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**THE COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON**

KITTITAS COUNTY,

Appellant,

v.

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION,

Respondent.

BRIEF OF APPELLANT KITTITAS COUNTY

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I. INTRODUCTION

The plain language of chapters 17.04 RCW and 17.10 RCW require state agencies to pay for services and operating costs of a county's noxious weed program. The Department of Transportation ("DOT") is a state agency, so DOT must pay its share of a county's noxious weed program's costs.

As required by state law, Kittitas County provides noxious weed services to all landowners in Kittitas County, including DOT, to limit the economic and environmental loss and adverse health and safety effects caused by the presence and spread of noxious weeds.

Kittitas County appeals from a superior court summary judgment order exempting DOT from such payments, effectively requiring Kittitas County to provide free noxious weed services to DOT owned land. This order turns the law on its head.

Over 70% of the land in Kittitas County is owned by the state or federal governments, so the court's order that a state agency does not have to pay for noxious weed services places the costs of Kittitas County's noxious weed program entirely onto the 30% of land owned by private taxpayers.

State agencies must pay assessments for noxious weed services to ameliorate the impact state owned lands have on a county's noxious weed

program, even though state agencies might otherwise be exempt from taxation or assessment. *See, e.g., City of Snoqualmie v. King County Exec. Constantine*, 187 Wn.2d 289, 293, 386 P.3d 279 (2016).

Finally the court erred in its application of the “special benefits” analysis set forth in RCW 79.44.010, to a county’s noxious weed program because RCW 79.44.010 only applies to “improvements.” The county’s noxious weed program is not an “improvement,” so RCW 79.44.010 does not apply.

Instead, the county’s noxious weed program is an exercise of government police power. The “special benefits” analysis does not apply to police power measures. *See, e.g., Teter v. Clark County*, 104 Wn.2d 227, 231, 704 P.2d 1171 (1985). Again, RCW 79.44.010 does not apply.

Even if the “special benefits” analysis did apply, the court erred because whether a property receives a “special benefit” is a material question of fact not properly determined by summary judgment, and the undisputed facts are DOT-owned property does receive services from Kittitas County’s noxious weed program.

This Court should reverse the order granting DOT’s summary judgment, and direct the trial court to enter summary judgment for Kittitas County.

II. ASSIGNMENT OF ERROR

The trial court erred in entering the order of August 10, 2018, which granted DOT's summary judgment motion and denied Kittitas County's summary judgment motion.

III. ISSUES PERTAINING TO ASSIGNMENT OF ERROR

1. Did the trial court err in ruling DOT does not have to pay noxious weed assessments, when the plain language of chapters 17.04 RCW and 17.10 RCW require state agencies to submit payment to the county treasurer for noxious weed assessments levied on state-owned lands? **[Yes]**
2. RCW 79.44.010 only applies to "improvements." Since a county's noxious weed program is not an "improvement," did the trial court err when it ruled RCW 79.44.010 applies to noxious weed programs? **[Yes]**
3. A county's noxious weed program is an exercise of government police power that is not subject to the "special benefits" analysis. Did the trial court err when it ruled the "special benefits" analysis applies to a county's noxious weed program? **[Yes]**
4. If a county's noxious weed program is subject to the "special benefits" analysis of RCW 79.44.010, did the trial court err in granting DOT's summary judgment motion when the question of whether Kittitas County's noxious weed program "specially benefits" DOT lands is a genuine issue of material fact? **[Yes]**

IV. STATEMENT OF THE CASE

DOT owns multiple parcels of real property in Kittitas County for which the Kittitas County noxious weed assessments ("Assessments") have not been paid since 2017. CP 42, 44, 154. In April 2017, DOT

informed Kittitas County it would not pay any further Assessments. CP 400. DOT paid all Assessments prior to 2017. CP 252, 365.

A. Noxious Weed Assessments in Kittitas County

Assessments in Kittitas County are levied on real property either by a Weed District (“District”) pursuant to chapter 17.04 RCW, or by the Kittitas County Board of County Commissioners (“Commissioners”) pursuant to chapter 17.10 RCW. CP 251-252. Assessments levied under chapter 17.10 RCW by the Commissioners are used to fund the operating costs of the county’s noxious weed program, which is administered by the Kittitas County Noxious Weed Control Board (“Weed Board”). *Id.*

There are 5 Districts and 1 Noxious Weed Control Board in Kittitas County. *Id.* There are similarities between the Districts and the Weed Board, but also key differences.

1. Weed Districts

The 5 Districts in Kittitas County are governed by chapter 17.04 RCW. Approximately 12% of all land in Kittitas County is located within a District. CP 149, 155.

Each District is authorized to levy assessments on property within the District to fund the operations of the District. CP 252.

The Kittitas County Assessor (“Assessor”) places District Assessments on the general county tax roll. CP 106. The Kittitas County

Treasurer (“Treasurer”) is responsible for collecting these assessments, which are listed on the annual property tax statements mailed to landowners. CP 107.

While each District is responsible for enforcing noxious weed laws and inspecting lands within District boundaries for noxious weeds, all 5 Districts contract with Kittitas County, through the Weed Board, pursuant to the Interlocal Cooperation Act, chapter 39.34 RCW, such that the Weed Board actually carries out the Districts’ duties. CP 252.

2. Kittitas County Noxious Weed Control Board

The Weed Board in Kittitas County was activated in 1991 by the Commissioners due to “a damaging infestation of noxious weeds.” CP 256-266. The Weed Board is comprised of 5 voting members who are appointed by the Commissioners. CP 251.

By statute, the jurisdictional boundaries of the Weed Board are the boundaries of Kittitas County itself, which is approximately 1.481 million acres in size. CP 149, 155.¹

The Weed Board administers and develops rules and regulations for the Kittitas County noxious weed program, which is specific and inherently unique to Kittitas County. CP 148. Development and management of an appropriate noxious weed program requires technical

¹ General information about Kittitas County, including land area, can also be found at: <https://www.co.kittitas.wa.us/about/default.aspx>

expertise and local knowledge because “each noxious weed infestation is unique in itself based on the weed species, the site location, the existing vegetation, adjacent landowners, future land management goals, control options/restrictions, etc.” CP 148.

The Weed Board is also required to develop and maintain a noxious weed control list, which lists the specific weeds mandated for control in Kittitas County. *Id.* This list is comprised of all Class A and Class B weeds designated for control by the State Noxious Weed Control Board and any Class B and C weeds the Weed Board requires be added to the list. *Id.* Kittitas County has one of the largest lists of noxious weeds mandated for control of any county in the state. *Id.*

The Weed Board also oversees staff, including a Weed Coordinator, Assistant Coordinator, and County Weed Inspectors. CP 147, 250-251. The duties of Weed Board staff include: inspecting land to determine the presence of noxious weeds, offering technical assistance and education, and developing a program for Kittitas County landowners to achieve compliance with the noxious weed laws. CP 251.

If a property owner fails to control noxious weeds on their property, the Weed Board can control the noxious weeds, or cause them to be controlled, at the expense of the owner. CP 148, 253.

Weed Board staff are employees of Kittitas County as evidenced by the fact they: are subject to and comply with Kittitas County personnel policies; work in an office owned by Kittitas County; receive their paychecks from Kittitas County; have Kittitas County supplied email addresses; and use Kittitas County owned computers and drive Kittitas County owned vehicles while at work. CP 251.

The Commissioners fund the operating costs of the Weed Board by levying an assessment on real property. CP 251. Weed Board assessments are not levied on property subject to a District assessment. CP 154. Land owned by the federal government is not assessed. CP 155. Rights of way, waterbodies, retention ponds, certain incorporated lands, and other acreage not assigned a tax parcel number are not assessed either. *Id.*

B. Government Lands in Kittitas County.

The federal government and the State of Washington own over 70% of all land in Kittitas County (State 28%; Federal 44%). CP 155, 158.

With respect to DOT owned real property in Kittitas County, on at least 10 separate instances each year Weed Board staff have to either: 1) report a noxious weed infestation on the Department of Transportation's land; or 2) actually eradicate noxious weeds on the Department's land. CP 149, 253, 342-344. Additionally, Weed Board staff provide noxious weed prevention and control related technical assistance and education to

Department of Transportation staff. *Id.* Kittitas County estimates the total annual costs of the services provided to DOT is at least \$2500-3000. CP 149.

DOT agrees Kittitas County provides noxious weed services to DOT land. CP 43. DOT also agrees it should pay Kittitas County for its services. CP 43. Nonetheless, DOT is delinquent on nearly all noxious weed payments from 2017-present. CP 107, 364.

C. The Economic and Environmental Costs of Noxious Weeds.

The importance and purpose of noxious weed control, prevention, and education efforts were stated in the Governor of Washington, Jay Inslee's, February 6, 2018, Proclamation on invasive species, which specifically includes noxious weeds. CP 331. According to Governor Inslee's Proclamation and accompanying press release, invasive species, including noxious weeds:

- create more than \$137 billion in annual costs [nationally] from crop damage, loss of fish and damage to forests.
- are recognized as the second greatest threat to biodiversity worldwide after habitat destruction from human development;
- interfere with ecosystems by changing natural processes such as fire, water availability, and flooding; and

•impede industry, threaten agriculture, endanger human health, and are becoming increasingly more difficult to prevent and control as a result of global commercialization and human travel.

CP 331. Governor Inslee’s Proclamation also states that “prevention is far less expensive than trying to remove species once they arrive and an educated and aware public is highly effective at detecting introduced species early.” CP 331.

Similarly, various Washington State Agencies, including DOT, joined together to publish an analysis on the annual economic impact of 23 different invasive species to Washington State. CP 334. The analysis highlights two particular noxious weeds, Scotch Broom and Smooth Cordgrass, which if allowed to spread, could by themselves cause \$191.4 million in damages, and 1020 jobs lost, annually in Washington State. CP 334. Scotch Broom and Smooth Cordgrass are both on Kittitas County’s Noxious Weed List, and Scotch Broom is known to be present in Kittitas County. CP 152.

D. Procedural History

1. Petition for Declaratory Order Under the APA.

DOT sent a letter to Kittitas County in April 2017 stating it would no longer pay Assessments, even though it had previously paid them. CP 400.

Kittitas County and DOT sent each other letters throughout 2017 in an attempt to resolve this dispute. CP 399-467.

After the parties failed to reach an agreement, Kittitas County submitted a Petition for Declaratory Order under the Administrative Procedures Act, to the Washington State Department of Agriculture, which is responsible for administering the provisions of chapter 17.10 RCW. CP 394-467. The Petition sought an order affirming DOT's lands are subject to the Assessments. *Id.*

DOT sent a letter to the Department of Agriculture refusing consent to resolving this dispute under the Administrative Procedures Act. CP 390-391. Accordingly, the Department of Agriculture dismissed Kittitas County's Petition on January 25, 2018, without opinion. *Id.* Dismissal of this Petition is not part of this appeal.

2. Complaint for Declaratory Judgment.

As a result of DOT's refusal to consent to resolution of this matter under the Administrative Procedures Act, Kittitas County subsequently filed a Complaint for Declaratory Judgment in Kittitas County Superior Court. Kittitas County requested relief, in pertinent part, of a declaratory judgment that DOT is obligated to pay Assessments levied under chapters 17.04 and 17.10 RCW. CP 381-389.

At DOT's request, venue was transferred to Thurston County. Kittitas County and DOT then filed cross-motions for summary judgment. CP 470-471, 345-360, 508-524.

To summarize the parties' respective arguments to the trial court, Kittitas County argued the plain language of chapters 17.04 and 17.10 RCW requires DOT to pay the Assessments, regardless of whether DOT might otherwise be exempt from taxation and assessment. RCW 345-360

DOT asserted it does not have to pay the Assessments because the "special benefits" analysis of RCW 79.44.010 applies to the Assessments, and, according to DOT, DOT owned lands do not "specially benefit" from Kittitas County's noxious weed program. CP 508-524

Kittitas County's response was the "special benefits" analysis does not apply to governmental health and safety police power measures, and even if it did, whether a property is "specially benefitted" is a material question of fact not properly resolved by summary judgment. CP 527-551.

Oral argument on the motions was held on August 10, 2018 in front of Thurston County Superior Court Judge John Skinder. CP 562. At the beginning of the hearing, the court confirmed it reviewed and considered all of the documents, exhibits, and declarations filed with the court. RP 4-5.

After argument concluded, Judge Skinder immediately ruled from the bench, granting DOT's summary judgment motion, and denying that of

Kittitas County. RP 38. The court did not enter any findings of fact or conclusions of law to support its decision. RP 38. Kittitas County then timely appealed. CP 565.

V. STANDARD AND SCOPE OF REVIEW

The appellate court reviews summary judgment orders de novo, and “performs the same inquiry as the trial court”. *Sheehan v. Cent. Puget Sound Reg’l Transit Auth.*, 155 Wn.2d 790, 796, 123 P.3d 88 (2005)(quoting *Jones v. Allstate Ins. Co.*, 146 Wn.2d 291, 300, 45 P.3d 1068 (2002)). “Summary judgment is appropriate only if the pleadings, affidavits, depositions, and admissions on file demonstrate the absence of any genuine issues of material fact and that the moving party is entitled to judgment as a matter of law.” *Sheehan*, 155 Wn.2d at 797; CR 56(c). All facts and reasonable inferences must be viewed in the light most favorable to the non-moving party. *Jones*, 146 Wn.2d at 300.

The appellate court also reviews questions of statutory interpretation de novo. *Dep’t of Ecology v. Campbell & Gwinn, LLC*, 146 Wn.2d 1, 9, 43 P.3d 4 (2002). The goal in interpreting statutes is to “ascertain and carry out the legislature’s intent.” *Jametsky v. Olsen*, 179 Wn.2d 756, 762, 317 P.3d 1003 (2014)(quoting *Campbell & Gwinn* 146 Wn.2d at 9). Courts must “give effect to the plain meaning of the statute as

derived from the context of the entire act as well as any related statutes which disclose legislative intent about the provision in question.” *Id.*

“[P]lain language does not require construction” so a court “need not consider outside sources if a statute is unambiguous.” *Jametsky*, 179 Wn.2d at 762 (quoting *State v. Delgado*, 148 Wn.2d 723, 727, 63 P.3d 792 (2003)). “If the statute uses plain language and defines essential terms, the statute is not ambiguous.” *Aventis Pharmaceutical, Inc., et al. v. Department of Revenue*, No. 50641-6-II, slip op. at 4 (Wash. Ct. App. Oct. 16, 2018)(quoting *Regence Blueshield v. Office of the Ins. Comm’r*, 131 Wn.App. 639, 646, 128 P.3d 640 (2006)).

DOT’s interpretation of the statutes at issue in this case is not given any weight or entitled to any deference from the Court because DOT does not administer the noxious weed statutes, and because DOT’s interpretation of chapters 17.04 and 17.10 RCW conflicts with the plain language of those statutes. A court only gives “substantial weight to an agency’s interpretation of the law it administers...” *Southwick, Inc., v. State*, No. 95237-0, 2018 Wash. LEXIS 622, at *6 (2018)(en banc). Deference to an agency’s interpretation of a statute is inappropriate when the agency’s interpretation conflicts with the statute. *Dep’t of Labor & Indus. v. Landon*, 117 Wn.2d 122, 127, 814 P.2d 626 (1991).

VI. ARGUMENT

A. The Superior Court Erred By Not Giving Effect to the Plain Meaning of Chapters 17.04 and 17.10 RCW.

The plain meaning of chapters 17.04 RCW and 17.10 RCW require state agencies to pay Weed Board and District Assessments.

1. Chapter 17.04 RCW Requires State Agencies to Pay a District's Assessments.

RCW 17.04.240 authorizes a District to levy assessments on real property located within the District to “carry on the operations of the district.” District Assessments are “to be collected with the general taxes of the county.” RCW 17.04.240.

The process for collecting District Assessments on land owned by the state is set forth in RCW 17.04.180, which provides, in pertinent part:

[w]henver *any* state lands are within *any* weed district, the county treasurer shall certify annually and forward to the appropriate state agency for payment a statement showing the amount of the tax to which the lands would be liable if they were in private ownership... [*emphasis added*]

The meaning of RCW 17.04.180 is plain on its face. If land owned by any state agency is located within any District, the state agency must pay the District's Assessments. There is nothing ambiguous or unclear about this. “If a statute's meaning is plain on its face, then the court must give effect to that plain meaning...” *Campbell & Gwinn* 146 Wn.2d at 9. “A statute that

is clear on its face is not subject to judicial construction.” DOT, a state agency, must pay District Assessments.

2. Chapter 17.10 RCW Requires State Agencies to Pay a County’s Assessments.

RCW 17.10.240(1)(a) authorizes the Commissioners to “in lieu of a tax, levy an assessment against the land” to fund the operating costs of the county’s noxious weed program. The “amount of the assessment constitutes a lien against the property [, and] “notice of the lien [must] be sent to each owner of property” if the lien is not paid by the due date. *Id.*

The definitions section of chapter 17.10 explicitly defines the term “owner” to include state agencies. RCW 17.10.010(4) defines “owner” to mean “the person in actual control of the property.” RCW 17.10.010(3) defines “person” as “any individual, partnership, corporation, firm, the state or any department, agency, or subdivision thereof, or any other entity.” If a statute “defines essential terms, the statute is not ambiguous.” *Aventis Pharmaceutical, Inc.*, No. 50641-6-II, slip op. at 4. Thus, state agencies are plainly and unambiguously defined as property owners subject to a county’s Assessments under chapter 17.10 RCW.

The Legislature directs the Commissioners “to classify the lands into suitable classifications” for Assessment purposes. RCW 17.10.240(1)(a). The classifications designated by the Legislature include, but are “not limited to dry lands, range lands, irrigated lands, nonuse lands, forestlands, or federal

lands.” *Id.* “Where a statute specifically designates the things or classes of things upon which it operates, an inference arises in law that all things or classes of things omitted from it were intentionally omitted by the legislature...” *Ellensburg Cement Products, Inc. v. Kittitas Cty.*, 179 Wn.2d 737, 750, 317 P.3d 1037 (2014). State lands were not designated by the Legislature as a separate classification of property for Assessments, so state owned lands are assessed the same as private landowners, which is consistent with the plain meaning of both chapter 17.04 RCW and the rest of chapter 17.10 RCW.

The Legislature went even further in RCW 17.10.145(2), which requires that “[a]ll state agencies’ lands must comply with this chapter, regardless of noxious weed control efforts on adjacent lands.” There are no exceptions or caveats to this subsection that would exempt state agencies from paying Assessments. Courts “do not simply ignore express statutory terms.” *Aventis Pharmaceutical, Inc.*, No. 50641-6-II, slip op. at 6 (citing *Ralph v. Dep’t of Nat. Res.*, 182 Wn.2d 242, 248, 343 P.3d 342 (2014)). Courts “interpret statutes so as to give effect to all the language used without rendering any portion meaningless or superfluous.” *Aventis Pharmaceutical, Inc.*, No. 50641-6-II, slip op. at 6 (citing *G-P Gypsum Corp. v. Dep’t of Revenue*, 169 Wn.2d 304, 309, 237 P.3d 256 (2010)).

The meaning of chapter 17.10 RCW is plain. State agencies, such as DOT, are required to pay county Assessments.

3. Related Statutes Require Other State Agencies to Pay Assessments.

When interpreting statutes, courts also look to “any related statutes which disclose legislative intent about the provision in question.” *Jametsky*, 179 Wn.2d at 762. With respect to chapters 17.04 and 17.10 RCW, related statutes indicate a legislative intent for state agencies to pay Assessments.

RCW 77.12.203(1) requires the Department of Fish and Wildlife to pay counties “an amount in lieu of real property taxes [...] plus an additional amount for control of noxious weeds equal to that which would be paid if such lands were privately owned” for game farm lands.

RCW 79.70.130, RCW 79.71.130, and RCW 79.155.140 each require the state treasurer, on behalf of the Department of Natural Resources, to pay counties “an amount in lieu of real property taxes [...] plus an additional amount equal to the amount of weed control assessment that would be due if such lands were privately owned” for state lands (respectively, Natural Area Preserves, Natural Resources Conservation Areas, and Community Forest Trusts).

These related statutes disclose legislative intent for state agencies to pay Assessments.

4. Chapter 17.10 RCW Must Be Construed Liberally.

In RCW 17.10.007, the Legislature declared chapter 17.10 RCW is entitled to a liberal construction. Liberal construction of a statute “is a command that the coverage of an act’s provisions be liberally construed and that its exceptions be narrowly confined.” *Nucleonics Alliance, Local Union No. 1-369, Etc v. Wash. Public Power Supply Sys. (wppss)*, 101 Wn.2d 24, 29, 677 P.2d 108 (1984).

A liberal construction of chapter 17.10 RCW requires exceptions to it be narrowly confined. Exempting state agencies from Assessments would not only be ignoring the plain meaning of chapter 17.10 RCW, it would also create a massive exception its Assessment provisions, particularly in rural counties like Kittitas County, where over 70% of all land is owned by the state or federal governments. Exempting state agencies from county Assessments effectively requires the 30% of private landowners to fund the operating costs of the county’s noxious weed program for the entire county. This would be the opposite of a liberal construction of chapter 17.10 RCW.

RCW 17.10.007 states the “purpose of this chapter is to limit economic loss and adverse effects to Washington's agricultural, natural, and human resources due to the presence and spread of noxious weeds on all terrestrial and aquatic areas in the state.” Gov. Inslee estimates the economic loss caused by invasive species, such as noxious weeds, is \$137 billion a

year nationally. CP 331. Given the Legislature’s statement that noxious weeds are on all “terrestrial and aquatic areas in the state,” and cause enormous loss and damage each year, and given the jurisdictional boundaries of the Weed Board are the boundaries of the county itself, pursuant to RCW 17.10.020, it is absurd to limit funding of the Weed Board to only private landowners. Noxious weeds are on all lands, so all landowners must pay their share of the operating costs of a county’s noxious weed control program.

5. Case Law, Legislative History, and Attorney General Opinions Show Legislative Intent for State Agencies to Pay Assessments.

Kittitas County’s position is chapters 17.04 and 17.10 RCW are unambiguous and plain on their face and should be given effect according to their plain meaning. However, even if the Court were to find chapters 17.04 and 17.10 RCW to be ambiguous and look to case law, legislative history, and Attorney General Opinions for assistance in discerning legislative intent, these interpretive aids still suggest legislative intent for state agencies to pay Assessments. *See Cockle v. Labor & Indus.*, 142 Wn.2d 801, 808, 16 P.3d 583 (2001)(a court will only look to interpretive aids if a statute is ambiguous).

**a. *City of Snoqualmie v. King County Exec. Constantine*
Requires State Agencies to Pay Assessments as a PILT.**

The Court in *City of Snoqualmie* provided a history and legal analysis of payments in lieu of taxes (“PILT”) programs in Washington, which, similar to federal PILT programs, require a state government agency, despite its tax-exempt status, to pay money to a local government to mitigate the burden state owned lands place on public services provided by the local government. *City of Snoqualmie*, 187 Wn.2d at 292.

As one report explained, “Federal lands cannot be taxed but may create a demand for services such as fire protection, police cooperation, or longer roads to skirt the federal property.” [report citation omitted] For instance, federal land in the state of Washington is some 12 million acres of mostly wildlife and forestland, representing about one-quarter of the state's total acreage. The federal government ameliorates the impact of these tax-exempt lands by paying PILTs to the State for the various state public services needed to support these lands. ***Washington also has PILT programs for property owned by other governmental agencies, such as the Washington State Department of Fish and Wildlife and the Washington State Department of Natural Resources. See, e.g., RCW 77.12.201; RCW 79.71.130. [emphasis added]***

City of Snoqualmie, 187 Wn.2d at 293. The approving reference by the Court to RCW 77.12.201 and RCW 79.71.130 is relevant to the case at hand because each of these statutes, as discussed above, specifically requires a state agency to pay noxious weed assessments.

Kittitas County's noxious weed control program is a prime example of a tax-exempt state agency burdening the public services provided by a local government. Kittitas County estimates the total annual costs of the noxious weed services it provides to DOT is at least \$2500-3000. CP 149. DOT agrees Kittitas County provides noxious weed services to DOT land, and DOT agrees it should pay Kittitas County for its services. CP 43. The legal mechanism for DOT to pay Kittitas County for noxious weed services are the Assessments set forth in RCW 17.04.180 and RCW 17.10.240(1)(a). As the Court made clear in *City of Snoqualmie*, DOT's tax-exempt status does not relieve it of the obligation of paying Assessments since this is a PILT program.

b. RCW 43.09.210(3) Requires a Government Body to Pay for Services Provided by Another Government.

That chapters 17.04 and 17.10 RCW require state agencies to pay Assessments is consistent with the provisions of RCW 43.09.210(3), which requires all services rendered by a local government to another public institution "be paid for at its true and fair value" by the public institution receiving the service. "This law applies to services that one government body provides for another, including when one city provides another city with services." *Lane v. City of Seattle*, 164 Wn.2d 875, 889, 194 P.3d 977

(2008)(a case requiring one city to pay another for the cost of water provided for use in fire hydrants).

Not only do chapters 17.04 and 17.10 RCW require DOT to pay for noxious weed services, principles of auditing and local government accounting, as set forth in RCW 43.09.210(3), require it as well.

c. Legislative History of RCW 17.10.240 Indicates Assessments Are Not Subject to the “Special Benefits” Analysis.

According to legislative history materials submitted by DOT to the trial court, RCW 17.10.240 was amended in 1997 to remove the word “special” from the “assessment funding section wherever a ‘special benefit’ is referred to” because “the term ‘special’ can refer to a specific type of assessment that is not intended in this section.” CP 13. Removal of the word “special” from RCW 17.10.240 also leaves “intact the need to determine the benefit to weed control on a specific type of land while removing confusion and uncertainty over the type of assessment.” CP 13.

A special assessment is used to pay for a local improvement that “specially benefits” a specific parcel of real property. *Heavens v. King County Rural Library Dist.*, 66 Wn.2d 558, 563, 404 P.2d 453 (1965); *Hugh D. Spitzer, Taxes vs. Fees: A Curious Confusion*, 38 Gonz. L. Rev. 335, 351 (2002-03)(special assessments allocate “the cost of public improvements that increase the value of an asset (property) to the owner of

that asset”). Thus, according to legislative history provided by DOT, Assessments levied pursuant to RCW 17.10.240 are not “special” assessments, and so are not subject to the “special benefits” analysis.

Moreover, according to this legislative history, the determination of RCW 17.10.240 Assessment amounts is focused on the “benefit to weed control on a specific type of land,” such as dry lands, range lands, etc., rather than on who owns the land. If a state agency owns a “specific type of land” subject to Assessment, the state agency must pay the Assessment.

d. Attorney General Opinions Conclude State Agencies Must Pay Assessments.

The Washington State Attorney General’s Office has issued opinions concluding state agencies must pay Assessments. AGO opinions are persuasive authority to the court on statutory interpretation, and “may shed light on the intent of the legislature...” *Five Corners Family Farmers v. State*, 173 Wn.2d 296, 308, 268 P.3d 892 (2011).

AGO 51-53 No. 306 at *1 concludes that while the “Department of Game” itself was not liable for weed control assessments on state lands, “the state, under statute [RCW 17.04.180], is obligated to provide for payment of such assessments to the various districts by appropriation out of the general fund of the state.”

AGO 1958 No. 199 at *2 opines the “term ‘state lands’ as used in [RCW 17.04.180] is not qualified or limited in any way and thus would be applicable to any land belonging to the state, including highway right of ways...” The AGO concludes that when any state owned lands “are within a weed district the statute requires the county treasurer to certify annually to the commissioner of public lands a statement showing the amount of the taxes for which said lands would be liable if privately owned.” *Id.* Even though RCW 17.04.180 has been amended since this AGO opinion was issued in 1958, such that the Treasurer must now send statements to the “appropriate state agency” instead of the commissioner of public lands, the principle that state agencies must pay Assessments has not changed.

Over 60 years have passed since these two formal opinions of the attorney general were issued and the Legislature has never amended RCW 17.04.180 to remove the obligation of state agencies to pay Assessments. Failure by the Legislature “to amend a statute in response to the formal opinion may, in appropriate circumstances, be treated as a form of legislative acquiescence in that interpretation.” *Five Corners Family Farmers*, 173 Wn.2d at 308. In this case, Kittitas County submits the Legislature has acquiesced to the AGO opinions concluding state agencies must pay Assessments.

Finally, Kittitas County points out that DOT itself has historically interpreted chapters 17.04 and 17.10 RCW as requiring state agencies to pay Assessments. It was only in 2017 that DOT stopped paying Assessments.

The plain language of chapters 17.04 and 17.10 RCW, as well as relevant interpretive aids, require state agencies to pay Assessments.

B. RCW 79.44.010 Only Applies to “Improvements.” County Noxious Weed Programs are not “Improvements.” They are Governmental Police Power Measures, so RCW 79.44.010 Does Not Apply.

Despite the plain language of chapters 17.04 and 17.10 RCW requiring state agencies to pay Assessments, DOT argues it is exempt from the Assessments by operation of RCW 79.44.010.

RCW 79.44.010 provides that state-owned land “may be assessed and charged for the cost of local or other improvements specially benefiting such lands...” The operative term in this statute is “improvement.”

1. County Noxious Weed Programs are not “Improvements.”

The term “improvement” is defined in RCW 79.02.010(9)(the definitions section for title 79 RCW) as “anything considered a fixture in law placed upon or attached to lands [...] that has changed the value of the lands or any changes in the previous condition of the fixtures that changes the value of the lands.” In other words, an “improvement” is a fixture on or attached to real property.

The term “fixture” is not defined in title 79 RCW, but is commonly understood to be a piece of personal property so annexed to real property that it becomes part of the real property. *See Black’s Law Dictionary* 327 (5th ed. 1983); RCW 62A.9A-102(41); *State v. Boeing Co.*, 85 Wn.2d 663, 668, 538 P.2d 505 (1975). If a statute “uses plain language and defines essential terms, the statute is not ambiguous.” *Aventis Pharmaceutical, Inc.*, No. 50641-6-II, slip op. at 4. Title 79 defines “improvements” as “fixtures.” Kittitas County’s noxious weed program is not a fixture because it has nothing to do with personal property.

Nor can a county’s noxious weed program be considered an “improvement” as the term is used outside the context of title 79 RCW. If a statute’s meaning is not plain on its face and “remains ambiguous or unclear, it is appropriate to resort to canons of construction and legislative history.” *Aventis Pharmaceutical, Inc.*, No. 50641-6-II, slip op. at 4 (citing *Blomstrom v. Tripp*, 189 Wn.2d 379, 390, 402 P.3d 831 (2017)).

“The only essential elements of a ‘local improvement’ are those which the term itself implies, viz., that it shall benefit the property on which the cost is assessed in a manner local in its nature, and not enjoyed by property generally in the city.” *Ankeny v. Spokane*, 92 Wash 549, 555, 159 P. 806 (1916) (citing *State v. Reis*, 38 Minn. 371, 38 N.W. 97). In its briefing to the trial court, DOT cited to several improvements cases, in

which the issue was whether a specific parcel of land was “specially benefitted” or increased in value: *Heavens*, 66 Wn.2d, at 563 (construction of rural public libraries); *In re Shilsole Ave.*, 85 Wash. 522, 537, 148 P. 781 (1915) (construction and regrade of a street); *In re Jones*, 52 Wn.2d 143, 146, 324 P.2d 259 (1958) (construction of a water main and fire hydrant); *Appeal of State in re Assessment Roll of Local Improvement Dist. 5311 of the City of Tacoma*, 60 Wn.2d 380, 374 P.2d 171 (1962) (construction of a water main and three fire hydrants); *In re Towner Util. L.I.D.*², 115 Wn.App. 900, 64 P.3d 71 (2003)(construction and installation of a sewer line). Public libraries, water mains, fire hydrants, and sewer lines are all important from a public policy perspective. However, the facts of these cases are fundamentally different from a county’s noxious weed program because none of those cases involve a governmental police power measure that provides for the general welfare of the community.

The duties and responsibilities of Kittitas County’s noxious weed program include: developing rules and regulations of the noxious weed program; developing and maintaining a noxious weed control list; inspecting land to determine the presence of noxious weeds; offering technical assistance and education to landowners; and developing a program for

² Cited by DOT as *Douglass v. Spokane County*, 115 Wn. App 900, 64 P.3d 71 (2003).

Kittitas County landowners to achieve compliance with the noxious weed laws. *See* RCW 17.10.060; RCW 17.10.140. None of these duties of the Weed Board and the noxious weed program can be described as an “improvement” or fixture.

The law makes property owners responsible for eradicating, controlling, and preventing the spread of noxious weeds on their property. RCW 17.10.140. If a property owner fails to control noxious weeds on their property, the Weed Board and Districts can control the noxious weeds, or cause them to be controlled, at the expense of the owner. RCW 17.04.210; RCW 17.10.170(3). Washington Courts have recognized that laws requiring property owners to destroy noxious weeds on a property can “specially benefit” a specific piece of real property. *Northern Pac. R. Co. v. Adams Cty.*, 78 Wn. 53, 58, 138 P. 307 (1914). However, noxious weed control laws are not “improvements” because “[r]equiring the destruction of noxious weeds is a provision for the general welfare of the community, and must rest for validity upon the principle of police regulation.” *Northern Pac. R. Co.*, 78 Wn., at 57. Because noxious weed control provides for the general welfare of the community, it does not satisfy the “essential element of an improvement” test articulated in *Ankeny*, which is that an improvement is “local in its nature, and not enjoyed by property generally in the city.” *Ankeny*, 92 Wash at 555.

Because it provides for the general welfare of the community, noxious weed control is considered to be an exercise of governmental health and safety police power. *Northern Pac. R. Co.*, 78 Wn., at 57.

2. County Noxious Weed Programs are an Exercise of Government Police Power.

Noxious weed regulations are “regarded as a police regulation and are not, strictly speaking, laws levying a tax, the direct or principal object of which is to raise revenue, but impose a duty upon a large class of persons directly to their benefit and are regarded as a police regulation.” *Id.* Nearly 100 years after the decision in *Northern Pac. R. Co.*, the Court of Appeals, Division III, found that “[i]n regulating the destruction or removal of noxious weeds, chapter 17.10 RCW is a proper exercise of the legislature’s police power.” *Hook v. Lincoln County Noxious Weed Control Bd.*, 166 Wn.App. 145, 153, 269 P.3d 1056 (2012); *See also* AGO 65-66 No. 114. Police power measures are not subject to the “special benefits” analysis.

3. Government Police Power Measures are not Subject to the “Special Benefits” Analysis.

When a government acts under its police power “to protect the health of its inhabitants and to defray the expense by making service charges[,] [t]he special benefit idea does not enter into the picture at all.” *Morse v. Wise*, 37 Wn.2d 806, 810, 226 P.2d 214 (1951).

Similarly, in *Teter v. Clark County*, the Washington Supreme Court held charges imposed on residents by Clark County to fund operations of a water management department were constitutionally valid under Clark County's police power because all residents' properties contributed to an increase in surface water runoff, even though some residents did not actually receive flood control services, or "specially benefit," from the water department. *Teter*, 104 Wn.2d at 234. The court stated:

[t]he police power is broad enough to encompass all laws tending to promote the health, peace, morals, education, good order and welfare of the people...[T]he only limitation upon it is that it must reasonably tend to correct some evil or promote some interest of the state...

Id. It makes sense that the costs of correcting evils is not subject to the "special benefits" analysis because if the evil threatens the general community and is present on all lands in the community, such as is the case with noxious weeds, then all members of the community need to share the financial burden of correcting that evil.

The alternative is a landowner, such as a state agency, could refuse to pay for the costs of combatting evils causing massive economic and environmental loss, including threats to human health, because such efforts do not increase the agency's property values enough. This thought is disturbing, but is precisely the argument made by DOT and accepted by the trial court in granting DOT's motion for summary judgment.

Fortunately, that grim alternative is not the law. The costs of protecting the economy, environment, and human health are not and should not be subject to a market analysis. This is why the costs of noxious weed control are not subject to the “special benefits” analysis.

4. A Landowner’s Own Noxious Weed Control Efforts Do Not Extinguish the Obligation to Pay Assessments.

A landowner must pay Assessments regardless of whether the landowner adequately controls noxious weeds on their property because the Assessments are not used to fund the costs of actually eradicating noxious weeds on a specific property, but instead are used to fund the operating costs of the county’s noxious weed program. RCW 17.04.240; RCW 17.10.240.

If a landowner fails to adequately control noxious weeds on their property, the Weed Board and the District have the authority to control the weeds, or cause them to be controlled, at the expense of the owner. RCW 17.04.210; RCW 17.10.170(3). In other words, the operating costs of the noxious weed program are funded by Assessments. If the District or the Weed Board actually has to control or eradicate noxious weeds on a specific parcel of land, the landowner must reimburse the District or Weed Board for those costs. Thus, if a landowner is adequately controlling noxious weeds on their land, that only means it is less likely the landowner

will need to pay a share of the District's or Weed Board's operating costs. The argument that a landowner is excused from paying Assessments because the landowner controls their own noxious weeds confuses the issue and fails for three additional reasons:

First, the Court in *Teter* made clear that if all properties contribute to a health and safety issue, all properties must pay for the police power services designed to mitigate that issue, even if some properties do not actually receive services. RCW 17.10.007 makes clear that noxious weeds are found on all properties in the state, so all property owners must pay for services to mitigate noxious weed harms.

Second, allowing a property owner to avoid paying Assessments because the property owner does not actually receive services turns the law on its head by making the obligation to pay Assessments dependent upon a landowner's subjective efforts to control noxious weeds. The Weed Board's primary duties do not involve actually controlling noxious weeds on owner's lands. The owners need to control their own weeds. The Weed Board inspects lands, educates land owners, develops appropriate rules and regulations, etc, all of which needs to be funded.

Third, even if a landowner appropriately controls all noxious weeds on their property, the landowner still receives a benefit from the Weed Board inspecting other properties in the area and enforcing noxious

weed regulations as appropriate. “[I]f the property owners are required to destroy the noxious weeds upon their lands and such weeds are permitted to grow in the highways, the destruction of the weeds upon their lands is of no practical benefit.” *Northern Pac. R. Co.*, 78 Wn., at 58. Property inspections cost the county money, and are funded by the Assessments.

Finally, with respect to DOT, the discussion regarding DOT’s own noxious weed services is ultimately irrelevant because the parties agree Kittitas County does provide noxious weed services to DOT property each year. CP 43, 149.

5. Exempting State Agencies from Assessments Would Create an Equal Protection Violation of the Federal and State Constitutions.

Kittitas County believes the Assessment processes of chapters 17.04 and 17.10 RCW, if interpreted according to their plain meaning, are constitutional. However, exempting state agencies from Assessments creates a constitutional issues in that the financial burdens of a county’s weed control program would be shifted entirely on to private landowners, who own 30% of land in Kittitas County, despite the fact the harms caused by noxious weeds are experienced by “Washington’s agricultural, natural, and human resources” and despite the fact that noxious weeds are found “on all terrestrial and aquatic areas in the state.” RCW 17.10.007. There

would no longer be a rational nexus between the purpose of the Assessments and the persons required to pay the Assessments.

The federal constitution provides, in relevant part, that “[n]o state shall...deny to any person within its jurisdiction the equal protection of the laws.” *U.S. Const. amend. 14, §1*. The Constitution of the state of Washington provides that “[n]o law shall be passed granting any citizen [or] class of citizens...privileges or immunities which upon the same terms shall not equally belong to all citizens...” *Wash. Const. Art. 1, §12*. (cited by *Foley v. Dep’t of Fisheries*, 119 Wn.2d 783, 788, 837 P.2d 14 (1992); *Seattle v. Rogers Clothing for Men*, 114 Wn.2d 213, 233, 787 P.2d 39 (1990)). Courts generally treat “claims under these two constitutional provisions as presenting one equal protection challenge to the governmental classification at issue. *Foley*, 119 Wn.2d at 788.

Even if minimum scrutiny is applied, exempting state agencies from Assessments still leads to a violation of the equal protection clause. Courts “apply the rational basis test in cases involving minimum scrutiny review.” *Foley*, 119 Wn.2d at 789. Under the rational basis test, a court uses a three-part analysis:

- (1) Does the classification apply alike to all members within the designated class?
- (2) Do reasonable grounds exist to support the classification’s distinction between those within and without each class?
- and (3) Does the

classification have a rational relationship to the purpose of the legislation?

Foley, 119 Wn.2d at 789 (footnote 3). “If each inquiry is answered ‘yes,’ then the statutory classification would be constitutional.” *Associated Grocers v. State*, 114 Wn.2d 182, 188, 787 P.2d 22 (1990).

RCW 17.10.240(1)(a) requires the county legislative authority to “classify the lands into suitable classifications” to determine which lands receive a noxious weed assessment. The classifications listed in RCW 17.10.240(1)(a) do not distinguish on the basis of who owns the property (with the exception of the federal government), but rather on the type of property itself (dry lands, range lands, irrigated lands, nonuse lands, forest lands, or federal lands).

If the Court constructively inserts “state lands” as an additional land classification in RCW 17.10.240(1)(a), that is exempt from paying Assessments, this leads to a different application of RCW 17.10.240(1)(a) to members of each class. For instance, a private owner of dry lands or range lands would pay a noxious weed assessment, but state-owned dry lands or range lands would not be subject to noxious weed assessments, etc. One might argue whether the state is a “person” within the meaning of the equal protection clause, but such an argument overlooks the fundamental class distinction being made, which is that of private

landowners within a county (who would be burdened with the costs of a county's noxious weed control program) versus every other person, business, government agency in Washington State (who all receive the benefit of a county's noxious weed control program).

According to RCW 17.10.007, noxious weeds harm and affect all residents, businesses, and ecosystems in the state. Gov. Inslee says invasive species "impede industry, threaten agriculture, [and] endanger human health." CP 331. If the evils of noxious weeds are felt by all, then the burden of funding of noxious weed programs should be spread amongst the taxpayers of Washington, such as would be accomplished by the PILT programs described in chapters 17.04 and 17.10 RCW, rather than just the 30% of private landowners in Kittitas County.

As a matter of statutory construction, a court should "avoid deciding difficult constitutional questions where the text fairly admits of a less problematic construction." *Sharer v. Oregon*, 581 F.3d 1176, 1178 (9th Cir. 2009) (citing *Pub. Citizen v. DOJ*, 491 U.S. 440, 455, 109 S. Ct. 2558, 105 L. Ed. 2d 377 (1989)). The less problematic construction in this case is to follow the plain meaning of chapters 17.04 and 17.10 RCW and require state agencies to pay Assessments.

6. RCW 79.44.010 is a Statute of General Application that is Superseded by the Specific Statutory Provisions of chapters 17.04 and 17.10 RCW.

RCW 79.44.010 is a general statutory provision that does not reference noxious weed assessments, whereas chapter 17.10 RCW specifically authorizes noxious weed assessments, or equivalent PILT, on state lands. “It is fundamental that a general statutory provision may not be used to nullify or to trump a specific provision, irrespective of the priority of enactment.” *California v. United States*, 215 F.3d 1005, 1013 (9th Cir. 2000).

The general, non-specific terms of RCW 79.44.010 cannot apply to noxious weed assessments, because to do so would require ignoring the specific provisions of chapter 17.10 RCW that plainly require state agencies pay noxious weed assessments, or equivalent PILT.

C. Even if the “Special Benefits” Analysis Did Apply to a County’s Noxious Weed Program, This is a Question of Fact Not Properly Determined by Summary Judgment.

The “special benefits” analysis of RCW 79.44.010 does not apply to a county’s noxious weed program, but even if it did, the trial court’s order would still need to be reversed because whether a property is “specially benefitted” is a question of fact. *Appeal of State*, 60 Wn.2d at, 382; *In re Jones*, 52 Wn.2d at, 146. “Special benefits” are measured by the “difference between the fair market value of the property immediately

after the special benefits have attached and its fair market value before they have attached.” *Heavens*, 66 Wn.2d at, 563.

In this case, the undisputed facts are Kittitas County provides noxious weed services to DOT lands each year. DOT agrees. CP 43. Kittitas County estimates the total annual costs of the services provided to DOT is at least \$2500-3000. CP 149. “A genuine issue of material fact exists, precluding summary judgment, where reasonable minds could differ on the facts controlling the outcome of the litigation.” *Dowler v. Clover Park School Dist. No. 400*, 172 Wash.2d 471, 484, 258 P.3d 676 (2011). When these facts are viewed in a light most favorable to Kittitas County, Kittitas County’s services do “specially benefit” DOT lands. As the court in *Northern Pac. R. Co.*, recognized, noxious weed regulations are simultaneously police regulations providing for the general welfare of the community, as well regulations that may “specially benefit” property. *Northern Pac. R. Co.*, 78 Wn., at 57-58.

Kittitas County is an assessing district pursuant to RCW 79.44.003(7). *See also* AGO 1990 No. 11 at * 5; AGO 1994 No. 24 at *6 (it is the Commissioners, not the Weed Board, that levies Assessments). Weed Board staff are county employees, drive county vehicles, work in a county building, etc. CP 251. And, as discussed above, Kittitas County is

authorized by chapter 17.10 RCW to assess state lands for noxious weed purposes.

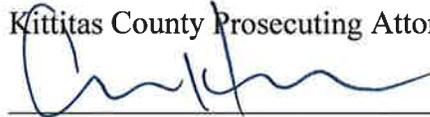
So if RCW 79.44.010 does apply to noxious weed assessments, there is a genuine issue of material fact as to amount of “special benefit” DOT owned lands received from Kittitas County’s noxious weed program.

VII. CONCLUSION

The legislative intent of chapters 17.04 and 17.10 RCW plainly is for state agencies to pay Assessments, and this must be given effect. RCW 79.44.010 does not apply to a county’s noxious weed program because these programs are not “improvements,” but are an exercise of government police power, which are not subject to the “special benefits” analysis. This Court should reverse the order granting DOT’s summary judgment and direct the trial court to enter summary judgment in favor of Kittitas County.

RESPECTFULLY SUBMITTED this 22nd day of October, 2018.

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CERTIFICATE OF SERVICE

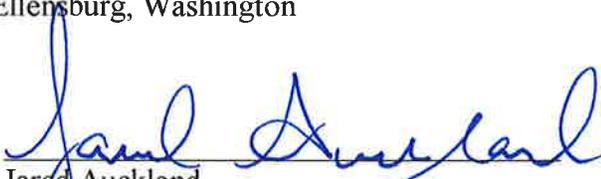
I certify that on the 22nd day of October, 2018 I caused the original document to be filed in the Court of Appeals Division II and I caused a true and correct copy of this Brief of Appellant in Kittitas County to be transmitted electronically to the following parties:

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MargoL@atg.wa.gov
angelab@atg.wa.gov

DATED this 22nd day of October, 2018, at Ellensburg, Washington


Jared Auckland
Legal Secretary

Appendix

1 5. The Kittitas County Treasurer's office sent property tax statements to the
2 Department of Transportation in February of 2017, which showed the amount of assessments
3 owed for each parcel of real property.

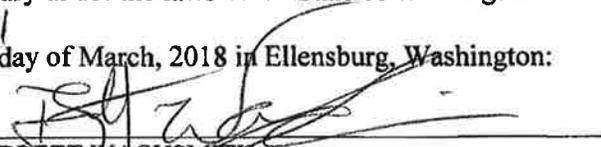
4 6. The assessments are included on the property tax statements even though the
5 Treasurer's Office does not consider the assessments to be property taxes.

6 7. The Department of Transportation failed to pay weed assessments for 2017 on
7 several of the properties it owns in Kittitas County.

8 8. The Department of Transportation is subject to noxious weed assessments in 2018
9 as well, which are due April 30, 2018.

10 9. Attached as Exhibit A are true and correct copies of the 2018 statements that were
11 mailed to the Department of Transportation. These statements include delinquent amounts from
12 2017. The amounts owed, including interest, are accurate until April 30, 2018. At that point,
13 interest will begin accruing again.

14 10. I declare under penalty of perjury under the laws of the State of Washington that
15 the foregoing is true and correct, on this ^{2nd} day of March, 2018 in Ellensburg, Washington:

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BRETT WACHSMITH
Kittitas County Treasurer

1 5. Each County (and Weed Districts in our case) adopts their own noxious weed list,
2 listing the species mandated for control. This list is comprised of all Class A and Class B weeds
3 designated for control by the State Noxious Weed Control Board in our County AND any Class B
4 and C weeds the local Board chooses to list in addition, which in our County is a lot, we probably
5 have one of the largest list of noxious weeds mandated for control in the state.
6

7 6. Attached as Exhibit A is a true and correct copy of the 2017 Kittitas County
8 Noxious Weed List.
9

10 7. In my opinion, each noxious weed infestation is unique in itself based on the weed
11 species, the site location, the existing vegetation, adjacent landowners, future land management
12 goals, control options/restrictions, etc and it takes technical expertise as well as local knowledge to
13 effectively create a management plan/recommendation. I believe a whole lot of what the Weed
14 Board does is inherently unique to this County.
15

16 8. In my role as Assistant Coordinator, I am the main point of contact between state
17 agencies, including DOT, and the Weed Board.
18

19 9. I estimate that every day of the growing season in Kittitas County, which runs from
20 April-September each year (about 132 interactions; 6 months x 22 business days), my staff or I
21 have to either 1) contact the federal government or a state agency to report a noxious weed
22 infestation on state or federally owned lands; or 2) actually eradicate noxious weeds on state or
23 federally owned lands.
24

25 10. The Weed Board does not have an interlocal agreement or contract with DOT for
26 payment of control of noxious weeds.
27
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1 11. Specifically as to DOT lands, I estimate at least 10 times each year my staff or I
2 have to either: 1) report to the DOT a noxious weed infestation on the DOT's land; or 2) actually
3 eradicate noxious weeds on DOT's land.
4

5 12. The average annual costs of aquatic applications we provide for control of purple
6 loosestrife on DOT lands and Rights of Way is in the \$1500 range alone. We probably provide
7 another \$500 worth of control on priority species on DOT Rights of Way.
8

9 13. We provide another \$500-\$1000 in staff time each year on the necessary
10 requirements of implementing RCW 17.10 and 17.04, such as surveying, handling complaints
11 from adjacent landowners, technical training, mapping of infestations, etc. Each year, the Weed
12 Board receives complaints from landowners adjacent to DOT's lands to report and complain about
13 noxious weed infestations on DOT land. My staff and I either report the infestation to DOT, or
14 arrange for the infestation to be controlled. It takes significant staff time to adequately respond to
15 and resolve the complaints from DOT's neighbors.
16

17 14. The total annual costs of services provided by the Weed Board are not included in
18 the Weed Board's Assessment because some of those services are provided, by Weed Board
19 policy, to assist landowners with actual control of priority species, which benefits the landowner
20 as well as other landowners in Kittitas County. This service is provided even though the
21 Coordinator and I are not required to actually perform noxious weed control.
22

23 15. Attached as Exhibit B are true and correct copies of a spreadsheet I created to
24 summarize data on the DOT's real property in Kittitas County, and a spreadsheet with general
25 information on District Acreage, Landowners, and Parcel Information in Kittitas County. The
26 data used in Exhibit B was obtained from ArcGIS, a geodatabase, and T2, Kittitas County's
27 property tax database, based upon Kittitas County's 2018 Tax Roll Audit.
28
29

1 16. Attached as Exhibit C are true and correct copies of maps I created to show the
2 general location of state and federally owned lands in Kittitas County.

3 17. Attached as Exhibit D are true and correct copies of tax statements for DOT owned
4 real property in Kittitas County, that I downloaded from TaxSifter, Kittitas County's online
5 property tax database. I sorted the tax statements by Weed District #. I added the cover pages,
6 handwriting, and highlighting marks
7

8 18. I declare under penalty of perjury under the laws of the State of Washington that
9 the foregoing is true and correct, on this 2 day of March, 2018 in Ellensburg, Washington:
10

11
12 

13 _____
14 Marc Eylar
15 Assistant Coordinator
16 Kittitas County Noxious Weed Control Board
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2017 KITTITAS COUNTY NOXIOUS WEED LIST

Common Name	Scientific Name	Common Name	Scientific Name
CLASS A NOXIOUS WEEDS		CLASS B NOXIOUS WEEDS (CONT.)	
common crupina	<i>Crupina vulgaris</i>	lesser celandine	<i>Ficaria verna</i>
cordgrass, common	<i>Spartina anglica</i>	loosestrife, garden	<i>Lysimachia vulgaris</i>
cordgrass, dense-flowered	<i>Spartina densiflora</i>	loosestrife, purple	<i>Lythrum salicaria</i>
cordgrass, saltmeadow	<i>Spartina patens</i>	loosestrife, wand	<i>Lythrum virgatum</i>
cordgrass, smooth	<i>Spartina alterniflora</i>	parrotfeather	<i>Myriophyllum aquaticum</i>
dyer's woad	<i>Isatis tinctoria</i>	perennial pepperweed	<i>Lepidium latifolium</i>
eggleaf spurge	<i>Euphorbia oblongata</i>	poison hemlock	<i>Conium maculatum</i>
false brome	<i>Brachypodium sylvaticum</i>	policeman's helmet	<i>Impatiens glandulifera</i>
floating primrose-willow	<i>Ludwigia peploides</i>	puncturevine	<i>Tribulus terrestris</i>
flowering rush	<i>Butomus umbellatus</i>	Ravenna grass*	<i>Saccharum ravennae</i>
French broom	<i>Genista monspessulana</i>	rush skeletonweed	<i>Chondrilla juncea</i>
garlic mustard	<i>Alliaria petiolata</i>	saltcedar*	<i>Tamarix ramosissima</i>
giant hogweed	<i>Heracleum mantegazzianum</i>	Scotch broom	<i>Cytisus scoparius</i>
goatsrue	<i>Galega officinalis</i>	shiny geranium	<i>Geranium lucidum</i>
hydrilla	<i>Hydrilla verticillata</i>	spurge laurel	<i>Daphne laureola</i>
Johnsongrass	<i>Sorghum halepense</i>	spurge, leafy	<i>Euphorbia esula</i>
knapweed, bighead	<i>Centaurea macrocephala</i>	spurge, myrtle*	<i>Euphorbia myrsinites</i>
knapweed, Vochin	<i>Centaurea nigrescens</i>	sulfur cinquefoil	<i>Potentilla recta</i>
kudzu	<i>Pueraria montana var. lobata</i>	tansy ragwort	<i>Senecio jacobaea</i>
meadow clary	<i>Salvia pratensis</i>	thistle, musk	<i>Carduus nutans</i>
oriental clematis	<i>Clematis vitalba</i>	thistle, plumeless	<i>Carduus acanthoides</i>
purple starthistle	<i>Centaurea calcitrapa</i>	thistle, Scotch	<i>Onopordum acanthium</i>
reed sweetgrass	<i>Glyceria maxima</i>	velvetleaf	<i>Abutilon theophrasti</i>
ricefield bulrush	<i>Schoenoplectus mucronatus</i>	water primrose	<i>Ludwigia hexapetala</i>
sage, clary	<i>Salvia sclarea</i>	white bryony	<i>Bryonia alba</i>
sage, Mediterranean	<i>Salvia aethiops</i>	wild chervil	<i>Anthriscus sylvestris</i>
silverleaf nightshade	<i>Solanum elaeagnifolium</i>	yellow archangel	<i>Lamium strumarium</i>
Spanish broom	<i>Spartium junceum</i>	yellow floatingheart	<i>Nymphoides peltata</i>
spurge flax	<i>Thymelaea passerina</i>	yellow nutsedge	<i>Cyperus esculentus</i>
Syrian beancaper	<i>Zygophyllum fabago</i>	yellow starthistle	<i>Centaurea solstitialis</i>
Texas blueweed	<i>Helianthus ciliaris</i>	CLASS C NOXIOUS WEEDS	
thistle, Italian	<i>Carduus pycnocephalus</i>	absinth wormwood	<i>Artemisia absinthium</i>
thistle, milk	<i>Silybum marianum</i>	Austrian fieldcress	<i>Roripora austriaca</i>
thistle, slenderflower	<i>Carduus tenuiflorus</i>	babysbreath	<i>Gypsophila paniculata</i>
variable-leaf milfoil	<i>Myriophyllum heterophyllum</i>	black harrane	<i>Hyoscyamus niger</i>
wild four-o'clock	<i>Mirabilis nyctaginea</i>	blackgrass	<i>Alopecurus myosuroides</i>
CLASS B NOXIOUS WEEDS		buffalobur	<i>Solanum rostratum</i>
blueweed	<i>Echium vulgare</i>	cereal rye	<i>Secale cereale</i>
Brazilian elodea	<i>Egeria densa</i>	common barbary	<i>Berberis vulgaris</i>
bugloss, annual	<i>Anchusa arvensis</i>	common catsear	<i>Hypochaeris radicata</i>
bugloss, common	<i>Anchusa officinalis</i>	common groundsel	<i>Senecio vulgaris</i>
butterfly bush*	<i>Buddleja davidii</i>	common St. Johnswort	<i>Hypericum perforatum</i>
carnealthorn	<i>Alhagi maurorum</i>	common tansy	<i>Tanacetum vulgare</i>
common fennel	<i>Foeniculum vulgare</i>	common teasel	<i>Dipsacus fullonum</i>
common reed (nonnative genotypes)	<i>Phragmites australis</i>	field bindweed	<i>Convolvulus arvensis</i>
Dalmatian toadflax	<i>Linaria dalmatica</i>	fragrant waterlily	<i>Nymphaea odorata</i>
Eurasian watermilfoil*	<i>Myriophyllum spicatum</i>	hairy whitetop	<i>Cardaria pubescens</i>
fanwort	<i>Cabomba caroliniana</i>	hoary cress	<i>Cardaria draba</i>
gorse	<i>Ulex europaeus</i>	jointed goatgrass	<i>Aegilops cylindrica</i>
grass-leaved arrowhead	<i>Sagittaria graminea</i>	lawnweed	<i>Soliva sessilis</i>
hairy willowherb	<i>Epilobium hirsutum</i>	longspine sandbur	<i>Cenchrus longispinus</i>
hawkweed oxlongue	<i>Picris hieracioides</i>	medusahead	<i>Taeniatherum caput-medusae</i>
hawkweed, orange	<i>Hieracium aurantiacum</i>	old man's beard	<i>Clematis vitalba</i>
hawkweeds: all nonnative yellow-flowered	<i>Hieracium, subgenus Hieracium</i>	oxeye daisy	<i>Leucanthemum vulgare</i>
hawkweeds: all nonnative yellow-flowered	<i>Hieracium, subgenus Pilosella</i>	perennial sowthistle	<i>Sonchus arvensis ssp. arvensis</i>
herb-Robert	<i>Geranium robertianum</i>	scentless mayweed	<i>Marricaria perforata</i>
hoary alyssum	<i>Berteroa incana</i>	smoothseed alfalfa dodder	<i>Cuscuta approximata</i>
houndstongue	<i>Cynoglossum officinale</i>	spikeweed	<i>Centromedia pungens</i>
indigobush	<i>Amorpha fruticosa</i>	spiny cocklebur	<i>Xanthium spinosum</i>
knapweed, black	<i>Centaurea nigra</i>	Swainsonpea	<i>Sphaerophysa salsola</i>
knapweed, brown	<i>Centaurea jacea</i>	thistle, bull	<i>Cirsium vulgare</i>
knapweed, diffuse	<i>Centaurea diffusa</i>	thistle, Canada	<i>Cirsium arvense</i>
knapweed, meadow	<i>Centaurea x moncktonii</i>	ventenata*	<i>Ventenata dubia</i>
knapweed, Russian	<i>Acroptilon repens</i>	white cockle	<i>Silene latifolia ssp. alba</i>
knapweed, spotted	<i>Centaurea stoebe</i>	wild carrot	<i>Daucus carota</i>
knotweed, Bohemian	<i>Polygonum bohemicum</i>	yellowflag iris*	<i>Iris pseudacorus</i>
knotweed, giant	<i>Polygonum sachalinense</i>	yellow toadflax	<i>Linaria vulgaris</i>
knotweed, Himalayan	<i>Polygonum polystachyum</i>	CLASS D NOXIOUS WEEDS	
knotweed, Japanese	<i>Polygonum cuspidatum</i>	cornflower (bachelor's button)*	<i>Centaurea cyanus</i>
Kochia	<i>Kochia scoparia</i>	horseweed (mare's tail)*	<i>Conyza canadensis</i>
		russian thistle*	<i>Salsola iberica</i>

Highlight indicates known presence in Kittitas County

* Control required in designated areas only

**If you are aware of any noxious weeds that are not highlighted, please contact the Kittitas County Weed Board

The Noxious Weed List of Kittitas County (RCW 17.10.090) is comprised of all Class A and Class B designate noxious weeds described in the 2017 Washington State Noxious Weed List (WAC 16-750) plus the Class B non-designate and Class C weeds listed above

2018 DISTRICT ACREAGE, LANDOWNERS, & PARCELS

2018 tax roll audit from T2 table and ArcGIS Feb 22, 2018

Weed District	Assessment Rate	Landowners	Parcels	Acreage	2018 Revenues (Estimated by Weed Board)	2018 Revenues (Estimated by Treasurer)
KITTITAS COUNTY WEED BOARD						
Weed District #8 (Designated Forest)	\$1.54 Per Parcel Minimum (\$0.00350/Acre)	118	208	14,378	\$323	-
Weed District #9 (All Other Lands)	\$15.40 Per Parcel Minimum (\$0.03500/Acre)	6,768	10,752	621,418	\$169,912	-
Weed District #10 (Incorporated Lands)	\$3.85 Per Parcel Minimum (\$0.00875/Acre)	4,375	5,817	4,858	\$22,395	-
	Totals	11,259	16,777	640,654	\$192,630	0
	Percentage of all of County			43%		
KITTITAS COUNTY WEED DISTRICTS						
Weed District #1	\$20.00 Per Landowner	997	1,830	27,978	\$19,940	-
Weed District #2	\$35.00 Per Landowner	1,145	2,142	24,207	\$40,075	-
Weed District #3	\$19.00 Per Landowner	1,232	2,160	33,408	\$23,408	-
Weed District #4	\$10.50 Per Parcel	1,617	2,938	46,565	\$30,849	-
Weed District #5	\$17.50 Per Landowner	3,477	5,305	48,962	\$60,848	-
	Totals	8,468	14,375	181,120	\$175,120	0
	Percentage of all of County			12%		
STATE LANDS (are already included in categories above)						
State Lands in Entire County		8	1,128	423,693	\$20,045	-
PILT from DNR(TCF) WDS	\$17.50 Per Landowner		4		\$17.50	-
PILT from DNR(TCF) WDB	\$15.40 Per Parcel Minimum (\$0.03500/Acre)		95		\$1,863.00	-
	Totals	8	1,128	423,693.00	\$21,925.50	
	Percentage of all of County			28%		
FEDERAL LANDS						
	Totals	22	1,530	655,967	0	
	Percentage of all of County			44%		
INCORPORATED LANDS NOT ASSESSED (Kititias, Cle Elum, South Cle Elum, Roslyn)						
	Totals		3442	6370	0	
	Percentage of all of County			<1%		
OTHER GEOGRAPHIC LANDS NOT ASSESSED (ROWS, Water, Community properties, Retention ponds, etc)						
	Totals			9009		
	Percentage of all of County			<1%		

STATE AND FEDERAL LANDS KITITAS COUNTY



1 inch = 10.26 miles

Legend

- State Lands
- ▨ Federal Lands

Disclaimer:

Kittitas County makes every effort to produce and publish the most current and accurate information possible. No warranties, expressed or implied, are provided for the data provided, its use, or its interpretation. Kittitas County does not guarantee the accuracy of the material contained herein and is not responsible for any misuse or representations by others regarding this information or its derivatives.



February 2018

1 5. In my role as Coordinator, I report to the Kittitas County Noxious Weed Control
2 Board (“Weed Board”), who are my direct supervisors.

3 6. However, my staff and I are subject to and comply with Kittitas County personnel
4 policies. We work in an office owned by Kittitas County. We receive our paychecks from Kittitas
5 County. We have Kittitas County supplied email addresses. While at work, we use Kittitas
6 County owned computers and drive Kittitas County owned vehicles.

7 7. As Coordinator, my duties are set by statute, and include: inspecting land to
8 determine the presence of noxious weeds, offering technical assistance and education, and
9 developing a program to achieve compliance with the weed law.
10

11 8. I also manage and administer the daily operations and services of the Weed Board,
12 at the direction of the Weed Board. As such, I have direct knowledge of the Weed Board’s
13 operations and finances.
14

15 9. The Weed Board in Kittitas County was activated in the year 1981 and reactivated
16 in the year 1991. The Weed Board is comprised of 5 voting members who are appointed by the
17 Kittitas County Board of Commissioners.
18

19 10. Attached as Exhibit A is a true and correct copy of a resolution from the Board of
20 County Commissioners activating the Kittitas County Noxious Weed Control Board.
21

22 11. The Commissioners fund the operating costs of the Weed Board by levying an
23 assessment on real property. The Weed Board’s current assessment rates were approved by the
24 Commissioners, by resolution, first in 1995, and then increased in 2007, and are levied per acre,
25 with a per parcel minimum. The City of Ellensburg assessment rates were approved, by
26 resolution, in 2008, a copy of which is located in Exhibit E of this Declaration.
27
28
29

1 12. Attached as Exhibit B are true and correct copies of resolutions from the Board of
2 County Commissioners establishing noxious weed assessments, and providing for the collection of
3 these assessments.

4 13. To the best of my knowledge, DOT paid all noxious weed assessments levied prior
5 to 2017.

6 14. There are 5 Weed Districts in Kittitas County, which are statutorily authorized to
7 levy assessments on property within the District to fund the operations of the District. One (1)
8 Districts levy the assessments per parcel. Four (4) Districts levy the assessment per landowner.
9

10 15. Attached as Exhibit C are true and correct copies of documents received from the
11 Kittitas County Board of Commissioners regarding the creation and setting of boundaries of the 5
12 Weed Districts in Kittitas County.
13

14 16. While each District is responsible for inspecting lands within district boundaries for
15 noxious weeds and enforcing noxious weed laws and regulations, all 5 Districts contract with the
16 Weed Board, pursuant to the Interlocal Cooperation Act, chapter 39.34 RCW, so that the Weed
17 Board actually carries out these duties.
18

19 17. Attached as Exhibit D are true and correct copies of the Interlocal Cooperation
20 Agreements between the Weed Board and the Weed Districts for the calendar year 2017. Such
21 agreements are executed each year and are substantially the same in substance.
22

23 18. Historically, the incorporated lands in Kittitas County were not subject to noxious
24 weed assessments because it was thought a noxious weed program was not necessary in urban
25 lands. However, that opinion has changed and all incorporated lands in Kittitas County are
26 proposed to be subject to noxious weed assessments in 2019. Lands in the City of Ellensburg, the
27 largest city in Kittitas County, are already assessed.
28
29

1 19. Attached as Exhibit E are true and correct copies of a letter from the City of Cle
2 Elum supporting imposition of a Weed Board Assessment, and a resolution from the Kittitas
3 County Board of Commissioners establishing noxious weed assessments within the City of
4 Ellensburg.
5

6 20. Attached as Exhibit F are true and correct copies of educational materials that I
7 believe to be helpful and accurate on the topic of invasive species, including noxious weeds, in
8 Washington State, and the harms caused by noxious weeds.
9

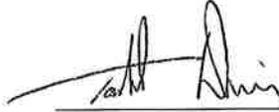
10 21. DOT has a spray program, primarily for their roadsides. When we see something
11 that needs attention we call one of their applicators and ask them to take care of the infestation. On
12 the other hand, it's often easier and more efficient to take care of an infestation ourselves when we
13 see it, which we often do on high priority infestations.
14

15 22. Sometimes we enter the issues on DOT land into our case log. However, since
16 DOT previously paid all of its assessments, we did not find it necessary to track and log all of the
17 specific noxious weed issues with DOT. The same is true for other landowners, we do not track
18 and log all issues or services the Weed Board provides to other landowners either.
19

20 23. Attached as Exhibit G is a true and correct copy of DOT related entries in our case
21 log from 2007-Present, which tracks and gives details on specific noxious weed issues or services
22 the Weed Board has with landowners. The entries listed in the case log do not represent all issues
23 or services the Weed Board has had with DOT property since 2007. The year of the entry is the
24 second two digits of the REF# and you can see that some map numbers have entries for more than
25 one year. Full 13 digit map numbers are true tax parcels, whereas less than 13 signifies a section of
26 roadway by township, range, section, and quarter section.
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24. I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct, on this 2 day of March, 2018 in Ellensburg, Washington:



TODD DAVIS
Coordinator
Kittitas County Noxious Weed Control Board

The State of Washington



Proclamation

WHEREAS, invasive species – including noxious weeds – damage our land and water, harm our wildlife and the productivity of our natural resources; and inhibit management of those resources in Washington State; and

WHEREAS, every year, the costs to prevent, monitor, and control invasive species – combined with the damage to crops, fisheries, forests, and other resources – cost the nation an estimated \$137 billion a year; and

WHEREAS, invasive species are recognized as the second greatest threat to biodiversity worldwide after habitat destruction from human development; and

WHEREAS, invasive species threaten the survival of native plants and animals, and are a significant threat to almost half of the native species listed as federally endangered, including salmon; and

WHEREAS, invasive species interfere with ecosystems by changing natural processes such as fire, water availability, and flooding; and

WHEREAS, invasive species impede industry, threaten agriculture, endanger human health, and are becoming increasingly more difficult to prevent and control as a result of global commercialization and human travel; and

WHEREAS, prevention is far less expensive than trying to remove species once they arrive and an educated and aware public is highly effective at detecting introduced species early;

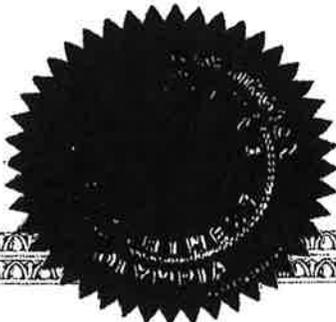
NOW, THEREFORE, I, Jay Inslee, Governor of the state of Washington, do hereby proclaim February 25-March 3, 2018 as

Invasive Species Awareness Week

in Washington, and I encourage all people in our state to learn more about preventing invasive species by visiting <http://wise.wa.gov/>.

Signed this 6th day of February, 2018

Governor Jay Inslee





News Release

For release: Feb. 21, 2018

Contact: Justin Bush Washington Invasive Species Council 360-902-3088

Gov. Inslee Highlights Need To Prevent and Stop Invasive Species

OLYMPIA – Gov. Jay Inslee has declared the week of Feb. 25th as Invasive Species Awareness Week in Washington State, noting that everyone has a role to play in stopping more than \$137 billion in annual costs from crop damage, loss of fish and damage to forests.

In his proclamation, Inslee urges residents to play an active role in protecting our state’s resources by doing simple things such as cleaning hiking boots and equipment before enjoying the outdoors, taking unwanted pets to the proper places instead of releasing them into the wild and cleaning boats and gear after leaving the water.

“Invasive species threaten the survival of native plants and animals, damage our land and water and inhibit management of natural resources,” Gov. Jay Inslee said. “We must do what we can to remove these threats to biodiversity through prevention and education.”

“Invasive species pose a major threat not only to Washington agriculture, but also to our state and national parks, and even our neighborhoods,” said Derek Sandison, director of the Washington State Department of Agriculture. “With the support of local community members, we have been safeguarding Washington from invasive species for decades. A keen eye by residents has helped keep known invasive species from gaining a foothold and even alerted us to new invasive species that make their way to our state.”

Invasive species can often damage the places we value the most. For example, some infestations can close lakes and rivers to boaters. Other infestations can kill the trees in our neighborhood forest.

“People spend an estimated \$21.6 billion in Washington on outdoor recreation, supporting about 199,000 jobs,” said Kaleen Cottingham, director of the Recreation and Conservation Office, which supports the Invasive Species Council and grant programs for outdoor recreation. “Damage to parks and trails from invasive species puts access to those areas and the associated jobs at risk.

“We know how to stop invasive species,” she continued, “The council and its partners have developed a statewide strategy and are implementing actions now. If you or your organization are not aware of the strategy and actions, we invite you to become involved in this important work.”

Invasive species also interfere with ecosystems by changing natural processes such as fire, water availability and flooding.

“Invasive species have negative impacts on everything that the Department of Natural Resources (DNR) does,” said Hilary Franz, Commissioner of Public Lands. “Invasive species threaten DNR’s ability to generate revenue for trust beneficiaries, they increase the risk of wildland fire and they constitute one of the greatest threats to conservation of our native species and ecosystems.”

Invasive species also impact habitat and can compete with, or prey on, native wildlife.



“Invasive species threaten the survival of native plants and animals,” said Joe Stohr, acting director of the Washington Department of Fish and Wildlife. “They are a threat to almost half of native species listed as federally endangered, including salmon. Everyone who works or recreates outdoors should clean, drain and dry their gear—especially boats and trailers—after every trip.”

“Simple, coordinated actions taken by everyone in Washington will save our agriculture, natural resources, wildlife and ability to recreate,” Cottingham said. “Let’s all do our part to protect the state we love.”

Read the [Governor’s proclamation](#).

Visit the Washington [Invasive Species Awareness Week Web page](#).

To Prevent and Stop Invasive Species We Need Your Help

You can take [simple actions to help prevent the introduction and spread of noxious weeds and invasive species](#).

Economic Impact of Invasive Species to Washington State

\$1.3 Billion Total Economic Impact

Invasive species are non-native organisms that cause economic or environmental harm and are capable of spreading to new areas of the state. Invasive species harm Washington State's landscapes, ecosystems, agriculture, commerce, recreation, and sometimes human health. The damages from invasive species translate into economic losses for communities and businesses.

While there are over 200 known invasive species found within or near Washington State, this economic analysis highlights the damages and potential impacts that could result if 23 of these plant and animal species were allowed to spread in Washington in a single year. Without prevention and control, the selected invasive species could have a total impact of \$1.3 billion dollars annually.

Four Costly Invasive Species

These four invasive species damage our state economy and resources. The dollar amounts and lost jobs represent the potential total economic impact of each species.

Plants

Scotch Broom

Cytisus scoparius

Ubiquitous Scotch broom is a serious threat to native prairies and forests. It prevents timber regeneration and displaces pasture forage for grazing animals. The plant is toxic to livestock and is a fire hazard.

\$142.8 million 660 jobs lost

Smooth Cordgrass

Spartina alterniflora

Smooth cordgrass is an estuarine grass that has densely arranged stems and a thick mat of roots. It displaces native species, destroying habitat and food sources for fish, waterfowl and other marine life.

\$48.6 million 360 jobs lost

Animals

Quagga/Zebra Mussels

Dreissena bugensis/D. polymorpha

While not established in Washington, invasive mussels have the potential to devastate numerous industries. The freshwater mollusks threaten lakes, rivers, dams and irrigation systems, degrade water quality, and impact the ability to recreate on waterways.

\$100.1 million 500 jobs lost

Apple Maggot

Rhagoletis pomonella

A major threat to Washington's apple industry, the Apple Maggot also affects pear, plum and cherry crops. If apple maggots are found in an orchard, the fruit is unsuitable for export.

\$392.5 million 2,900 jobs lost

Industry Impacts

The dollar amounts shown represent the potential total* economic impact of 23 invasive species on Washington industries in terms of lost revenue and jobs.



Recreation
\$47.6 million
300 jobs



Water Facilities
\$100.5 million
500 jobs



Livestock
\$282.9 million
1,500 jobs



Timber
\$297.0 million
1,300 jobs



Crops
\$589.2 million
4,400 jobs

Invasive species included in this analysis

Rush skeletonweed	Apple maggot
Scotch broom	Quagga/Zebra mussels
Himalayan blackberry	Gypsy moths
Yellow starthistle	Emerald ash borer
Knapweed species	Nutria
Leafy spurge	Feral swine
Purple loosestrife	
Invasive knotweed	
Eurasian watermilfoil	
Smooth cordgrass	

*total economic impact includes direct, indirect and induced impacts



KITTITAS COUNTY PROSECUTOR'S OFFICE

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