

Approved: Eugene H. Shore 2-4-93
Date

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson Eugene Shore at 9:05 a.m. on January 26, 1993 in Room 423-S of the Capitol.

All members were present except:

Committee staff present: Raney Gilliland, Legislative Research Department
Jill Wolters, Revisor of Statutes
Kay Johnson, Committee Secretary

Conferees appearing before the committee: Bill Scott, State Weed Specialist, State Board of Agriculture
Harold Mooney, Linn County Commissioner
Ray Baker, Linn County
Dudley Feuerborn, Anderson County Commissioner
Dennis Peters, Director, Riley County Weed Department
Dale Lambley, State Board of Agriculture

Chairman Shore called the meeting to order and informed committee members that the minutes of January 19, 20 and 21, 1993 had been distributed. Committee members have two days to recommend changes, otherwise the minutes will be considered approved. Chairman Shore introduced Bill Scott, State Weed Specialist, to give an overview of Kansas' noxious weed laws.

Mr. Scott discussed noxious weed enforcement, specifically the number of notices sent out, the enforcement procedure and notification forms, attachment #1. Responding to Chairman Shore's request, Mr. Scott briefly described the current law and listed the 11 state-wide and 2 county-option noxious weeds.

Representative Alldritt asked if cities turn in annual reports like County Weed Directors. Mr. Scott replied they may or may not, but he currently has no reports on file from a city.

Representative Neufeld asked how the law is applied to government owned property. Mr. Scott stated it is the same, except that government property is not eligible for the cost share program.

Chairman Shore asked about highway and railroad right-of-ways. Mr. Scott said KDOT has contracts with most counties, or with private contractors, for weed control.

Representative Freeborn asked how the number of infested acres is determined and how do those figures compare with past figures. Mr. Scott explained that about three years ago a more uniform method was established where 10% of the county is looked at and figures are determined from that. If you would need to spray a whole acre to get rid of the weed it would count as one acre. He said for the last 20 years they have been able to control weeds that would normally have doubled every five years or so and currently there is a major emphasis on weeds that we don't have very many of, but could have an explosion if not controlled.

Representative Lloyd asked if biological control methods, specifically the musk thistle weevil, are covered under the cost share program. Mr. Scott said the musk thistle weevil has been provided to landowners at no charge. This probably will not be continued as the weevil has been collected and distributed to almost all possible sites in Kansas.

Representative Gatlin asked how a weed moves from the noxious to restricted list. Mr. Scott explained that tolerance levels are established, but a weed goes on or off a list by legislative action.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE, Room 423-S Statehouse, at 9:05 a.m. on January 26, 1993.

Representative Reinhardt said he had not noticed a reduction of Johnson Grass in his part of the state and thought more visible education procedures should be put in place.

Harold Mooney, Linn County Commissioner, appeared before the committee to introduce Ray Baker, a Linn County landowner. Mr. Baker, citing examples on his own property, said the current law has too much red tape for effective weed control. Also, current law specifies that equipment brought into Kansas must be clean, but does not mandate clean equipment moving within the county or state and this encourages the spread of weeds.

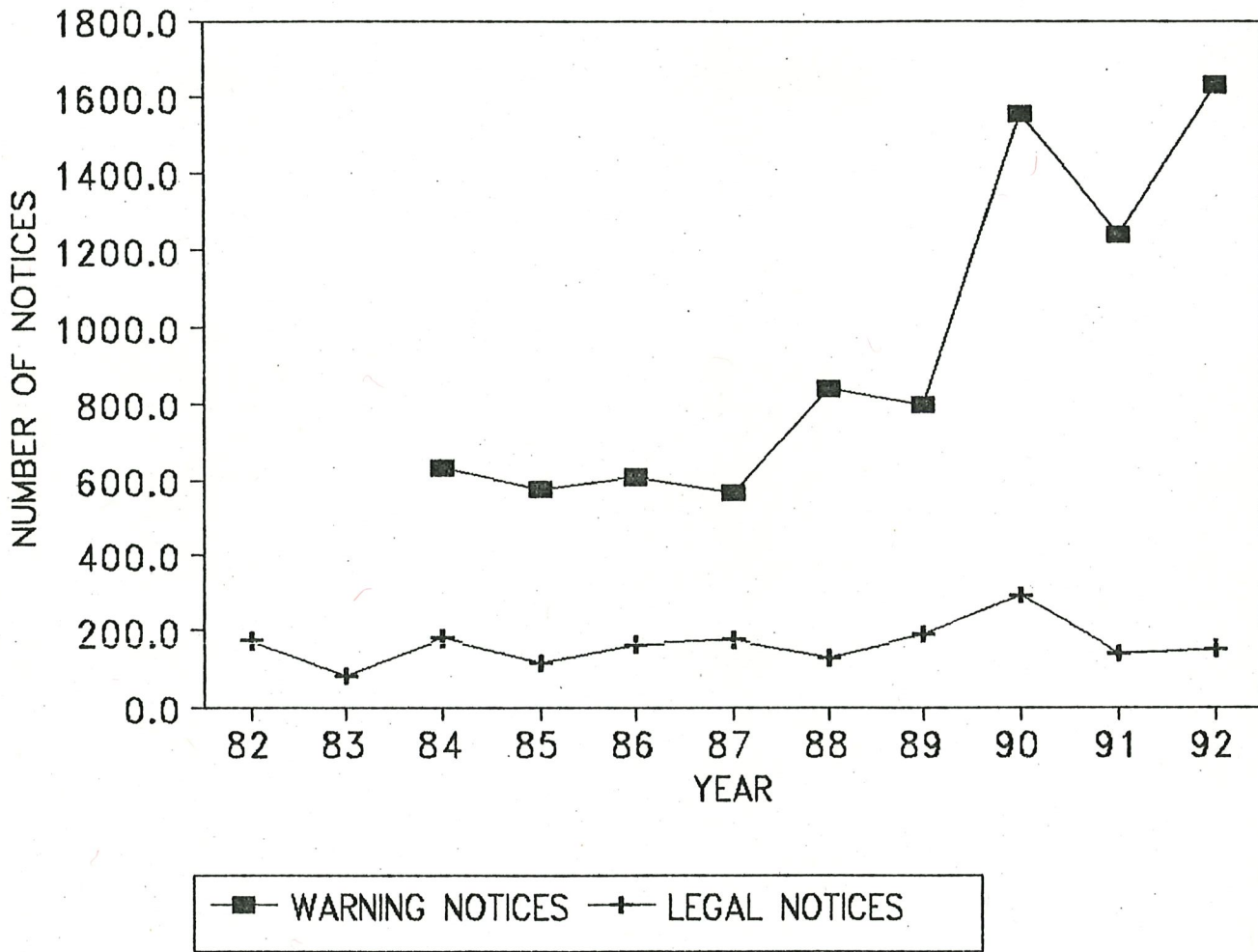
Dudley Feuerborn, Anderson County Commissioner, supported Mr. Baker's contention that current law is too complex and stated that it is difficult to reach out-of-state residents and non-interested landowners and by that time the musk thistle has long seeded.

Dennis Peters, Director, Riley County Weed Department and President, County Weed Directors Association, stated the Association was aware of some problems, but the current law has worked well for a number of years and there shouldn't be a major overhaul. Enforcement is one problem as it is very time consuming. Once you have sent a Legal Notice, it is a requirement that the county go out and treat the weeds. Many counties are leery of spraying herbicides on private property - there is a liability issue involved. Mr. Peters pointed out that the noxious weed law is the only law the State Board of Agriculture enforces that does not have civil penalties imposed. Also, an uncooperative landowner is probably not going to pay the bill. This affects county budgets as they depend heavily on reimbursements.

Dale Lambley, State Board of Agriculture, addressed the committee regarding biological control methods.

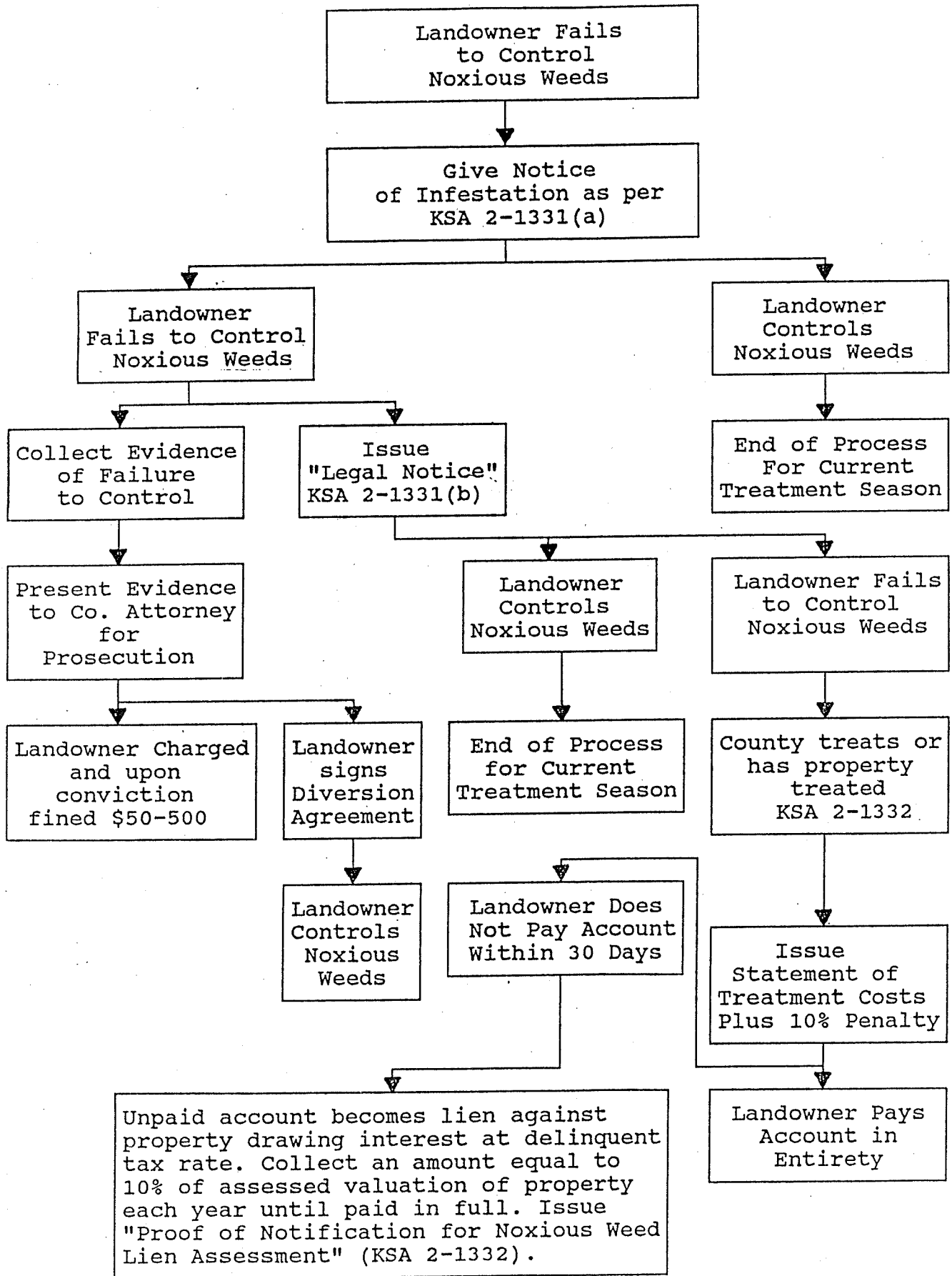
The meeting adjourned at 10:00am. The next meeting is scheduled for January 27, 1993.

NOXIOUS WEED ENFORCEMENT



HOUSE AGRICULTURE
1-26-93
ATTACHMENT #1

NOXIC WEED ENFORCEMENT FLOW CHART



OFFICIAL NOTICE
FOR
CONTROL AND ERADICATION OF NOXIOUS WEEDS

OWNER: _____

ADDRESS: _____

OPERATOR OR SUPERVISING AGENT: _____

ADDRESS: _____

LOCATION OF LAND: _____

_____ Sec. _____ Township _____ Range in _____ County, KS

You are hereby officially notified that an infestation of _____ has been located on the above-described land owned or operated by you.

K.S.A. 2-1314 requires all persons to control the spread of and to eradicate all weeds declared by legislative action to be noxious on all lands owned or supervised by them and to use such methods for that purpose and at such time as are approved and adopted by the State Board of Agriculture.

K.S.A. 2-1323 provides: "Any person, association of persons, corporation, county or city official who shall violate or fail to comply with any of the provisions of this act and acts amendatory thereof or supplemental thereto shall be guilty of a misdemeanor and shall be punished upon conviction thereof by a fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) for each count".

METHOD OF CONTROL OR ERADICATION TO BE FOLLOWED:

THIS METHOD OF CONTROL OR ERADICATION MUST BE COMPLETED BY: _____

NOTIFY COUNTY WEED DIRECTOR WHEN THIS WORK IS COMPLETED.

County Weed Director

Date

Owner or Supervising Agent

Date

- Original - Operator or Supervising Agent
- 1st Copy - Owner, if other than Supervising Agent
- 2nd Copy - County Attorney
- 3rd Copy - County Weed Supervisor

LEGAL NOTICE TO ERADICATE NOXIOUS WEEDS

(Pursuant to K.S.A. 1987 Supp. 2-1331)

TO: _____
(Owner)

ADDRESS: _____

AND TO: Operator or supervising agent, if any

ADDRESS: _____

Each of you are hereby notified that the following described real estate situated in _____ County, Kansas, to-wit: (Legal Description)

has been found to be wholly or partially infested with _____ [name of noxious weed(s)]; said infestation covers approximately _____ acres. The name of the owner of this land as shown by the records of the County Clerk is _____. The name of the operator or supervising agent of the noxious weed-infested land as shown by the records of the County Clerk is _____.

That an official notice concerning this infestation was sent to _____ on _____ (date). Furthermore, each of you has failed to comply with the provisions of K.S.A. 2-1314 et seq., as amended and supplemented, in connection with that notice.

Each of you are hereby further notified that you will have until the _____ day of _____, 19____, to complete some method of control or eradication for each noxious weed named above; only official methods of control and eradication for each noxious weed specified above may be used. A copy of the Official Control and Eradication Methods for each weed is attached hereto and made a part hereof.

You are hereby further notified that unless you complete an approved control method for each infestation of noxious weed listed above affecting the above-described real estate on or before the _____ day of _____, 19____, (time shall be not less than fifteen days after mailing the notice for all noxious weeds except musk thistle when the time period shall be not less than five days after mailing of the notice), the County Weed Supervisor of _____ County, Kansas, will thereafter enter upon the above-described real estate, or cause the above-described real estate to be entered upon, as often as necessary, and will proceed with the use of an approved method, chosen by the County Weed Supervisor as may be best adapted for the eradication and control of the above-listed noxious weed(s) on the above-described real estate.

Each of you are hereby further notified that in the event it becomes necessary for the County Weed Supervisor to enter upon or cause entry upon the above-described real estate for the eradication and control of any infestation of noxious weeds, that the costs of such treatment by the County Weed Supervisor will be sent to you. The statement of costs shall include the total cost of material used, cost of labor and the charge for the use of the equipment. In addition, the statement shall include a penalty charge of ten percent (10%) of the total amount of said treatment costs. The unpaid balance of any such treatment costs including such penalty charge shall draw interest from the date of treatment at the rate described for delinquent taxes pursuant to K.S.A. 79-2968 and amendments thereto. Unless you pay the above-named county on or before the _____ day of _____, 19____, such costs or unpaid balance thereof shall be spread upon the tax rolls of such county and shall become a lien against the above-described real estate, as provided by law.

DATE: _____

County Weed Supervisor of

County, Kansas

**PROOF OF NOTIFICATION
FOR NOXIOUS WEED LIEN ASSESSMENT
(K.S.A. 1987 Supp. 2-1320 and 1987 Supp. 2-1332)**

STATE OF KANSAS

_____ COUNTY, ss:

I, _____, being first duly sworn upon oath depose and state: that I am the duly appointed, qualified and acting county weed supervisor of the above named county; and that the board of county commissioners of said county has authorized and directed the affiant to notify the landowner hereinafter named, by submitting an itemized statement of account as to the costs of materials, labor, and use of equipment for the control and eradication of noxious weeds upon the land of such person, to wit: (legal description)

which account was unpaid and outstanding on _____.

That affiant was further directed by the board of county commissioners to notify each landowner having an outstanding account with an unpaid balance that if the amount of such balance as shown in the itemized statement is not paid to the county treasurer of said county within thirty (30) days of the date of said notice, a penalty charge of ten percent (10%) of the unpaid balance shall be added to the account and the total amount thereof shall become a lien upon the real estate. In addition, the amount of the unpaid balance, including penalty charge, draws interest at the rate described for delinquent taxes pursuant to K.S.A. 79-2968, and amendments thereto.

That on the _____ day of _____, 19____, the affiant served upon _____ (name of individual) a true and correct copy of the attached itemized statement and notice upon the landowner in the manner prescribed by law by enclosing a copy of such notice in a sealed envelope, properly addressed, to said landowner, to wit:

Name Street or Rural Route

City State Zip Code

By depositing the same in the United States mail, postage prepaid, marked certified mail with return receipt requested, at _____, Kansas, on _____.

County Weed Supervisor

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 19____.

Notary Public

My Commission Expires: _____

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