RESOLUTION 2004-3

"NOXIOUS WEED CONTROL"

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

The Town of Eckley, Board of Trustees does here by adopt all of the existing rules for the administration and enforcement of the Yuma County Noxious Weed Policy and Colorado Noxious Weed Act, 35.5.5-101-119 CRS (2003) including the Statement of Basis, Purpose and Statutory Authority and Rules. Attached is a list of Noxious Weeds.

This resolution is adopted this 1 Day of June, 2004 by a majority vote of the Eckley Board of Trustees.

Carolyn J. Copley
ATTEST

MAYOR

DEPARTMENT OF AGRICULTURE

Plant Industry Division

8 CCR 1203-19 RULES PERTAINING TO THE ADMINISTRATION AND ENFORCEMENT OF THE COLORADO NOXIOUS WEED ACT

Repeal of Rules at 8 CCR 1203-15:

All of the existing permanent rules for the administration and enforcement of the Colorado Noxious Weed Act, §§ 35-5.5-101 – 119. C.R.S. (2003), including the Statement of Basis, Purpose and Statutory Authority, and Rules 1 through 3 inclusive appearing at 8 C.C.R. 1203-15, are hereby repealed and replaced by the following new permanent rules as set forth below.

Adoption of New Permanent Rules:

The following new permanent rules for the administration and enforcement of the Colorado Noxious Weed Act, §§ 35-5.5-101 – 119, C.R.S. (2003), are hereby adopted.

Part 1 Definitions

1.1. "Act" means the Colorado Noxious Weed Act, §§ 35-5.5-101 through 119, C.R.S. (2003).

1.2. "Compliance waiver" means a written exemption granted to a local governing body or landowner by the Commissioner that releases the local governing body and/or landowner from certain obligations of eradication for a specific population of a List A or List B species.

1.3. "Division" means the Colorado Division of Wildlife.

1.4. "Fund" means the Noxious Weed Management Fund, created in § 35-5.5-116, C.R.S. (2003).

1.5. "Infested acreage" means an area of land containing a noxious weed species, defined by the actual perimeter of the infestation as delineated by the canopy cover of the plants and excluding areas not infested.

1.6. "Population" means a group of designated noxious weeds of the same species occupying a particular geographic region and capable of interbreeding.

Part 2 General Provisions

2.1. At any time, the Commissioner may approve additional prescribed integrated management techniques not specified in these rules for the eradication, containment, or suppression of designated state noxious weeds. Such approval may be site-specific or broadly applicable.

2.2. As a condition for granting a compliance waiver releasing a local governing body and/or landowner from certain obligations of eradication, the Commissioner may require the local governing body and/or landowner to implement other specified management actions with respect to a specific population.

2.3. No recommendations or requirements in these rules concerning the use of herbicides are intended to contradict or supercede any other federal, state or local law regulating herbicide use. All use of herbicides to achieve any management objectives specified in these rules must comply with all applicable federal, state and local legal requirements, including but not limited to

compliance with all directions for use, cautionary statements and any other requirements in the labeling of the particular herbicide product.

Part 3 List A Noxious Weed Species

3.1. List A of the Colorado noxious weed list comprises the following noxious weed species:

African rue (*Peganum harmala*)
Camelthorn (*Alhagi pseudalhagi*)
Common crupina (*Crupina vulgaris*)
Cypress spurge (*Euphorbia cyparissias*)
Dyer's woad (*Isatis tinctoria*)
Giant salvinia (*Salvinia molesta*)
Hydrilla (*Hydrilla verticillata*)
Meadow knapweed (*Centaurea pratensis*)
Mediterranean sage (*Salvia aethiopis*)
Medusahead (*Taeniatherum caput-medusae*)
Myrtle spurge (*Euphorbia myrsinites*)
Purple loosestrife (*Lythrum salicaria*)
Rush skeletonweed (*Chondrilla juncea*)
Sericea lespedeza (*Lespedeza cuneata*)
Squarrose knapweed (*Centaurea virgata*)
Tansy ragwort (*Senecio jacobaea*)
Yellow starthistle (*Centaurea solstitialis*)

3.2. All populations of List A species in Colorado are designated by the Commissioner for eradication.

3.3. It is a violation of these rules to allow any plant of any population of any List A species to produce seed or develop other reproductive propagules.

3.4. Prescribed management techniques must be applied to every population of List A noxious weeds present in Colorado to achieve the following objectives:

A. The plants of every population of List A species must be eradicated prior to seed development.

B. Once all mature plants are eliminated, appropriate efforts must be made to detect and eliminate new plants arising from seed, reproductive propagule, or root stock for the duration of the seed longevity for the particular species.

C. In order to ensure that seeds or other reproductive propagules are not produced or spread, any plant with flowers, seeds, or other propagules must be placed in sealed plastic bags and disposed of by:

1. high intensity burning in a controlled environment that completely destroys seed viability;
2. removal of plant materials to a solid waste landfill which covers refuse daily with six inches of soil or alternative material; or
3. any other method approved by the Commissioner.

3.5. Within one year of detection, any local governing body with a population of any List A species must provide to the State Weed Coordinator mapping data pertinent to each population including:

A. Species name

B. Population location(s) including distribution and abundance

C. Estimated infested acreage

3.6. State Noxious Weed Management Plans for List A Noxious Weed Species

3.6.1. African rue. In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for African rue:

A. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner and digging, or other mechanical techniques approved by the Commissioner.

B. Prescribed integrated management techniques do not include the use of biocontrol agents, herbicides other than those prescribed in (a), cultural techniques, or mechanical techniques other than those prescribed in (a) unless otherwise approved by the Commissioner.

C. Seed longevity is unknown.

3.6.2. Camelthorn. In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for camelthorn:

A. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner and digging, or other mechanical techniques approved by the Commissioner.

B. Prescribed integrated management techniques do not include the use of biocontrol agents, herbicides other than those prescribed in (a), cultural techniques, or mechanical techniques other than those prescribed in (a) unless otherwise approved by the Commissioner.

C. Seed longevity is at least several years.

3.6.3. Common crupina. In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for common crupina:

A. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.

B. Prescribed integrated management techniques do not include the use of biocontrol agents, herbicides other than those prescribed in (a), cultural techniques, or mechanical techniques other than those prescribed in (a) unless otherwise approved by the Commissioner.

C. Seed longevity is three years.

3.6.4. Cypress spurge. In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for cypress spurge:

A. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.

B. Prescribed integrated management techniques do not include the use of biocontrol agents, herbicides other than those prescribed in (a), cultural techniques, or mechanical techniques other than those prescribed in (a) unless otherwise approved by the Commissioner.

C. Seed longevity is estimated to be eight years.

3.6.5. Dyer's woad. In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for dyer's woad:

A. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.

B. Prescribed integrated management techniques do not include the use of biocontrol agents, herbicides other than those prescribed in (a), cultural techniques, or mechanical techniques other than those prescribed in (a) unless otherwise approved by the Commissioner.

C. Seed longevity is at least eight years.

3.6.6. Giant salvinia. In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for giant salvinia:

A. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner, water drawdown (controlled water drainage), and hand-removal, or other mechanical techniques approved by the Commissioner.

B. Prescribed integrated management techniques do not include the use of biocontrol agents, herbicides other than those prescribed in (a), cultural techniques other than those prescribed in (a), or mechanical techniques other than those prescribed in (a) unless otherwise approved by the Commissioner.

C. Any efforts to physically remove plants must prevent fragmentation as stem fragments are considered plant propagules.

D. Spore longevity is negligible.

3.6.7. Hydrilla. In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for hydrilla:

A. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner, water drawdown (controlled water drainage), and hand-removal, or other mechanical techniques approved by the Commissioner.

B. Prescribed integrated management techniques do not include the use of biocontrol agents, herbicides other than those prescribed in (a), cultural techniques other than those prescribed in (a), or mechanical techniques other than those prescribed in (a) unless otherwise approved by the Commissioner.

C. Any efforts to physically remove plants must prevent fragmentation as stem fragments are considered plant propagules.

D. Seed longevity is unknown.

3.6.8. Meadow knapweed. In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for meadow knapweed:

A. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.

B. Prescribed integrated management techniques do not include the use of biocontrol agents, herbicides other than those prescribed in (a), cultural techniques, or mechanical techniques other than those prescribed in (a) unless otherwise approved by the Commissioner.

C. Seed longevity is estimated to be at least seven years.

3.6.9. Mediterranean sage. In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for Mediterranean sage:

A. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner and digging, or other mechanical techniques approved by the Commissioner.

B. Prescribed integrated management techniques do not include the use of biocontrol agents, herbicides other than those prescribed in (a), cultural techniques, or mechanical techniques other than those prescribed in (a) unless otherwise approved by the Commissioner.

C. Seed longevity is unknown.

3.6.10. Medusahead. In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for medusahead:

A. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner, prescribed fire in conjunction with herbicide application, and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.

B. Prescribed integrated management techniques do not include the use of biocontrol agents, herbicides other than those prescribed in (a), cultural techniques other than those prescribed in (a), or mechanical techniques other than those prescribed in (a) unless otherwise approved by the Commissioner.

C. Seed longevity is at least two years.

3.6.11. Myrtle spurge. In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for myrtle spurge:

A. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.

B. Prescribed integrated management techniques do not include the use of biocontrol agents, herbicides other than those prescribed in (a), cultural techniques, or mechanical techniques other than those prescribed in (a) unless otherwise approved by the Commissioner.

C. Seed longevity is estimated to be eight years.

3.6.12. Purple loosestrife. In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for purple loosestrife:

A. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.

B. Prescribed integrated management techniques do not include the use of biocontrol agents, herbicides other than those prescribed in (a), cultural techniques, or mechanical techniques other than those prescribed in (a) unless otherwise approved by the Commissioner.

C. Any efforts to physically remove plants must prevent fragmentation as stem fragments are considered plant propagules.

D. Seed longevity is unknown but at least 10 years.

3.6.13. Rush skeletonweed. In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for rush skeletonweed:

A. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.

B. Prescribed integrated management techniques do not include the use of biocontrol agents, herbicides other than those prescribed in (a), cultural techniques, or mechanical techniques other than those prescribed in (a) unless otherwise approved by the Commissioner.

C. Seed longevity is at least three years.

3.6.14. Sericea lespedeza. In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for sericea lespedeza:

A. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.

B. Prescribed integrated management techniques do not include the use of biocontrol agents, herbicides other than those prescribed in (a), cultural techniques, or mechanical techniques other than those prescribed in (a) unless otherwise approved by the Commissioner.

C. Seed longevity is estimated to be at least twenty years.

3.6.15. Squarrose knapweed. In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for squarrose knapweed:

A. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner, prescribed fire in conjunction with herbicide application, and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.

B. Prescribed integrated management techniques do not include the use of biocontrol agents, herbicides other than those prescribed in (a), cultural techniques other than those prescribed in (a), or mechanical techniques other than those prescribed in (a) unless otherwise approved by the Commissioner.

C. Seed longevity is at least three years.

3.6.16. Tansy ragwort. In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for tansy ragwort:

A. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.

B. Prescribed integrated management techniques do not include the use of biocontrol agents, herbicides other than those prescribed in (a), cultural techniques, or mechanical techniques other than those prescribed in (a) unless otherwise approved by the Commissioner.

C. Seed longevity is at least sixteen years.

3.6.17. Yellow starthistle. In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for yellow starthistle:

A. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner, prescribed fire in conjunction with herbicide application, and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.

B. Prescribed integrated management techniques do not include the use of biocontrol agents, herbicides other than those prescribed in (a), cultural techniques other than those prescribed in (a), or mechanical techniques other than those prescribed in (a) unless otherwise approved by the Commissioner.

C. Seed longevity is at least ten years.

Part 4 List B Noxious Weed Species

4.1. List B of the Colorado noxious weed list comprises the following noxious weed species:

Absinth wormwood (*Artemisia absinthium*)
Black henbane (*Hyoscyamus niger*)
Bouncingbet (*Saponaria officinalis*)
Bull thistle (*Cirsium vulgare*)
Canada thistle (*Cirsium arvense*)
Chinese clematis (*Clematis orientalis*)
Common tansy (*Tanacetum vulgare*)
Common teasel (*Dipsacus fullonum*)
Corn chamomile (*Anthemis arvensis*)
Cutleaf teasel (*Dipsacus laciniatus*)
Dalmatian toadflax, broad-leaved (*Linaria dalmatica*)
Dalmatian toadflax, narrow-leaved (*Linaria genistifolia*)
Dame's rocket (*Hesperis matronalis*)
Diffuse knapweed (*Centaurea diffusa*)
Eurasian watermilfoil (*Myriophyllum spicatum*)
Hoary cress (*Cardaria draba*)
Houndstongue (*Cynoglossum officinale*)
Leafy spurge (*Euphorbia esula*)
Mayweed chamomile (*Anthemis cotula*)
Moth mullein (*Verbascum blattaria*)
Musk thistle (*Carduus nutans*)
Orange hawkweed (*Hieracium aurantiacum*)
Oxeye daisy (*Chrysanthemum leucanthemum*)
Perennial pepperweed (*Lepidium latifolium*)
Plumeless thistle (*Carduus acanthoides*)
Quackgrass (*Elytrigia repens*)
Redstem filaree (*Erodium cicutarium*)

Russian knapweed (*Acroptilon repens*)
Russian-olive (*Elaeagnus angustifolia*)
Salt cedar (*Tamarix chinensis, T.parviflora, and T. ramosissima*)
Scentless chamomile (*Matricaria perforata*)
Scotch thistle (*Onopordum acanthium*)
Scotch thistle (*Onopordum tauricum*)
Spotted knapweed (*Centaurea maculosa*)
Spurred anoda (*Anoda cristata*)
Sulfur cinquefoil (*Potentilla recta*)
Venice mallow (*Hibiscus trionum*)
Wild caraway (*Carum carvi*)
Yellow nutsedge (*Cyperus esculentus*)
Yellow toadflax (*Linaria vulgaris*)

4.2. List B noxious weed species are species for which the Commissioner, in consultation with the state noxious weed advisory committee, local governments, and other interested parties, will develop and implement state noxious weed management plans designed to stop the continued spread of these species. Until such time as these plans are developed and implemented by rule, all persons are recommended to manage List B species but are not required to do so by these rules (although other state or local jurisdictions may require such action).

4.3. Local governing bodies and other interested parties are encouraged to make special note of the distribution and abundance of absinth wormwood, Chinese clematis, orange hawkweed, and plumeless thistle as these are likely to be the first List B species for which the Commissioner will consult with the state noxious weed advisory committee, local governments, and other interested parties, in order to develop and implement state noxious weed management plans designed to stop the continued spread of these species. State noxious weed management plans for all List B species will be developed in future years.

Part 5 List C Noxious Weed Species

5.1. List C of the Colorado noxious weed list comprises the following noxious weed species:

Chicory (*Cichorium intybus*)
Common burdock (*Arctium minus*)
Common mullein (*Verbascum thapsus*)
Common St. Johnswort (*Hypericum perforatum*)
Downy brome (*Bromus tectorum*)
Field bindweed (*Convolvulus arvensis*)
Halogeton (*Halogeton glomeratus*)
Johnsongrass (*Sorghum halepense*)
Jointed goatgrass (*Aegilops cylindrica*)
Perennial sowthistle (*Sonchus arvensis*)
Poison hemlock (*Conium maculatum*)
Puncturevine (*Tribulus terrestris*)
Velvetleaf (*Abutilon theophrasti*)
Wild proso millet (*Panicum miliaceum*)

5.2. List C noxious weed species are species for which the Commissioner, in consultation with the state noxious weed advisory committee, local governments, and other interested parties, will develop and implement state noxious weed management plans designed to support the efforts of local governing bodies to facilitate more effective integrated weed management on private and public lands. The goal of such plans will not be to stop the continued spread of these species but to provide additional educational, research, and biological control resources to jurisdictions that choose to require management of List C species.

Part 6 Compliance Waiver

6.1. Local governing bodies and landowners with any population of any List A species or population of any List B species designated for eradication may be eligible for a compliance waiver granted by the Commissioner.

6.2. To apply for a compliance waiver, local governing bodies or landowners must submit a written petition to the State Weed Coordinator via mail (Colorado Department of Agriculture, 700 Kipling Street, Suite 4000, Lakewood, CO 80215-8000), fax (303-239-4177), or email (dpicomments@ag.state.co.us with "Attention: noxious weed petition" in the subject line). The Department will only consider a petition for waiver during the growing season of the target weed when the extent of the problem can be properly evaluated at the site for which the petition is submitted. The petition should provide specific information pertinent to the reevaluation of eradication as the appropriate management objective for a specified geographic region.

6.3. The Commissioner will evaluate petitions using the following criteria:

A. The known distribution of the weed species in the specified geographic region;

B. The feasibility of current control technologies to achieve eradication of the population;

C. The cost of carrying out eradication as part of statewide weed management plan; and

D. Any other site-specific information that establishes eradication is not feasible for a specific population in a specified geographic region.

Petitioners must address these criteria and explain specifically what conditions exist that establish that eradication is not a viable management objective.

6.4. The Commissioner will grant or deny a petition within 15 business days of receiving it.

6.5. The Commissioner may revoke a compliance waiver at any time if the information provided in the petition was incomplete or inaccurate, or if conditions change such that eradication becomes a viable management objective.

Part 7 Statements of Basis, Specific Statutory Authority and Purpose

7.1. February 11, 2004 – Effective May 3, 2004

Statutory Authority

These permanent rules are adopted by the Commissioner of Agriculture pursuant to his authority under the Colorado Noxious Weed Act, §§ 35-5.5-108 and 115, C.R.S. (2003).

Purpose

The purpose of these permanent rules is to: (1) repeal all of the existing permanent rules for the administration and enforcement of the Colorado Noxious Weed Act, §§ 35-5.5-101 through 119, C.R.S. (2003), currently published at 8 C.C.R. 1203-15 (including the Statement of Basis, Purpose and Statutory Authority as well as Rules 1 through 3) and; (2) replace the current permanent rules with new permanent rules which implement the Colorado Noxious Weed Act as amended by the General Assembly in its 2003 regular session. Specifically, the purposes of these new permanent rules are to designate state noxious weeds, classify state noxious weeds into three categories (List A, B, and C), develop and implement state noxious weed management plans for List A noxious weed species, prescribe integrated management techniques to achieve eradication of List A species, and provide a process for granting compliance waivers to local governing bodies and landowners in order to develop and implement a coordinated,

statewide effort to stop the spread of noxious weeds and mitigate their impacts to agriculture and the environment.

Factual and Policy Issues

The factual and policy issues encountered in the proposal of these permanent rules are as follows:

1. Several million acres of Colorado are infested with invasive non-indigenous plants that are continuing to spread to uninfested lands and increase in abundance.
2. A number of these species, designated as state noxious weeds, aggressively invade or are detrimental to economic crops or native plant communities, are poisonous to livestock, are carriers of detrimental insects, diseases, or parasites, or are detrimental, directly or indirectly, to the environmentally sound management of natural or agricultural systems.
3. Noxious weeds are a present threat to the economic and environmental value of the lands of the state of Colorado and it is a matter of statewide importance that the governing bodies of counties and municipalities manage such weeds in a coordinated manner across the state. Lack of such coordination makes weed management efforts unnecessarily costly and limits the effectiveness of public and private efforts to control such noxious weeds.
4. A broad array of public and private organizations support efforts to develop and implement a coordinated, statewide effort to stop the spread of noxious weeds.
5. Classifying designated noxious weeds into specific management categories will provide a means to focus public and private resources strategically and in a cost-effective manner.
6. By eradicating rare noxious weed species quickly (List A), these species can be prevented from establishing permanent populations in Colorado from which they will spread to harm the agricultural and environmental values of the lands of Colorado.
7. It is important that local governing bodies and affected landowners apply integrated management techniques that will achieve the specified management objectives, particularly for eradication. Some techniques are more effective than others (prescribed) and some techniques are likely to be ineffective or contribute to the spread of the weed species (not prescribed). Prescribing integrated management techniques to achieve specified management objectives will help landowners achieve management objectives such as eradication in a timely manner while limiting environmental damage, effort, and cost.
8. By stopping the spread of well-established species (List B), the values of uninfested lands for agriculture or the environment can be protected and the costs of land management to private and public landowners can be limited or reduced.
9. By educating the public about improved management for widespread species (List C), the harm associated with these species can be reduced and such efforts can be made more cost-effective for many citizens.
10. To accomplish the goals associated with List A (statewide eradication) and List B (halted spread) it is necessary to develop and implement statewide plans to coordinate appropriate actions at the private, local, state, and federal levels. Without such plans, it will be difficult to focus public and private resources strategically and in a cost-effective manner to achieve these goals.
11. In order to provide flexibility to respond to changing circumstances with respect to the distribution of weed populations, it is important to provide the state, local governing bodies, and landowners with a process to amend the requirement to eradicate a particular noxious weed. Without such a compliance waiver process, these rules may become unnecessarily burdensome.
12. The absence of rules to implement a coordinated statewide effort to manage noxious weeds results in increased management costs to public and private interests, a reduction in the effectiveness of individual efforts, and the continued loss of agricultural and environmental values to the invasion of noxious weeds.