

October 8, 2013

Sen. Bruce Tutvedt, Chairman
Economic Affairs Interim Committee
P.O. Box 201706
Helena, MT 59620-1706

Dear Chairman Tutvedt and Committee Members:

Attached is information the committee requested regarding a proposed fee increase for the Noxious Weed Seed Free Forage Program. We appreciate the additional time on Oct. 22nd to talk about the proposed rule and other options, including possible legislation to retain the benefits of the weed free forage program and provide statewide weed coordination in the most effective and efficient manner possible.

I would like to briefly describe how the noxious weed grants program and statewide weed coordination efforts were funded prior to the 2013 legislative session. I also wish to review our efforts (including the forage program) to find the most efficient and effective way to manage weeds statewide within budget constraints that resulted from the 2013 session. I will sum up with the remaining options available for statewide projects like the Noxious Weed Seed Free Forage Program.

The grants program has grown significantly in size and scope since its inception, and statewide weed control coordination increased along with that growth, with the goal to make sure the awarded grants work together to focus on the highest priority areas and result in the greatest bang for the buck. Funding for both the grants program and statewide weed control coordination programs is based upon the same statute, 80-7-814 MCA. Prior to the 2013 legislative session, the statute also required that administrative expenses not exceed 12% of total expenses, which included administrative expenses for both the grants and statewide coordination programs as well as shared department expenses for legal services, IT, payroll, accounting and other centralized services.

The Noxious Weed Management Advisory Committee, which examines grant applications and decides funding priorities, indicated strong support for three statewide efforts run by the department:

1. Subsidizing the Noxious Weed Seed Free Forage Program, since it was not self-supporting with existing fees and the previous administration opposed raising the fees.
2. Rebuilding and managing a statewide weed education program that had greatly diminished in effectiveness at MSU.
3. Taking the lead on aquatic plant invasive species and providing aquatic invasive weed expertise to counties that generally lacked experience with aquatic weeds such as Eurasian water milfoil.

The Noxious Weed Management Advisory Council's mission is to fight noxious weeds in Montana in the most effective way possible, and members examine and rank department efforts along with approximately 100 other grant applications. The council gave these projects a very high priority.

Passage of SB 144 diminished statewide weed coordination by redefining the 12% cap to include everything other than grants, not just administrative expenses. The bill also changed the formula from 12% of total expenses to 12% of grant expenditures. This further restricts department activities to a maximum of 10.7% of the total and results in circular budgeting since the amount cannot be known until grants are offered, accepted and spent by the counties. A phase-in provision limits non-grant spending, including statewide weed control coordination, to 16% of grant expenditures in the first year of the biennium, and 12% of grant expenditures in the second.

The major funding sources are interest from the Noxious Weed Trust Fund and 1.5% of vehicle license fees. These funding sources were greatly diminished with the recession. Even prior to SB 144, the department had reduced spending to stay within the 12% cap on administrative expenses as its budget grew smaller. With the restrictions imposed by SB 144, the department has taken the following actions:

Aquatic Species -- The Legislature moved the three major aquatic invasive weed species to Fish Wildlife and Parks to create a comprehensive aquatic invasive species program. This worked out well for Agriculture since aquatic weed control is very expensive and county weed managers indicated they prefer to use Trust Fund resources on terrestrial weeds. The change allowed the department to transfer our aquatic weed expert to FWP, where he was needed for his expertise and relationships with county weed managers.

Weed Education -- Limitations in the department's role meant the statewide education program could not be operated by Agriculture. Requests for proposals were sent out and four were received. The Noxious Weed Management Advisory Committee chose MSU Extension as their highest priority. MSU Extension's application simply transferred the program that the department had rebuilt and hired the same staff person.

Weed Free Forage -- There were no funds available to subsidize the Noxious Weed Seed Free Forage Program. In addition to losing funds due to SB 144, the department also lost federal money that previously allowed some pesticide-related funding to be used on projects that halt the spread of weeds. That leaves the program with one funding source: fees generated by the program.

Elimination of funding for these three projects has reduced the department's staff to manage grants and statewide weed coordination from six to three. The manager of the Noxious Weed Seed Free Forage Program was laid off. His duties were reassigned to an individual who had worked exclusively on grants administration, the bulk of which now will be handled by the program administrator and a program specialist. The net result is a reduction of one full-time person working on statewide weed control coordination activities. After the current phase-in year at 16% of grants distributed, implementation next year of the new 12% cap defined in SB 144 will necessitate an additional reduction in staff. This is definitely a step backward for Montana's fight against noxious weeds.

Forage Program Options

Comments from forage producers on the proposed administrative rule to raise fees were largely negative, as one might expect. Positive comments included the observation that a \$2/acre certification fee increase on hay that yields 2-3 tons/acre and sells for \$150/ton is relatively minor for the benefits realized. The Noxious Weed Seed Free Forage Advisory Council, made up of producers, a processor, an outfitter, and weed district managers, spent several hours during a recent meeting considering options to maintain a sustainable NWSFF program. The option they chose is reflected in the rules the department presented and is something the council members all thought they could live with. When the 2015 Legislature meets, they can decide whether they want to make the program sustainable with subsidies from interest off the Noxious Weed Trust Fund and vehicle license fees, or supplement with general fund, or consider other options such as discontinuing the program.

We humbly request that the committee's objection to the fee increase be removed so the department may move forward and maintain a viable Noxious Weed Seed Free Forage Program. We also are prepared to discuss any options for continuing the Noxious Weed Seed Free Forage Program in the context of overall state weed management coordination.

Sincerely,



Ron de Yong

Answers to questions from the Economic Affairs Interim Committee Re: Noxious Weed Seed Free Forage Program

Program Value with Higher Fees?

Sen. Barrett asked if producers would continue to see value in the program if fees were raised to \$4.50 per acre. If the season's first hay cutting produces 2 tons/acre and the price premium for certified forage is \$10/ton, the producer earns a premium of \$20 minus \$4.50/acre for certification, which nets the producer about \$15/acre above ordinary hay prices. A 3 ton/acre harvest and a \$15 price premium would yield an additional net of \$40/acre. (Even if a producer receives no premium, he may still benefit by having a market for weed-free hay in a year with limited markets for non-certified hay.) While weed control costs are incurred to establish a weed-free field, most growers strive to do that anyway to maximize productivity and boost marketability.

Why Must NWSFF Program be Self-Supporting?

The department has long recognized that the program was not self-supporting. We, along with weed managers and the advisory council, believe that limiting the spread of weeds in the backcountry benefits the state, recreationists and Montana residents including farmers and ranchers. (Much of the water in streams and canals originates on public land.) With the loss of state and federal funding, the remaining option available for continuing the program was an increase in fees. The option of using interest from the Noxious Weed Trust Fund and 1.5% of vehicle license fees to subsidize the NWSFF program worked very well for several years, with high acceptance from the weed control community. Several members of the weed community have urged the department to seek general fund money for weed management coordination activities.

How Indirect Costs are Charged to the Program

Indirect costs refer to how departments pay for necessary shared services such as payroll, legal, human resources, technology services, and the director's office. The department of agriculture uses a uniform cost allocation method as a budgeting tool to distribute the costs of central services proportionately among its programs. The allocation has two components: personal services and grants. Allocating costs based on the amount of personal services in each program accurately reflects the distribution of work performed by central services division (CSD) employees. The second component, grants, is in place because contract work and grant payments require additional time from a variety of CSD personnel. Based on expected costs for shared services, for 2014 we budgeted 20.5% of personal services in eligible funds and 2.5% of budgeted grant funds. The calculated amounts are included in the CSD portion of the department's budget in HB 2. (Some other agencies use direct transfers to pay for centralized services. Costs using that budget method are reflected in HB 576 rather than HB 2.)

How Direct Costs are Calculated

Direct program costs for the noxious weed seed free forage (NWSFF) program are salary and benefit costs for the employee performing the work of the program and associated operating costs. The following annual budget illustrates how costs would be allocated if the NWSFF program is fully supported by fees.

Noxious Weed Seed Free Forage Budget

Personal Services - 1.00 total FTE	
0.80 FTE program staff	\$53,666
0.20 FTE supervisory staff	\$13,416
Subtotal - Personal Services	\$67,082
CSD Indirect rate (20.5% of personal services)	\$13,752
Operating Expenses	
Twine, Tags, Labels (incl storage)	19,200
Travel - in state and out of state facility inspections and motor pool vehicle (6 months)	8,100
Council Costs - Meeting rooms, Council Per Diem	2,200
Fixed Costs - ITSD, Rent, Phones, Other DofA	4,500
Office Costs - supplies, printing, postage	2,400
Inspection Payments to Agents *	5,500
Subtotal - Operating Expenses	\$41,900
TOTAL	\$122,734

variables:

PC replacement every 5 years (\$1,200)

* For inspection performed by an independent agent where extension or weed district agents are unavailable.

Noxious Weed Seed Free Forage Certification Process: Inspectors complete a department-approved training course that includes knowledge of the NWSFF Act and administrative rules; field inspection techniques; required forms; map reading; weed treatment methods; and state and regional certification standards and guidelines. Trainees must pass a written examination with a score of 80 percent or better.

Producers seeking to participate and certify forage or feed must make annual application to a local inspector or to the department. Producers must comply with all certification standards and pay any required fees. Procedures prior to harvest vary according to the crop or product. These include:

- All fields or field portions proposed for certification must be inspected. Owners must contact an inspector at least seven days before intended harvest, and fields will be inspected within seven days to allow timely harvest.
- When fields are inspected and certified for straw, the harvested seed may be considered for certification as well.
- Field units must include any ditches, fence rows, roads and rights-of-way within the boundaries, as well as zones a minimum of 12 feet wide surrounding the field.
- Field portions must be plainly marked or separated by a mowed strip or flagged buffers at least 12 feet wide to avoid cutting and mixing the certified and uncertified portion at harvest.
- Stack yards, storage sheds and bins must be inspected as well and found free of noxious weeds prior to storage of certified materials.

An entity desiring to certify processed feed products must make an annual application to the department. Applications to certify mechanically cleaned grain concentrates must describe and receive approval of the method to remove noxious weed seeds. Established criteria for certifying processed pellets must be followed including cleaning all equipment to remove any noxious weed seeds and initial processing of a minimum of 500 pounds of clean but uncertified feed to assure that the system is purged. A person desiring to certify cubes or other forage products must ensure that all ingredients are processed from certified forage that has met Montana certification standards. Grain concentrates from noncertified fields must meet additional requirements to assure the absence of viable seed from noxious weeds.