread of noxious weeds and that more effective control methods are necessary. Consideration of this factor, as explained above, should not be construed to imply that less than excessive infestations need not be controlled.

003 Control Authority Duties and Responsibilities.

003.01 To substantively carry out its duties and responsibilities under the Act and these regulations, each control authority shall:

003.01A Annually submit the following reports to the director on or before January 31 of each year:

003.01A1 A weed program personnel information report. Such report shall be in the form prescribed in 25 NAC 10-008.01.

003.01A2 A budget report. Such report shall be in the form prescribed in 25 NAC 10-008.02. A control authority need only to file that portion of the budget report which relates to the county weed control program. Such report shall, however, include as a minimum standard those sections of the county annual fiscal report containing information of the current budgeted revenue and expenditures as well as the previous year's revenues and expenditures.

003.01A3 Noxious weed control plan. Such report shall be in the form prescribed in 25 NAC 10-008.03 or as is amended by the director. Should the director amend the noxious weed control plan, such plan will supercede 25 NAC 10-008.03 and be distributed to the control authority by November 30 for use in the following year.

003.01A4 An infestation report. Such report shall be in the form prescribed in 25 NAC 10-008.04 and shall contain information relative to the amount and type of land infested with noxious weeds, and such other information as the director may prescribe.

003.01A5 An activity report. Such report shall be in the form prescribed in 25 NAC 10-008.05 and shall contain information relative to the overall county noxious weed control program.

003.01A6 Any other information deemed necessary by the control authority.

003.01B Annually inspect all lands within its jurisdiction in order to determine whether the Noxious Weed Control Act and its regulations have been complied with. The control authority shall document the annual inspection through the use of county road maps, plat books, or other records that have been approved by the Nebraska Department of Agriculture. All noxious weed infestations found during the annual inspection shall be additionally documented with an inspection report containing the information specified in 25 NAC 10-003.01C1. When the control authority determines that the noxious weeds have not been controlled, the control authority shall cause additional inspections to be made at least once during the noxious weed control period specified in 25 NAC 10-002 above until such time as the noxious weeds on said land have been controlled. Prior to the issuance of an individual notice, the control authority shall inspect such lands.

003.01C Execute an inspection report in conjunction with the performance of any inspection of land found to be infested with noxious weeds.

003.01C1 The inspection report shall contain the following:

003.01C1A The location of the land, including county, township, range, and section.

003.01C1B The date of the inspection.

003.01C1C The purpose of the inspection, whether it be annual, preliminary to the issuance of an individual notice, or otherwise.

003.01C1D If noxious weeds are present, the names thereof, or, if none are present, a statement to that effect.

003.01C1E The signature of the person conducting the inspection.

003.01C1F The name of the landowner and, if applicable, the tenant, if known or capable of being determined.

003.01C1G Number of acres inspected.

003.01C1H Number of acres infested.

003.01C1I Degree of infestation using the severity guidelines adopted in 25 NAC 10-008.06.

003.01C1J Current land use.

003.01C1K Any other information deemed appropriate by the control authority.

003.01C2 Whenever noxious weeds are found to be in growing crops, the control authority may, in addition to the inspection report, issue a crop inspection report as prescribed in 25 NAC 10-008.08. The crop inspection report may be used to prevent the movement or sale of growing crops when the harvest of such crops may result in hay, straw, seed, or grain becoming contaminated with viable noxious weed seeds or other noxious weed plant material capable of reproducing.

003.01C3 The control authority shall maintain files of inspection reports for a period of at least three (3) years following the date of inspection. Samples of acceptable inspection forms are contained in 25 NAC 10-008.06.

003.01D Publish a general notice on or before May 1 and between August 1 and October 1 of each year as provided in section 2-955 of the Noxious Weed Control Act. Such general notice shall follow, as a minimum standard, the form prescribed in 25 NAC 10-008.07. Published size of the general notice shall be at least four inches by six inches or be at least 24 square inches in size. Copies of such notices shall be made available to the director for inspection and review within fifteen (15) days following the date of publication.

003.01E Cooperate with other control authorities in carrying out its duties and responsibilities and in exercising its authority pursuant to the Noxious Weed Control Act and regulations adopted and promulgated under such act.

003.01F Prepare a report indicating the disposition of each individual notice issued by the control authority. Such reports shall be in the form prescribed in 25 NAC 10-008.10 or contain the same information as is specified in this prescribed form.

003.01G Employ a county weed superintendent who meets applicable requirements of the Pesticide Act, Neb. Rev. Stat. §§2-2622 through 2-2659, and is certified as a pesticide applicator in at least the following categories:

003.01G1 Agricultural pest control-plant, and

003.01G2 Right-of-way pest control.

003.01H Make available all books, papers, files, records, and reports pertaining to noxious weeds to the director for inspection and review.

003.01I Continually update all information filed with the Department as changes, additions, or deletions are made.

#### 004 Dissemination of Noxious Weeds Through Articles.

004.01 All noxious weeds as designated in 25 NAC 10-001 are hereby found by the director to be noxious weeds which may be disseminated through articles. The following articles are hereby designated and published by the director as capable of disseminating noxious weeds:

004.01A Machinery and equipment;

004.01B Trucks;

004.01C Grain and seed;

004.01D Hay, straw, and other material of a similar nature;

004.01E Nursery stock;

004.01F Fence posts, fencing, or railroad ties;

004.01G Sod;

004.01H Manure;

004.01I Soil;

004.01J Any other articles determined by the director to have characteristics rendering it capable of disseminating noxious weeds.

004.02 The director hereby prescribes the following treatment for articles capable of disseminating noxious weeds, when such articles are suspected to have noxious weeds present:

004.02A Machinery and equipment used in the harvesting of crops shall be treated as follows:

004.02A1 Remove all loose material from the top and sides of the machine and all other places of lodgement by sweeping or the use of forced air or forced water;

004.02A2 Remove all noxious weeds from shakers, sieves, and other places of lodgement;

004.02A3 Run the machine empty for at least five (5) minutes, alternately increasing and decreasing the speed;

004.02A4 Follow the manufacturer's detailed instructions for cleaning the machine; and

004.02A5 Whenever possible, aforementioned treatments shall be performed while the article is still on the land on which it became infested. If treatment cannot be performed at this location, the location selected shall be such as to minimize the possible dissemination of noxious weeds.

004.02B Machinery and equipment other than that used for harvesting of crops including, but not limited to, trucks, tractors, mowers, planters, and other articles, such as railroad ties, fence posts and fencing, shall be treated by brushing, sweeping, forced air, forced water, physical removal of noxious weeds or any other method deemed by the control authority to be consistent with the intent and purpose of the Noxious Weed Control Act and this regulation. With respect to the location where treatment is to be performed, the same guidelines as set out in 004.02A5, above, shall apply.

004.02C Grain and seed suspected to contain noxious weeds may be transported prior to treatment if done in such a fashion as to prevent the dissemination of noxious weeds such as in enclosed trucks, but shall not be sold or transferred to another person prior to treatment. Grain and seed suspected to contain noxious weeds shall be treated by use of a seed cleaner which is effective in removing the noxious weeds from the grain and seed. Screenings remaining following treatment may not be used for feed, or for any other purpose which could result in the dissemination of noxious weeds.

004.02D Soil, sod, nursery stock, hay, straw, and other material of a similar nature are articles for which no known acceptable method of treatment exists. Such articles may not be moved from the location at which they initially become infested, but may be utilized at that location for their commonly recognized purpose.

004.02E Manure is an article for which no known acceptable method of treatment exists. Manure may not be moved from the location at which it initially

became infested, but may be utilized at that location for its commonly recognized purposes.

004.02F Should a method of treatment be developed for such articles listed in 004.01 through 004.01J, the control authority may allow its utilization if it is found by the director to be consistent with the intent and purposes of the Noxious Weed Control Act and these regulations.

004.03 The control authority shall make inspection services available to those who request the inspection of articles capable of disseminating noxious weeds. When the control authority is unable to provide requested inspection services, or when information is all that is needed, the control authority shall make every effort to advise persons within the county as to the proper treatment of articles capable of disseminating noxious weeds. A sample article inspection form is set out in 25 NAC 10-008.09.

005 Procedure to Bring Weed Under or Remove from the County Control Program.

005.01 Petition to bring weed under county program. Petitions filed with the director under and by virtue of the provisions of sections 2-954(1)(a) of the Noxious Weed Control Act shall be in the form prescribed in 25 NAC 10-008.11. Such petitions shall, in addition to the requirements of the provisions of the Noxious Weed Control Act, contain the following:

005.01A An affirmation by the control authority that adequate resources, including funds, personnel, and equipment are available to control the spread of the petitioned weed.

005.01B An affirmation by the control authority that the testimony and evidence presented at a public hearing on the petition generally supported the control authority's belief that special weed control problems exist within the county with respect to the petitioned weed.

005.01C An affirmation by the control authority that the spread of the weed petitioned for can be controlled through utilization of the resources of the control authority.

005.01D A statement of agreement or specified disagreement by the weed control superintendent of that county with respect to the affirmations of the control authority contained in the petition.

005.02 Removal of petitioned weed from county control program.

005.02A The control authority may petition the director to remove a previously petitioned weed from the county's control program by submitting a petition in the form prescribed in 25 NAC 10-008.12.

005.02B The director may remove a petitioned weed from the county control program by notifying the control authority of such in writing. Such removal may only occur upon a determination by the director that such weed is not being controlled by the county's weed control program, or no longer poses a serious or special problem in the county. Such notice shall provide the county an opportunity for a hearing before the director prior to the removal of the weed from the county control program.

006 Department Review of Continuing Education Programs.

006.01 The director shall review and approve all continuing education programs sponsored by any statewide association of county weed control superintendents or statewide associations of local governments responsible for weed control that the Noxious Weed Control Act requires county weed control superintendents to complete.

006.01A A description of any continuing education program shall be submitted by the sponsoring association to the director at least three weeks prior to the first scheduled day of the continuing education program.

006.01B Any continuing education program shall include the following:

006.01B1 A full attendance requirement with at least two roll calls for each eight hours of education.

006.01B2 Examinations which adequately test the participants' comprehension and understanding of the educational material presented in the program.

006.01B3 Passing scores of at least 70 percent on the examinations; and

006.01B4 Adequate procedures for documenting the attendance records, examinations, and examination scores.

006.01C Within three weeks after the last scheduled day of a continuing education program, the sponsoring association shall provide the director documentation to show the continuing education program was carried out according to the description the association submitted to the director. Such documentation shall include:

006.01C1 Attendance records of all weed superintendents.

006.01C2 Copies of the examinations actually given during the program.

006.01C3 A listing of weed superintendents who have received passing scores for the program; and

006.01C4 Evidence that superintendents who did not fully attend the program and who did not receive a passing score for the program were not credited by the association as having completed the program.

007 Administration. These regulations shall be administered by the Department of Agriculture, Animal and Plant Health Protection located in the State Office Building, Fourth Floor, 301 Centennial Mall South, Lincoln, Nebraska. The mailing address is P.O. Box 94756, Lincoln, Nebraska 68509-4756. The telephone number is (402) 471-2351.

008 Forms.

008.01 Personnel Report

WEED CONTROL AUTHORITY BOARD ROSTER  
(Due January 31 of each year)

\_\_\_\_\_ County, 20\_\_\_\_\_

Section 2-953 of the Noxious Weed Control Act defines the control authority as the county weed district board or the county board.

Control authority is: \_\_\_\_\_ County Board \_\_\_\_\_ Weed Board

Title/Name	Mailing Address	Telephone	Board Type	Term Ends	Current Years of Service
Chairperson/Pres:					
V. Chair/V. Pres:					
Secretary:					
Treasurer:					
Member:					
Member:					
Member					
Superintendent			///////// ///////// /////////	///////// ///////// /////////	

\* Type: C = City representative, weed board  
R = Rural representative, weed board  
B = Board member, county commissioner/supervisor

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- NOTE:
- (1) Roster should reflect current or upcoming members only.
  - (2) Ex-officio or weed liaison, commissioners, or supervisors designated to receive correspondence in lieu of the chairperson should be indicated.

\_\_\_\_\_  
County Weed Superintendent Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Control Authority Chairperson/President Signature

\_\_\_\_\_  
Date

008.02 State Budget Report

Nebraska Department of Agriculture  
Animal and Plant Health Protection  
P.O. Box 94756  
Lincoln, NE 68509  
(402) 471-2351

**Budget Report**

(DUE January 31 of each year.)

\_\_\_\_\_ County, 20\_\_\_\_\_

Current Year Budget:

Available Funds \_\_\_\_\_

Expenses \_\_\_\_\_

Prior Year Actual:

Revenues \_\_\_\_\_

Expenses \_\_\_\_\_

Superintendent Salary \_\_\_\_\_

\_\_\_\_\_  
County Weed Superintendent Signature \_\_\_\_\_ Date

\_\_\_\_\_  
Control Authority Chairperson/President Signature \_\_\_\_\_ Date

008.03 Control Plan

Nebraska Department of Agriculture  
Animal and Plant Health Protection  
P.O. Box 94756  
Lincoln, Nebraska 68509  
(402) 471-2351

**NOXIOUS WEED CONTROL PLAN  
QUESTIONNAIRE**

*(Due January 31 of each year)*

\_\_\_\_\_ County, 20\_\_\_\_\_

Section 2-954 of the Noxious Weed Control Act requires each control authority to establish a coordinated program for the control of noxious weeds within the county.

On a separate sheet of paper, outline your anticipated noxious weed control plans, including the items listed below for the coming year. Be as specific and detailed as possible. Your completed control plan should then be attached to the control plan questionnaire, along with the completed signature page.

**GENERAL**

Control authority noxious weed objectives:

1. Provide at least three specific objectives that the county control authority intends to achieve in the coming year.
2. For each objective previously identified, provide the following information:
  - a. Purpose of the objective relative to the Noxious Weed Control Act.
  - b. Resources required to achieve the objective.
  - c. Specific procedures and steps needed to accomplish the objectives.
  - d. Final objective completion dates.

### **NOXIOUS WEED ENFORCEMENT**

1. Which legal notices will be the primary enforcement tool of the county control authority?  
 10-day    15-day    Both

The guidelines that the control authority has established for the weed superintendent to follow prior to the issuance of a legal notice are as follows:

2. Following the issuance of an individual notice, the policy of the control authority is as follows: (Include information on inspections, reports completed, persons notified, and required deadlines.)
3. Following the receipt of a legitimate report of a severe uncontrolled noxious weed infestation on private land, what steps will the control authority take to achieve compliance with the Noxious Weed Control Act? Your answer should be based on the assumption that personal requests have already been made to the landowner to control the infestation. However, those requests have been declined. Your plan should include information regarding inspection reports and type of notification or instructional materials that will be used. Identify persons conducting the enforcement work and persons who will be notified in the situation, such as any county board members, county clerks, sheriff, attorney, etc.

### **PUBLIC RELATIONS**

Voluntary noxious weed control is an essential component of implementing the Noxious Weed Control Act. Public awareness and landowner cooperation is vital to a successful weed control program.

1. What public awareness meetings are planned? (Include approximate dates, type of group targeted, and anticipated topics.)
2. What plans have been made to have a display or to speak at another group's function? (i.e., co-op open house, extension crop meetings, city or countywide "home shows," county fair, or chemical company sponsored meeting.)
3. What type of plans do you have for notifying landowners concerning fall and spring noxious weed control periods? (i.e., mailings, posters, etc.)
4. The newspaper, radio, and television are great media to contact a large number of people. How will you include them in your noxious weed program?

### **INSPECTIONS**

The Noxious Weed Control Act requires that all land within the jurisdiction of the control authority be inspected annually and that these inspections shall be documented as specified in the noxious weed rules and regulations 003.01B.

1. For the coming year, identify the person(s) who will be principally responsible for inspections.

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2. During which months of the coming year will most noxious weed inspections be conducted? How much time will be devoted to this requirement of the Noxious Weed Control Act?
3. How many inspection reports were completed in this calendar year? How many are anticipated for the next calendar year?
4. How will the inspection of non-infested land be documented in the coming year?
5. Of the total number of inspection reports anticipated for the coming year, approximately what percent do you estimate will be the following type of inspections?

Annual \_\_\_\_%      Complaint \_\_\_%      Follow-up\_\_\_%

**MISCELLANEOUS DATA**

1. Noxious weed mill levy      \_\_\_\_\_
2. Total county levy      \_\_\_\_\_
3. County valuation      \_\_\_\_\_
4. County acres      \_\_\_\_\_
5. The weed superintendent is:  Full-time     Part-time

If the weed superintendent is part-time, please explain.

Submitted and approved by the County Noxious Weed Control Authority.

\_\_\_\_\_  
County Weed Superintendent Signature      Date

\_\_\_\_\_  
Control Authority Chairperson/President Signature      Date

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008.04 Infestation Report

NOXIOUS WEED INFESTATION REPORT  
(Due January 31 of each year)

\_\_\_\_\_ County, 20\_\_\_\_\_

Section 2-954(3)(b) Noxious Weed Control Act requires the control authority to examine all land under its jurisdiction and for the superintendent to compile data on infested acres.

Record Acres Infested and Severity for Each Noxious Weed  
and Land Use for the Preceding Year

	Musk Thistle	Plumeless Thistle	Canada Thistle	Leafy Spurge	Knapweed	Purple-Loosestrife	Saltcedar	Pragmites	Japanese Knotweed	Giant Knotweed	Sericea lespedeza
Railroad											
None											
Trace											
Light											
Moderate											
Severe											
Total acres											
Roads											
None											
Trace											
Light											
Moderate											
Severe											
Total acres											
Nonagricultural											
None											
Trace											
Light											
Moderate											
Severe											
Total acres											

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	Musk Thistle	Plumeless Thistle	Canada Thistle	Leafy Spurge	Knapweed	Purple-Loosestrife	Saltcedar	Pragmites	Japanese Knotweed	Giant Knotweed	Sericea lespedeza
Pasture/Rang/Idle											
None											
Trace											
Light											
Moderate											
Severe											
Total acres											
Cropland											
None											
Trace											
Light											
Moderate											
Severe											
Total acres											
County Total											
None											
Trace											
Light											
Moderate											
Severe											
Total acres											

\* spotted and diffuse

Noxious weeds petitioned by county: \_\_\_\_\_

Total Acres: \_\_\_\_\_

\_\_\_\_\_  
County Weed Superintendent Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Control Authority Chairperson/President Signature

\_\_\_\_\_  
Date

008.05 Activity Report

ACTIVITY REPORT

(Due January 31 of each year)

\_\_\_\_\_ County, 20\_\_\_\_\_

Month and year weed superintendent started in the position:

---

**For the preceding year, indicate the following:**

1. Control authority employees
  - \_\_\_ a. Number of weeks weed superintendent was employed full-time as a weed superintendent.
  - \_\_\_ b. Number of part-time or seasonal personnel employed annually.
  - \_\_\_ c. Number of full-time personnel.
  - \_\_\_ d. Percent of time weed superintendent spent on required noxious weed control activities.
  
2. County noxious weed budget
  - \_\_\_ a. Actual total weed budget spent for the previous fiscal year.
  - \_\_\_ b. Total weed budget most recently adopted and approved (total requirements).
  - \_\_\_ c. Tax dollars required for weed control for last fiscal year (budgeted for current fiscal year).
  
3. Public relations and education
  - \_\_\_ a. Number of public education and informational meetings presented by the control authority.
  - \_\_\_ b. Number of noxious weed articles published based on information provided by the control authority.
  - \_\_\_ c. Number of radio interviews conducted by the control authority regarding noxious weeds.

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- \_\_\_ d. Number of informational letters or brochures distributed by the control authority regarding noxious weeds.
  - \_\_\_ e. Number of events that informational noxious weed displays were presented by the control authority.
4. Number of inspections completed and documented with appropriate inspection reports
- Spring    Fall
- \_\_\_ \_\_\_ a. Annual Noxious Weed Inspection.
  - \_\_\_ \_\_\_ b. Special Noxious Weed Inspection.
  - \_\_\_ \_\_\_ c. Complaint Noxious Weed Inspection.
  - \_\_\_ \_\_\_ d. Follow-up Noxious Weed Inspection.
  - \_\_\_ \_\_\_ e. Crop inspections.
  - \_\_\_ \_\_\_ f. Article inspections.
5. Noxious weed notification and enforcement
- \_\_\_ a. Number of reports received concerning uncontrolled noxious weed infestations (includes landowner complaints and Nebraska Department of Agriculture (NDA) reports).
  - \_\_\_ b. Number of requests made to individuals or other entities to control noxious weeds (excluding official notices).
6. Official 15-day notice results
- \_\_\_ a. Number of 15-day notices issued.
  - \_\_\_ b. Number of 15-day notices which achieved acceptable compliance prior to notice expiration.
  - \_\_\_ c. Number of notices prosecuted.
  - \_\_\_ d. Dollar value of fine notices collected.
  - \_\_\_ e. Number of 15-day notice disposition reports completed.
7. Official 10-day notice results
- \_\_\_ a. Number of 10-day notices issued.
  - \_\_\_ b. Number of 10-day notices which achieved acceptable compliance prior to expiration.
  - \_\_\_ c. Number of parcels force controlled by the county.

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- \_\_\_ d. Number of parcels force controlled by contractors.
- \_\_\_ e. Total number of acres force controlled.
- \_\_\_ f. Total number of liens filed for nonpayment.
- \_\_\_ g. Total number of 10-day notice disposition reports completed.

8. Weed Superintendent Education and Training

- \_\_\_ a. Number of regional Nebraska Weed Control Association (NWCA) meetings attended.
- \_\_\_ b. Number of state NWCA meetings, workshops, or seminars attended.
- \_\_\_ c. Number of university, state, or federal information or training sessions attended.
- \_\_\_ d. Number of private industry training sessions attended.
- \_\_\_ e. Other \_\_\_\_\_

9. Number of meetings weed superintendent held or attended with (other than those listed above):

- \_\_\_ a. Control authority.
- \_\_\_ b. County attorney.
- \_\_\_ c. District NDA inspector.
- \_\_\_ d. Railroad officials.
- \_\_\_ e. Road departments.
- \_\_\_ f. Municipalities.
- \_\_\_ g. Federal officials.
- \_\_\_ h. Other or miscellaneous \_\_\_\_\_

\_\_\_\_\_  
County Weed Superintendent Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Control Authority Chairperson/ President Signature

\_\_\_\_\_  
Date

008.06A Inspection Report

NOXIOUS WEED INSPECTION REPORT

No. \_\_\_\_\_

\_\_\_\_\_ County, 20\_\_\_\_\_

Legal Description (Sec. Twp. Rge) \_\_\_\_\_

Landowner \_\_\_\_\_ Address \_\_\_\_\_

Tenant \_\_\_\_\_ Address \_\_\_\_\_

For each inspection, include the following information:

Date: \_\_\_\_\_ Time: \_\_\_\_\_

Inspection Type: \_\_\_\_\_ Severity: \_\_\_\_\_

Noxious Weeds Found:

Locations: \_\_\_\_\_

Acres Inspected: \_\_\_\_\_ Acres Infested: \_\_\_\_\_ Land Use Category: \_\_\_\_\_

Control Recommendations: \_\_\_\_\_

Type of Notification Served: \_\_\_\_\_

Follow-up Response: \_\_\_\_\_

Other Comments: \_\_\_\_\_

\_\_\_\_\_  
Inspector Signature

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Inspection Types:

- AN = Annual
- SP = Special
- IN = Individual Notice
- FO = Follow-up

Noxious Weed Severity Guidelines:

- N = None
- T = Trace (a few present)
- L = Light (scattered individuals  
or patches)
- M = Moderate (uniform concentration  
or scattered severe patches)
- S = Severe (large dense concentrations)


Map size: \_\_\_\_\_

## NOXIOUS WEED INSPECTION SURVEY METHODS

Noxious weed mapping and inspecting is perhaps one of the most important duties of the county weed superintendent. Regular survey work will identify new and localized weed infestations, monitor yearly changes in existing infestations, and provide background documentation for enforcement efforts.

It is not the intent of this mapping inspection system to require detailed weed counts, but rather to provide a standardized approach using both qualitative and quantitative infestation characteristics. With experience, infestations can be visually estimated.

### Survey Method

1. Define the total area of interest in acres, i.e., section = 640 acres.
2. On the map, delineate major land use areas. Indicate points of reference, compass direction (north), etc.
3. For each land use area, indicate noxious weed infestations, estimate acreage, and categorize the severity based on the guidelines provided.
4. The inspection report should serve as both a mapping tool and a documentation of your efforts. Thus, including all information requested at the top of the inspection report is important. Be as detailed and accurate as possible.

### Approximating Area

1 acre = 208 ft. x 208 ft. = 100 ft. x 435 ft.

1 acre = approximately 1 football field 100 yds. x 50 yds.

1 acre = ½ mile of roadside 16.5 ft. wide

1 section = 640 acres = 1 mile x 1 mile

NOXIOUS WEED SURVEY AND INSPECTION REPORT ADDENDUM  
Ratings

		Annual/Biennial Count	Perennial Count
None	None found	0	0
Trace	Present, but very few found. Enough to reproduce, but not enough to cause immediate economic loss.	Less than 1/acre average	Less than 1 shoot / acre OR less than 1 "small" patch/ 100 acres
Light	Scattered <u>OR</u> patches of moderate infestations affecting less than 1/3 of the area.	1-500/acre	1-500 shoots/acre, OR 1-2 "small" patches/ 100 acres
Moderate	Mostly uniform concentration <u>OR</u> scattered severe patches affecting 1/3 to 2/3 of the area.	500-5,000/acre OR 1-10/100 sq. ft.	500-5,000 shoots/acre OR 3-4 patches/100 acres
Severe	Dense uniform concentration or numerous large severe patches affecting more than 2/3 of the area.	Greater than 5,000/acre or Greater than 10/100 sq. ft.	Greater than

Note: A "small" patch is defined as an area less than 100 sq. ft.

-----  
Codes

LAND USE CODES

CL - Cropland  
NA - Nonagricultural  
PT - Pasture/Range/Idle  
RR - Railroad  
RS - Roads

GROWTH STAGE CODE

SD - Seed  
SR - Seedling or Rosette  
SE - Sten Elongation/Bolting  
BD - Bud Stage  
FL - Flower  
MA - Mature

-----  
Guidelines for Approximating Area

1 section = 640 acres = 1 miles x 1 mile  
1 acre = 208 x 208 feet = 100 feet x 435 feet = 43,560 square feet  
1 acre = about a football field 100 yards x 50 yards  
1 acre = 1/2 mile of roadside 16.5 feet wide  
1,000 square feet = 31.6 feet x 31.6 feet - 10 feet x 100 feet

NOXIOUS WEED INSPECTION REPORT

County: \_\_\_\_\_ Date: \_\_\_\_\_

Legal Description: (Sec. Twp. Rge.) \_\_\_\_\_

\_\_\_\_\_ Site Acres: \_\_\_\_\_

Annual: \_\_\_\_\_ Special: \_\_\_\_\_ Random: \_\_\_\_\_ Follow-up: \_\_\_\_\_

Landowner Name: \_\_\_\_\_ Tenant Name: \_\_\_\_\_

Habitat _____					Habitat _____				
	Trace	Light	Mod.	Severe	Trace	Light	Mod.	Severe	Growth Stage
Musk Thistle									
Plumeless Th.									
Canada Th.									
Leafy Spurge									
Knapweed									
P.Loosestrife									
Saltcedar									
Pragmites									
Japanese Knotweed									
Giant Knotweed									
Sericea lespezeda									

Habitat _____					Habitat _____				
	Trace	Light	Mod.	Severe	Trace	Light	Mod.	Severe	Growth Stage
Musk Thistle									
Plumeless Th.									
Canada Th.									
Leafy Spurge									
Knapweed									
P.Loosestrife									
Saltcedar									
Pragmites									
Japanese Knotweed									
Giant Knotweed									
Sericea lespezeda									

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Follow-up action by:

\_\_\_\_\_ is requested. A follow-up inspection will be made by the county weed control authority.


Report Copies to:

Landowner \_\_\_\_\_  
Control Authority \_\_\_\_\_  
County Attorney \_\_\_\_\_

Photographs:

Roll No. \_\_\_\_\_  
Print No. \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_

Inspector Signature: \_\_\_\_\_

## NOXIOUS WEED INSPECTION SURVEY METHODS

Noxious weed mapping and inspecting is perhaps one of the most important duties of the county weed superintendent. Regular survey work will identify new and localized weed infestations, monitor yearly changes in existing infestations, and provide background documentation for enforcement efforts.

It is not the intent of this mapping inspection system to require detailed weed counts, but rather to provide a standardized approach using both qualitative and quantitative infestation characteristics. With experience, infestations can be visually estimated.

### Survey Method

1. Define the total area of interest in acres, i.e., section = 640 acres.
2. On the map, delineate major land use areas. Indicate points of reference, compass direction (north), etc.
3. For each land use area, indicate noxious weed infestations, estimate acreage, and categorize the severity based on the guidelines provided.
4. The inspection report should serve as both a mapping tool and a documentation of your efforts. Thus, including all information requested at the top of the inspection report is important. Be as detailed and accurate as possible.

### Approximating Area

1 acre = 208 ft. x 208 ft. = 100 ft. x 435 ft.

1 acre = approximately 1 football field 100 yds. x 50 yds.

1 acre = ½ mile of roadside 16.5 ft. wide

1 section = 640 acres = 1 mile x 1 mile

NOXIOUS WEED SURVEY AND INSPECTION REPORT ADDENDUM  
Ratings

		<u>Annual/Biennial Count</u>	<u>Perennial Count</u>
None	None found	0	0
Trace	Present, but very few found. Enough to reproduce, but not enough to cause immediate economic loss.	Less than 1/acre average	Less than 1 shoot/acre OR less than 1 "small" patch/100 acres
Light	Scattered <u>OR</u> patches of moderate infestations affecting less than 1/3 of the area.	1-500/acre	1-500 shoots/acre, OR 1-2 "small" patches/100 acres
Moderate	Mostly uniform concentration <u>OR</u> scattered severe patches affecting 1/3 to 2/3 of the area.	500-5,000/acre OR 1-10/100 sq. ft.	500-5,000 shoots/acre OR 3-4 patches/100 acres
Severe	Dense uniform concentration or numerous large severe patches affecting more than 2/3 of the area.	Greater than 5,000/acre OR Greater than 10/100 sq. ft.	Greater than 5,000 shoots/acre OR greater than 5 patches/100 acres

Note: A "small" patch is defined as an area less than 100 sq. ft.

-----  
Codes

LAND USE CODES

CL - Cropland  
NA - Nonagricultural  
PT - Pasture/Range/Idle  
RR - Railroad  
RS - Roads

GROWTH STAGE CODE

SD - Seed  
SR - Seedling or Rosette  
SE - Sten Elongation/Bolting  
BD - Bud Stage  
FL - Flower  
MA - Mature

-----  
Guidelines for Approximating Area

1 section = 640 acres = 1 miles x 1 mile  
1 acre = 208 x 208 feet = 100 feet x 435 feet = 43,560 square feet  
1 acre = about a football field 100 yards x 50 yards  
1 acre = 1/2 mile of roadside 16.5 feet wide  
1,000 square feet = 31.6 feet x 31.6 feet - 10 feet x 100 feet

008.07 General Notice. Publish on or before May 1 and between August 1 and October 1.

NOXIOUS WEEDS MUST BE CONTROLLED

You are required to control noxious weeds on your property.

The noxious weeds are: Musk Thistle, Plumeless Thistle, Canada Thistle, Leafy Spurge, knapweed (spotted and diffuse), Saltcedar, Phragmites, Japanese Knotweed, Giant Knotweed, Sericea lespedeza, \_\_\_\_\_ and Purple Loosestrife. Notice is hereby given this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, pursuant to the Noxious Weed Control Act, section 2-955, subsection 1(a), to every person who owns or controls land in \_\_\_\_\_ County, Nebraska, that noxious weeds being or growing on such land shall be controlled at such frequency as to prevent establishment, provide eradication, or reduce further propagation or dissemination of such weeds.

Upon failure to observe this notice, the county weed superintendent is required to:

1. Proceed pursuant to the law and issue legal notice to the landowner of property infested with noxious weeds giving such landowner 15 days to control the noxious weed infestation. Conviction for noncompliance may result in a \$100.00 per day fine to the landowner with a maximum fine of \$1,500; or
2. Should more immediate control be required, proceed pursuant to the law and have the weeds controlled by such method as he/she finds necessary, the expense of which shall constitute a lien and be entered as a tax against the land, and be collected as other real estate taxes are collected, or by other means as provided by law.

The public is also hereby notified that noxious weed seed and propagative parts may be disseminated through the movement of machinery and equipment, trucks, grain and seed, hay, straw, nursery stock, fencing materials, sod, manure, and soil as well as articles of similar nature. Methods of treatment have been prescribed by the Director of Agriculture and may be obtained from the county weed control authority.

By Order of \_\_\_\_\_ County Control Authority.

008.08 Crop Inspection Report

No. \_\_\_\_\_

CROP INSPECTION REPORT  
(Attach Noxious Weed Inspection Report)

\_\_\_\_\_ County, Nebraska

The crop, \_\_\_\_\_ inspected on \_\_\_\_\_,

growing on \_\_\_\_\_  
(Legal Description)

Section \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_,

owned by \_\_\_\_\_ and controlled by \_\_\_\_\_,

(a) \_\_\_ has been inspected and found free of noxious weeds

(b) \_\_\_ has been inspected and found to be infested with noxious weeds and is hereby  
quarantined and shall not be moved from said premises without written permission of \_.

\_\_\_\_\_  
(County Weed Control Authority)

The prescribed treatment is: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Weed Control Superintendent Signature      (\_\_\_\_\_) Telephone      \_\_\_\_\_ Date

\_\_\_\_\_  
Producer Signature      (\_\_\_\_\_) Telephone      \_\_\_\_\_ Date

-----

Release of Quarantined Crop

The crop growing on the following described land has been effectively treated to prevent the dissemination of noxious weeds and is no longer subject to quarantine.

Legal Description \_\_\_\_\_

Section \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_

Crop \_\_\_\_\_

\_\_\_\_\_  
Signature and Title of Releasing Agent      (\_\_\_\_\_) Telephone \_\_\_\_\_      \_\_\_\_\_  
Date

008.09 Article Inspection Form

NOXIOUS WEED ARTICLE INSPECTION REPORT

\_\_\_\_\_ County, Nebraska

This is to certify that a noxious weed inspection has been made of the following farm land or article(s) capable of disseminating noxious weeds.

Article	Legal Description	Legal Owner	Noxious Weed Free	Noxious Seed(s)	Weed(s) Found

Action Taken

\_\_\_ Articles found to be free of noxious weeds

\_\_\_ The following articles were found to be contaminated with noxious weeds:

\_\_\_\_\_

Therefore, the following articles: \_\_\_\_\_

\_\_\_\_\_

are hereby quarantined and shall not be moved from said premises without

written permission of: \_\_\_\_\_

County Weed Control Authority

The prescribed treatment for the contaminated article(s) is:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Weed Control Superintendent Signature

(\_\_\_\_\_)\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Date

-----

Release of Quarantined Article(s)

The following article(s) have been properly and effectively treated to prevent the dissemination of noxious weeds and are no longer subject to quarantine:

\_\_\_\_\_

\_\_\_\_\_  
Signature and Title of Releasing Agent      (\_\_\_\_\_) Telephone      \_\_\_\_\_ Date

008.10 Individual Notice Disposition Report

INDIVIDUAL NOTICE DISPOSITION REPORT

County of \_\_\_\_\_, State of Nebraska, in reference  
to individual notice issued on \_\_\_\_\_, 20 \_\_\_\_.

Notice type: \_\_\_\_\_ 15-day \_\_\_\_\_ 10-day

Method of Delivery \_\_\_\_\_

RECORD OF INSPECTIONS PERFORMED/EVIDENCE COLLECTED

Date	Report No.	Comments
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Prior to or at expiration of 10- or 15-day period, infestation was:

- \_\_\_ Adequately controlled by: \_\_\_\_\_ (method)
- \_\_\_ Partially controlled by: \_\_\_\_\_ (method)
- \_\_\_ Not Acceptable      \_\_\_ Acceptable for short term
- \_\_\_ No evidence of control attempted as of \_\_\_\_\_

Following expiration of 10- or 15-day period:

- \_\_\_ 10-Day Notice  
Force controlled  
on \_\_\_\_\_  
by \_\_\_\_\_  
method \_\_\_\_\_  
Landowner notified of charges  
on \_\_\_\_\_  
Register of deeds notified  
on \_\_\_\_\_  
Payment received on \_\_\_\_\_  
Unpaid for two months expense  
certified to county treasurer on  
\_\_\_\_\_

- \_\_\_ 15-Day Notice  
Controlled on day # \_\_\_\_\_  
of fine period  
County attorney notified and  
evidence submitted on \_\_\_\_\_  
Court hearing date \_\_\_\_\_  
Court ruling \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

008.11 Petition to Designate a Weed Noxious in a County

Section 2-954 of the Noxious Weed Control Act states that whenever special weed control problems exist in a county involving weeds not included in the rules and regulations, the control authority may petition the Director to bring such weeds under the county control program.

PETITION

Date: \_\_\_\_\_

To: The Director of Agriculture, State of Nebraska

From: The \_\_\_\_\_ County Control Authority

RE: Petition to have the Director of Agriculture approve of the employment of the forced control provisions of sections 2-953 to 2-955 and 2-958 of the Noxious Weed Control Act against the weed known as:

Common name: \_\_\_\_\_

Scientific name: \_\_\_\_\_

The \_\_\_\_\_ County Control Authority hereby petitions the Director of Agriculture of the state of Nebraska for approval of our employment of the forced control provisions of sections 2-953 to 2-955 and 2-958 of the Noxious Weed Control Act against the weed:

\_\_\_\_\_  
(scientific name)

In support of said petition, we hereby make the following affirmations to the Director of Agriculture:

1. That said weed poses a serious and special problem in this county due to the adverse effect of said weed on crop or livestock production, aesthetic value and/or other adverse impacts which reduce land value and decrease tax revenue.
2. That said weed has not been designated and published by the Director of Agriculture as noxious.
3. That the county board of \_\_\_\_\_ County has approved of the making of this petition.
4. That the control authority, in cooperation with the county board, held a hearing on the petition on \_\_\_\_\_ at \_\_\_\_\_ in \_\_\_\_\_, Nebraska.
5. That notice of said hearing was given by publication in a newspaper of general circulation in the county at least ten days prior to the hearing, and that a copy of said notice is attached hereto.

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6. That a transcript of said hearing has been prepared and a copy thereof is attached hereto.
7. That the testimony and evidence presented at the public hearing generally supports affirmation number 1.
8. That \_\_\_\_\_ County is willing and able to devote adequate resources as defined in 25 NAC 10-005.01A for the control and prevention of said weed.
9. That said weed can be controlled through utilization of the resources referred to affirmation number 8.

County Control Authority Signatures

_____	_____
_____	_____
_____	_____
_____	_____

I, \_\_\_\_\_, duly certified weed control superintendent for \_\_\_\_\_ County, Nebraska, have reviewed the above-mentioned affirmations of the weed control authority and find them to be accurate to the best of my knowledge, with the following exceptions: (If none, so state) \_\_\_\_\_  
\_\_\_\_\_

Signed: \_\_\_\_\_

APPROVAL  
County Board Signatures

_____	_____
_____	_____
_____	_____
_____	_____

008.12 Petition to Remove Weed from County Control Program

PETITION

Date: \_\_\_\_\_

To: The Director of Agriculture, State of Nebraska

From: The \_\_\_\_\_ County Weed Control Authority

RE: Petition to have the Director of Agriculture approve removal of the employment of the forced control provisions of sections 2-953 to 2-955 and 2-958 of the Noxious Weed Control Act against the weed known as:

Common name: \_\_\_\_\_

Scientific name: \_\_\_\_\_

The \_\_\_\_\_ County Weed Control Authority hereby petitions the Director of Agriculture of the state of Nebraska for approval to remove forced control provisions of sections 2-953 to 2-955 and 2-958 of the Noxious Weed Control Act against the weed:

\_\_\_\_\_  
(scientific name)

In support of said petition, we hereby make the following affirmations to the Director of Agriculture:

1. That said weed no longer poses a serious or special problem in this county.
2. That said weed has not been designated and published by the Director of Agriculture as noxious.
3. That the county board of \_\_\_\_\_ County has approved of the making of this petition.
4. That the control authority, in cooperation with the county board, held a hearing on the petition on \_\_\_\_\_ at \_\_\_\_\_ in \_\_\_\_\_, Nebraska.
5. That notice of said hearing was given by publication in a newspaper of general circulation in the county at least ten days prior to the hearing, and that a copy of said notice is attached hereto.
6. That a transcript of said hearing has been prepared and a copy thereof is attached hereto.
7. That the testimony and evidence presented at the public hearing generally supports affirmation 1. above.

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County Weed Control Authority Signatures

_____	_____
_____	_____
_____	_____
_____	_____

I, \_\_\_\_\_, duly certified weed control superintendent for \_\_\_\_\_ County, Nebraska, have reviewed the above-mentioned affirmations of the weed control authority and find them to be accurate to the best of my knowledge, with the following exceptions: (If none, so state) \_\_\_\_\_  
\_\_\_\_\_

Signed: \_\_\_\_\_

APPROVAL  
County Board Signatures

_____	_____
_____	_____
_____	_____
_____	_____

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009 Publication Adopted. See Appendix A.

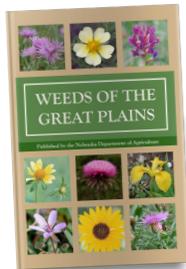
010 Annotation. Neb. Rev. Stat. §§2-945.01 through 2-968.

## NOXIOUS WEEDS ARE EVERYONE'S CONCERN

Noxious weeds compete with pastures and crops, reducing yields substantially. Some noxious weeds are directly poisonous or injurious to man, livestock and wildlife. The losses resulting from noxious weed infestations can be staggering, costing residents of Nebraska millions of dollars due to production losses. This not only directly affects the landowner, but erodes the tax base for all residents in the State of Nebraska.

The business of noxious weed control is everyone's concern, and noxious weed control benefits everyone. The support of all individuals within the state is needed and vital for the control of noxious weeds within Nebraska. It is the duty of each person who owns land to effectively control noxious weeds on their land.

If you have questions or concerns about noxious weeds, please contact your local county noxious weed control authority or the Nebraska Department of Agriculture.



Material derived from *Weeds of the Great Plains*, published by the Nebraska Department of Agriculture.

For more information, visit [nda.nebraska.gov](http://nda.nebraska.gov).

## COMMON REED (PHRAGMITES)



## NEBRASKA NOXIOUS WEED

PREPARED BY THE  
NEBRASKA DEPARTMENT OF AGRICULTURE  
AND THE  
NEBRASKA WEED CONTROL ASSOCIATION

## COMMON REED FACTS

**Common Name:** Common reed (giant reed, canegrass)

**Growth Form:** Grass

**Life Span:** Perennial

**Origin:** Native and Europe

**Season:** Warm

**Reproduction:** Rhizomes, stolons, rarely by seeds

**Height:** 1–6 m (3.3–19.7 ft)

**Inflorescences:** Panicles (15–50 cm long, 5–20 cm wide), plumelike, much-branched; branches and top nodding at maturity; tan to purplish

**Spikelets:** Florets 3–8; lemmas sharply pointed (1.1–1.6 cm long), without hair, veins 3; lowest floret male; upper florets sterile; florets exceeded by the hairs of the rachilla

**Awns:** Fertile lemmas awned

**Glumes:** Unequal; first glume 3.6–6.2 mm long, veins 3; second glume 6.8–8.5 mm long, veins 3–5

**Sheaths:** Round, open, smooth, margins with fine hairs

**Ligules:** Ciliate membrane (1–3 mm long), backed by both short and long silky hairs

**Blades:** Flat (15–60 cm long, 1–6 cm wide), tapering to long-attenuate tips; margins serrate, without hair; upper surface ridge-veined, lower surface without hair or sparsely hairy

**Culms:** Erect to ascending, round (5–20 mm in diameter), robust, hollow, without hair

**Rhizomes:** Extensive (up to 10 m in length), stout (up to 2 cm in diameter), scaly

**Stolons:** Robust, may be 20 m long or more

**Where Found:** Throughout the Great Plains forming dense stands in wet and moderately fertile soils along banks of ponds, lakes, streams, marshes, roads, ditches and in wet fields. (NE, SD, ND, KS, OK, TX, MN, IA, MO, MT, WY, CO, NM, AB, SK & MB)

**Uses and Values:** It is readily eaten by cattle and horses when it is immature.

**Historical:** Pieces of the stems were used to make pen points in early America. Some Native Americans used common reed for thatching, mats, and arrow shafts.

**Other:** Characteristics of introduced common reed include a dense inflorescence; yellow, oval rhizomes; persistent leaf sheaths in fall; and tan, rough stems. Native common reed has a sparse inflorescence; white, round rhizomes; leaf sheaths that are easily detached in fall; and red to chestnut, smooth stems.

*Identification between native and non-native common reed can be difficult at times. Contact your local county weed control superintendent for assistance.*

## IMPACT OF COMMON REED

Non-native common reed can be found throughout the state in stream and river channels, drainage ditches, and shores of lakes and ponds. While these are typical sites to find common reed, isolated infestations have been documented in drier sites.

The most serious infestations of common reed are found primarily in the Platte River basin. However, numerous isolated infestations are found in the Republican River basin.

A dense stand of common reed out-competes native plant communities and alters the conveyance of water by channelizing the river channels creating vegetated sandbars. Natural river flows are restricted, thus making the areas susceptible to flooding during high water events.



Panicles are plumelike, much-branched, densely flowered, and tan to purplish in color.

## CONTROLLING COMMON REED

### Mechanical and Cultural Control

Stands of common reed can be suppressed by mowing and/or grazing. Mowing reduces the plant's vigor, but continuous mowing is necessary to keep the stand in check. Mowing activities produce numerous small plant parts that are capable of resprouting, thus possibly increasing new shoots. This method should be used for short-term control until more effective methods can be applied. The use of cattle or goats has shown mixed results in containing dense stands of common reed. Vegetation should be grazed early in the growing season and continually grazed throughout the season. This method can suppress seed production as well as stressing root reserves of the plant. An intensive grazing program is a must and should be continued over several growing seasons.



Ligule is a ciliate membrane, backed by both short and long silky hairs.

### Biological Control

Currently, there are not any approved biocontrol agents for the control of non-native common reed.

### Common Reed Control Summary

A combination of two or more control methods is the best approach when controlling common reed. By utilizing several control options, your odds become greater that more common reed will be controlled. Common reed is capable of reproducing by seeds and root fragments. Existing infestations can spread vegetatively, not only by its extensive root system, but also by the plant's capability to send out extensive rhizomes that grow over 30 feet in length. Continued monitoring and follow-up control measures are essential for maintaining common reed infestations at an acceptable level. Vigilance is necessary to identify new infestations and effectively control them when the patches are small and there is a possibility of total control. A follow-up program is necessary for several growing seasons to control escaped plants and new seedlings.



### Herbicide Control

The use of herbicides can be an effective tool to assist in controlling noxious weeds. A person needs to identify the problem and the appropriate herbicide for the plant as well as the site that the plant is growing. If the noxious weed infestation is severe and scattered across a large area, then a broadcast application may be warranted. However, if the noxious weeds are in patches or a few scattered plants here and there, a person may be able to spot treat individual plants or patches. This approach requires less herbicide and has minimal impact on native plants and the environment. Controlling noxious weeds with herbicides in only one tool and should never be the only control option.

Additional information regarding herbicide use can be found through the Nebraska Cooperative Extension EC130 (*Guide for Weed, Disease, and Insect Management in Nebraska*) or your local county weed control authority at [neweed.org](http://neweed.org).

# Invoice

TIM ROOT  
AQUATIC APPLICATOR SERVICES

INVOICE 91718  
DATE: 9/19/2018

Tim Root  
42610 DRIVE 755  
LEXINGTON NEBRASKA, 68850  
Phone 308-325-4840  
[e-mail] timroot@drakesnesthuntingclub.com

Commercial Applicator ID NEB 084185  
Licensed Thru 4/15/19  
Licensed Categories  
01, 05

BILL  
TO Tom Villegas  
25599 WCR  
Hudson, CO. 80642

Noxiuos weed Phragmites  
POLARIS EPA Reg. No228-534 at 64oz. Per acre  
NIS90 surfactant  
Chemical mix applied at 50 gallons per acre

N41\*00'12.66 W100\*27'20.733 Near Brady NE.  
Start Time 11:00 AM 78degrees 65% humidity south wind at 6mph  
Finish Time 1:54 PM 91Degrees 34% humidity south wind 9mph.

DATE	DESCRIPTION	QUANTITY	PRICE	AMOUNT		
09/17/18	Application fee with Argo XT1			\$490.00		
	Cost of 400 gallons of mix. POLARIS 6.25 gallon at \$83.20 per gallon \$520 NIS90 1.25 gallon at \$23.50 per gallon \$29.38 Chemical cost provided by Platte River Weed Mangment area total chemical cost \$549.38					
	Mobilization fee 70 miles at \$1.65 per mile mobilization fee may be shared with other jobs in the area.			\$115.50		
	<i>CURRENT</i>	<i>1-30 DAYS PAST DUE</i>	<i>31-60 DAYS PAST DUE</i>	<i>61-90 DAYS PAST DUE</i>	<i>OVER 90 DAYS PAST DUE</i>	<i>al of invoice 1&amp;2</i>
	\$605.50					\$605.50

REMITTANCE	
INVOICE 91718	
Date	
Amount Due	\$605.50
Amount Enclosed:	

Make all checks payable to Tim Root  
THANK YOU !!

# Invoice

## **DEAD WEED SWEDE**

TIM ROOT

INVOICE 9219

DATE: 9/5/19

Tim Root  
 42610 DRIVE 755  
 LEXINGTON NEBRASKA, 68850  
 Phone 308-325-4840  
 [e-mail] sandbar.tr@gmail.com

Commercial Applicator ID NEB 084185  
 Licensed Thru 4/15/22  
 Licensed Categories  
 01, 05

**BILL**

TO Tom Villegas  
 25599 WCR  
 Hudson, CO. 80642

Noxiuos weed Phragmites  
 POLARIS EPA Reg. No228-534 at 80oz. Per acre  
 NIS90 surfactant  
 Chemical mix applied at 50 gallons per acre  
  
 N41\*00'12.66 W100\*27'20.733 Near Brady NE.

DATE	DESCRIPTION	QUANTITY	PRICE	AMOUNT
09/02/19	Application fee with Argo XTI			\$540.00
	Chemical cost provided by Platte River Weed Mangment area total chemical cost 420 gallon of mix \$676.20 Mobilization fee 70 miles at \$1.65 per mile mobilization fee may be shared with other jobs in the area.			\$115.50
	<i>CURRENT</i>	<i>1-30 DAYS</i>	<i>31-60 DAYS</i>	<i>61-90 DAYS</i>
	<i>PAST DUE</i>	<i>PAST DUE</i>	<i>PAST DUE</i>	<i>PAST DUE</i>
				\$655.50
<b>REMITTANCE</b>				
Invoice				
Date				
Amount Due				
Amount Enclosed:				

Make all checks payable to Tim Root





















# D. Keith Tillotson

## Education:

M.S., Entomology, Kansas State University, 1988  
M.S., Science Education, State University of New York - Albany, 1975  
B.S., Wildlife Biology, Kansas State University, 1973

## Professional Registration/Affiliations:

Professional Wetland Scientist (#414) 1995-present  
Regulatory IV - Corps of Engineers Basic Wetland Delineation - Wetland Training Institute  
Wetland Policy - Federal Highway Administration  
Hydic Soils for Wetland Delineation - Natural Resources Conservation Service  
Wetland Mitigation Banking - Corps of Engineers  
Hydrogeomorphic Approach to Assessing Rainwater Basin Wetlands - Rainwater Basin Joint Venture Partnership  
Streambank Erosion and Protection - Corps of Engineers  
ASTM E 1527-13 Phase I ESA Commonground University Training  
Certified NDOR Erosion and Sediment Control Inspector

## Experience Summary:

Mr. Tillotson serves MILCO Environmental Services, Inc. as an Environmental Technician. He has 32 years of experience completing field work, including observations of the impacts of water-related development projects. His previous experience includes 22 years as a regulatory project manager with the U.S. Army Corps of Engineers. During this time, he was responsible for the evaluation of permit applications and field investigations, including wetland delineations. In addition to evaluating permit applications, he chaired the Interagency Review Team for mitigation banking in Nebraska.

Now, Mr. Tillotson performs field investigations, completes wetland delineations, writes Storm Water Pollution Prevention Plans (SWPPPs), assists with Phase I Environmental Site Assessments, assists with construction and operating permits for onsite wastewater treatment systems, works with government regulatory environmental reviews for different funding sources, and assists the firm by reviewing various documents.

## Project Experience:

### **Wetland Delineations**

Mr. Tillotson helps the project team obtain permits from the U.S. Army Corps of Engineers (Corps) for clients with construction work in wetlands, creeks, rivers, and lakes. He provides support by performing field investigations and helping identify and map any wetlands present on the property. After calculating the proposed project's impact on wetland resources, he helps prepare a document to demonstrate compliance with Corps regulations and, if necessary, prepares a permit application.

### **Phase I Environmental Site Assessments**

Mr. Tillotson has assisted with Phase I Assessments across Nebraska. He aids the project team by thoroughly researching and compiling regulatory and historical records, conducting field activities, and helping prepare reports. The final report presents the findings of the study and the perceived impact.

### **Assists with HUD Grants, Community Development Block Grants, NEPA Environmental Assessments**

Mr. Tillotson helps prepare the environmental documentation necessary to ensure compliance of federally-funded projects.

### **Construction Storm Water Pollution Prevention Plans**

Mr. Tillotson assists clients with applying for Construction Storm Water Permits following the requirements of local, state, and federal governing agencies.

### **Onsite Wastewater Treatment System Construction Permits**

Mr. Tillotson has experience assisting clients with applying for Onsite Wastewater Treatment System Construction Permits.

