

CHAPTER 2

NOXIOUS WEEDS

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4-2-1: **PURPOSE:** The purpose of this chapter is to provide for the designation and control of weeds within the county which have not been designated as noxious by the state of Idaho department of agriculture but which nonetheless have the potential to cause injury to the public welfare. Those weeds are referred to herein as "county noxious weeds".

4-2-2: **DUTY TO CONTROL:**

- A. Duty To Control: It is the duty and responsibility of all people, organizations and agencies who own or manage land in the county to control county noxious weeds on that land, in accordance with this chapter.
- B. Prevention Or Eradication: Weed control must be for prevention or eradication unless the special management zone provisions of subsection 4-2-10B of this chapter apply.

4-2-3: **DEFINITIONS:** As used in this chapter, unless specified otherwise herein:

AGENCY: A. In the case of federal government, any authority which exercises administrative control over defined areas of federal property within the county;

B. In the case of the state of Idaho, any department, board, commission, or institution;

C. In other cases, the county, cities, and any legal subdivisions thereof, drainage districts, highway districts, or any special taxing district.

COMMISSIONERS: Cassia County commissioners.

CONTAINMENT: Prevention of new plants by vegetative dissemination and/or production of new plants by vegetative means.

COUNTY: Cassia County.

COUNTY NOXIOUS WEED: Any kind of species of plant or propagule thereof having the potential to cause injury to public welfare, including, but not limited to, health, crops, livestock, land or other property; and for which it is feasible to devote county resources for purposes of eradication, prevention, or otherwise protecting the county or part thereof from infestation by such weed, and which is designated as noxious by the county commissioners, but does not refer to weeds declared noxious by rules and regulations promulgated under authority of Idaho Code, chapter 24, section 22.

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ERADICATION: Completely eliminating all aboveground plant growth of a target county noxious weed species for a time period longer than the expected longevity of propagules of the species.

LAND: All soil or water or other growing media.

PERSON AND/OR PEOPLE: Any individual, partnership, firm, corporation, company, society, association, drainage district, irrigation district, highway district or any taxing district or other organization.

PREVENTION: Action designed to stop the introduction or establishment of a plant species in areas not currently infested with that species.

QUARANTINE: The regulation of the production, movement, or existence of plants, plant products, animals, animal products, or any other article or material, or the normal activity of persons, to prevent or limit introduction or spread of a county noxious weed.

SPECIAL MANAGEMENT ZONE: An area wherein the requirements of this chapter to control certain named county noxious weeds may be suspended or modified in any other way.

WEED: County noxious weed.

WEED CONTROL: Any and all of the following: prevention, eradication, or containment.

4-2-4: **ENFORCEMENT:**

- A. **Commissioners:** The duties of enforcing this chapter and carrying out its provisions are vested in the commissioners.
- B. **Inspection And Certification:** The commissioners may inspect and certify county crops and imports and exports and any other materials or items to verify freedom from county noxious weeds, and may authorize the county weed superintendent and others to perform such inspections and certification.

- C. **Other Acts Authorized:** The commissioners may perform such other acts as may be necessary or appropriate to the administration of the provisions of this chapter.
- D. **Failure To Comply:** If at any time the commissioners determine that any person or agency has failed to cooperate or carry out duties and responsibilities required by this chapter, the commissioners shall notify them of the deficiency, and designate corrective action and a deadline which will constitute compliance. If the violation is not satisfactorily corrected within five (5) days after the time outlined in the commissioners' corrective action plan, the commissioners shall initiate appropriate action, which may include quarantine, and charge to the violator all expenses including the hiring of necessary labor and equipment.
- E. **Public Meeting:** The commissioners shall, within sixty (60) days of receipt of a petition by an affected person, arrange for a public meeting to be held to review the county noxious weed program and allow public comment.
- F. **Noxious Weed Superintendent:**
1. It shall be the duty of the county noxious weed superintendent to:
 - a. Examine all land within the county for the purpose of determining whether the provisions of this chapter have been complied with;
 - b. Compile data and submit reports as the commissioners require;
 - c. Implement enforcement action as outlined in Idaho Code title 22, chapter 24;
 - d. Consult, advise and provide direction on matters pertaining to the most effective and most practical methods of county noxious weed control;
 - e. Investigate or aid in the investigation and prosecution of any violation of Idaho Code title 24, chapter 22;
 - f. Cooperate with and assist other county weed superintendents for the mutual benefit of counties so involved;
 - g. Meet certification requirements as prescribed by the regulations of the director;
 - h. Make recommendations regarding establishment of special management zones;

- i. Make recommendations regarding establishment of cooperative weed management areas; and
 - j. Participate on weed control advisory committees to develop and implement noxious weed control strategies for cooperative weed management areas, at the discretion of the county commissioners.
2. The county noxious weed superintendent may enter upon all lands within the county where there are county noxious weeds to ascertain conditions, if a reasonable attempt has been made to contact the owner prior to entry, and if there is probable cause for the entry.

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NOTICE REQUIREMENTS:

- A. Kinds Of Notices: Notices for control of county noxious weeds shall consist of two (2) kinds: 1) a general notice for control of county noxious weeds to be published in a newspaper for general circulation within the county; and 2) individual notices in a form prescribed by the commissioners.
- B. Duty To Comply; Publication Of Notice: Failure to publish the notice for control or to serve individual notices herein provided does not relieve any person of the responsibility to fully comply with this chapter. In all cases said publication notices shall be deemed legal and sufficient notices. The general notice for control shall be published at least one time between March 1 and April 30 and shall contain a list of both the Idaho noxious weeds and the county noxious weeds and shall specifically indicate those noxious weeds known to be in or imminently threatening the county, and shall stipulate the obligation to control.
- C. Individual Notices: Whenever the commissioners find it necessary to secure more prompt or definite control of county noxious weeds than is accomplished by the general notice, they shall cause individual notices to be served upon the person or agency owning and controlling such land, giving specific instructions when and how certain named weeds are to be controlled. The individual notice shall also contain information concerning the right to appeal pursuant to section 4-2-11 of this chapter.
- D. Control By Commissioners: Whenever the owner of any land on which county noxious weeds are present has neglected or failed to initiate control as required pursuant to this chapter within five (5) working days from

receipt of any individual notice given pursuant to this section, the commissioners shall have such control methods as they deem appropriate used on such land, including, if necessary, destruction of crops, and shall advise the owner of the cost incurred in connection with such operation. The cost of any such control on private or public land shall be at the expense of the owner or agency. If the costs have not been paid to the control authority which performed the work within sixty (60) days, the commissioners may direct that suit be brought in a court of competent jurisdiction for the unpaid charges. Nothing contained in this section shall be construed to require satisfaction of the obligation imposed by the sale of property or to bar the application of any other available remedy. Amounts collected under the authority of this section shall be deposited to the county noxious weed fund.

- E. **Inability To Control By Owner:** When it appears to the commissioners that upon any land under its jurisdiction there is an infestation of county noxious weeds beyond the ability of the owner of such land to control, the commissioners may quarantine such land and immediately apply any necessary control of such noxious weeds including destruction of crops. The commissioners shall, prior to entry upon such land, request consultation with the owner to consider alternatives. Prior to entry, commissioners shall serve individual notice on the owner thereof of such quarantine and of the date of the proposed entry, and shall advise the owner of the completion of the control operation and the cost thereof. If the owner is not known or readily available, notice shall be deemed satisfied after eight (8) days from postmark of registered mail to the address of the last known address owner as shown on the assessment roll of the county.

4-2-6: **STATE AND FEDERAL LAND:** The county is hereby authorized, and the commissioners shall have the responsibility, to cooperate with the state or federal government or any established agency thereof, in any program of county noxious weed control which shall be deemed advisable, for the welfare of the people of the county. With consent of the agency involved, the commissioners may control county noxious weeds on state or federal land within the county, with or without reimbursement as determined between the agency and the county.

4-2-7: **COSTS:**

- A. **Responsibility For Cost:** The cost of controlling county noxious weeds on

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private land shall be the obligation of the owner. On other land, the cost of control of county noxious weeds shall be the obligation of the entity or organization that has the authority to set management and maintenance revenue for the land. In the case of divisions which have the responsibilities for roads, highways, airports, fairgrounds, landfills, and any other lands, it shall be the responsibility of the respective departments to budget for the control of county noxious weeds from their general maintenance and operation accounts.

- B. County Control Without Cost To Owner: Notwithstanding any other provisions of this chapter relating to payment of cost, when determined by the commissioners to be justified in the interest of an effective weed control program, the commissioners may control county noxious weeds on land in the county without cost to the owner.

4-2-8: **PREVENTION MEASURES AND UNKNOWN PLANTS:**

- A. Prevention Measures: To prevent the entry and dissemination of county noxious weeds through any article, including machinery, equipment, plants, materials and other things, the commissioners shall, from time to time, publish a list of articles capable of disseminating county noxious weeds, and designate treatment of such articles as, in their opinion, would prevent such dissemination. Until such article is treated in accordance with the applicable regulations, it shall not be moved from designated premises except under and in accordance with the written permission of the commissioners, and the commissioners may hold or prevent its movement from such premises. The movement of any such article which has not been so treated, except in accordance with such written permission, may be stopped by the commissioners, and further movement and disposition shall only be in accordance with the commissioners' direction.
- B. Unknown Plants: No plant, including seed or other propagules, shall be transported within or admitted into the county without accurate taxonomic identification (as to species by either Latin name or by common name listed in locally available standard reference works). All such plants shall be automatically and immediately designated county noxious weeds until their taxonomic identity is verified.

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4-2-9: **EQUIPMENT AND MATERIALS:** The commissioners may sell materials for purposes of this chapter to persons owning or controlling land under their jurisdiction and may rent or otherwise make available to others the use of machinery and other equipment and operators as they deem necessary for the control of county noxious weeds, and the cost shall be charged at the retail value for such material, machinery, other equipment and operators. All funds so received shall be deposited to the county noxious weed fund.

4-2-10: **SPECIAL MANAGEMENT ZONES:**

- A. Modification Of Requirements: The commissioners may permit modification of specific county noxious weed control requirements in certain areas after they have consulted with or notified the landholders, have designated the area as a "special management zone", and have modified the county plan for control of that species in accordance with such special management zone provisions, after public notice of this modification.
- B. Plans From Landowners: The commissioners may propose to and accept plans from landowners for county noxious weed control which may be extended over a period of years if such plans include provisions to ensure against spread of the county noxious weed infestation under consideration.

4-2-11: **APPEALS:**

- A. Appeal Of Costs: Any person dissatisfied with the amount of any charge for control work or for the purchase of materials or use of equipment may, within thirty (30) days after being advised of the amount of the charge, file a protest with the commissioners.
- B. Appeal Of Measures: Any person dissatisfied with the control measures used or the manner in which control is conducted upon his property may, within thirty (30) days, file a protest with the commissioners.
- C. Appeal Of Notice: Any person served with an individual notice may, within two (2) days of receipt of the notice, appeal to commissioners. A hearing shall be arranged by the commissioners within five (5) days after receipt of notice of the appeal. Notice of the hearing shall be sent by the commissioners to the appellant.

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D. Procedures: Other than the procedures specifically set out in this chapter, procedures for hearings and appeals pertaining to this chapter shall be as provided by the Idaho administrative procedure act¹.

4-2-12: **FUNDS:** Monies received by the county under this chapter shall be apportioned to the county noxious weed fund, which is established as a dedicated fund and which shall be used exclusively for the purposes of noxious weed control.

4-2-13: **COUNTY NOXIOUS WEED BOARD:**

A. Offices: The office of the Cassia County noxious weed board shall be located at the county weed superintendent's office in the Cassia County courthouse.

B. Definitions:

COMMISSIONERS: Board of county commissioners of Cassia County, Idaho.

DEPARTMENT: The Cassia County noxious weed department.

D ISTRICT: The Cassia County noxious weed district.

SUPERVISOR: The Cassia County noxious weed supervisor.

PERSONNEL MANUAL: The Cassia County personnel policy and procedures manual.

WEED BOARD: The Cassia County noxious weed board.

¹ IC title 67, chapter 52.

C. Members:

1. Number, Election And Term Of Office:

- a. Number Of Members: The number of members of the Cassia County weed board shall be not less than five (5) nor more than nine (9) unless and until otherwise determined by the commissioners.
- b. Appointment And Term: The members of the weed board shall be appointed by the commissioners for a term of four (4) years, to commence on October 1, after the date of appointment, and to serve for a period of four (4) years thereafter. Additionally, a representative of the county extension office, the Burley highway district, and the Burley irrigation district shall serve as ex officio members of the board.

2. Duties And Powers: The noxious weed board members shall be responsible to advise the commissioners in their supervision, control and management of the noxious weeds in Cassia County, and shall fulfill all duties assigned to them by the commissioners, under the county noxious weed ordinance, which powers and duties shall include the following:

- a. Expenditures: Responsibility to make recommendations to the commissioners for expenditure of monies received by the county, raised by tax levies or levies for weed purposes, as well as any other monies received by the county from other sources for noxious weed control purposes.
- b. Prioritizing Needs: Responsibility to prioritize the needs for the elimination of noxious weeds in the county and give instructions and directions to the supervisor regarding work priorities.
- c. Complaints And Suggestions: Responsibility to receive and review complaints and suggestions from citizens in the county regarding weed control work and priorities in the county.
- d. Overseeing Work: Responsibility to oversee the performance of the department and review and evaluate the quality and quantity of the work performed by the department.
- e. Formulation And Filing Of Plans: Responsibility to formulate in writing, and file with the commissioners, all plans adopted by it

from time to time, in connection with the conduct of business of the department.

- f. Records: It shall keep, or cause to be kept, proper records of its proceedings, business transactions, and true and proper accounts of all monies expended.
 - g. Purchases: It shall recommend to the commissioners, when appropriate, that purchases be made of equipment or personal or real property as may be needed for department purposes.
 - h. Employees: It shall make recommendations to the commissioners regarding the hiring, discipline or termination of employees working in the department. Such employees shall be employees of the county, and their employment shall be governed by the personnel manual and all attendant policies and regulations thereto. It shall not have the power to hire or terminate any employee.
 - i. Powers Restricted: It shall not have the power to create any indebtedness nor shall it mortgage or otherwise pledge or encumber any of the real or personal property owned by the county, and used for weed control purposes.
- 3. Vacancies: Any vacancy on the weed board occurring by reason of an increase in the number of weed board members authorized by the commissioners, or by the reason of the death, resignation, relocation, disqualification, removal or inability to act of any weed board member, or otherwise, shall be filled for the unexpired portion of the term by the commissioners after consultation with the remaining weed board members.
 - 4. Resignation: Any weed board member may resign at any time by giving written notice to the chairperson of the weed board and the commissioners. Unless otherwise specified in such written notice, such resignation shall take effect upon receipt thereof by the commissioners, and acceptance of such resignation shall not be necessary to make it effective.
 - 5. Removal: Any weed board member may be removed with or without cause at any time by the commissioners at a regular meeting of the commissioners called for that purpose or on which that is a posted agenda item.

6. Compensation: The members of the weed board shall be paid for their actual and necessary expenses at the rate approved by the commissioners from the funds provided for weed purposes, upon approval of the claims for the same by the commissioners.

D. Meetings:

1. Regular Meetings:

- a. Time And Location: The regular meetings of the weed board shall be held at the county courthouse, located at 1459 Overland Avenue, Burley, Cassia County, Idaho, and the weed board may, from time to time, provide by resolution for the time and place thereof by resolution of the board.
- b. Notice: Notice of any regular meeting shall be given in compliance with the Idaho open meeting laws.

2. Special Meetings; Notice:

- a. Time And Location: Special meetings of the weed board shall be held whenever called by the chairperson, or by two (2) or more weed board members, at such time and place as may be specified in the respective notices.
- b. Notice: Notice of special meetings shall be given in compliance with the Idaho open meeting laws.

3. Chairperson: At all meetings of the weed board the chairperson of the noxious weed board, if any, and if present, shall preside. If there shall be no chairperson or he or she shall be absent, then the vice chairperson shall preside.

4. Quorum And Adjournments:

- a. Quorum: At all meetings of the weed board the presence of a majority of the entire board shall be necessary and sufficient to constitute a quorum for the transaction of business.
- b. Adjournment: When a quorum of the weed board members is not present at a meeting, a majority of the weed board members present may adjourn the same until a quorum is present.

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5. Manner Of Action:
 - a. Votes: At all meetings of the weed board each weed board member present shall have one vote.
 - b. Action By Majority: The action of the weed board present at any meeting at which a quorum is present shall be the act of the weed board. Any action authorized in writing by all of the weed board members entitled to vote thereon, and filed with the minutes of the weed board, shall be the act of the weed board, with the same force and effect as if the same had been passed by unanimous vote at a duly called meeting of the weed board.

E. Officers:

1. Number, Qualifications, Election And Term Of Office:
 - a. Officers; Terms: The officers of the weed board shall consist of a chairperson and a vice chairperson. The chairperson and vice chairperson of the weed board shall be elected by the weed board at the regular annual meeting of the noxious weed board, to be held on the first Monday of October of each year. The chairperson and vice chairperson shall serve for a term of one year, commencing with the date of their election. The board will appoint a secretary to keep minutes. The chairperson shall assure that minutes are kept and a copy of the minutes is filed with the commissioners.
 - b. Completion Of Term: Each officer shall hold office until the next annual meeting of the weed board and until his or her successor shall have been elected or appointed, and qualified, or until his or her death, resignation, or removal.
2. Resignation: Any officer of the weed board may resign from the office at any time by giving written notice of such resignation to the commissioners and to the chairperson or vice chairperson of the weed board. Unless otherwise specified in such written notice, such resignation shall take effect upon receipt thereof by the commissioners and the acceptance of such resignation shall not be necessary to make it effective.
3. Removal: Any officer of the weed board may be removed from his/her position as an officer with or without cause by a majority vote of the weed board, and a successor elected by the weed board at any time.

4. Vacancies: A vacancy in officers' positions by reason of death, resignation, relocation, removal, inability to act, or disqualification may at any time be filled for the unexpired portion of the term by the weed board.
 5. Duties Of Chairperson: The chairperson of the weed board shall see that the meetings of the weed board are held and conduct the meetings of the weed board, see that minutes are kept and that the weed board fulfills the duties set forth in subsection C2 of this section. The vice chairperson shall serve in the event of the absence of the chairperson.
- F. Relationship With Board Of County Commissioners:
1. General Supervision: The commissioners are the chief executives of Cassia County, Idaho, and as such are directly responsible for the supervision, direction and regulation of the weed board. The members of the weed board shall serve in an advisory capacity under the guidance and direction of the elected commissioners.
 2. Operations: The commissioners shall have the right and obligation to oversee the general operations of the weed board, and all fiscal matters regarding weed board operation, however, the weed board shall be charged with advising as to the specifics of the operations of the department, and all decisions and responsibilities relating thereto.
 3. Attendance At Meeting: The Cassia County weed board shall be required to be in attendance at a regular meeting of the commissioners in December of each year in order to report to the commissioners on the current status of weed department operations, the election of new officers, appointments, expiring terms of appointment of weed board members and officers, and all other matters relating to the general operation and fiscal stability and integrity of the weed board operations.
 4. Budget Requests: The weed board shall submit to the commissioners, no later than the second Monday in July of each year, a budget request for the ensuing year, detailing the fiscal needs of the department, and the amount of money to be raised by the county for weed purposes for the coming year. The commissioners shall thereafter approve or make such amendments or modifications in the county weed budget as it deems proper, and include the same in its annual county budget.

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4-2-14: **EMERGENCY PROCEDURES:**

- A. Action Authorized: Whenever the commissioners find that an actual or potential emergency situation exists concerning county noxious weed infestations anywhere in the county, the commissioners may take any appropriate action necessary to control or quarantine such county noxious weed infestation.
- B. Notice; Temporary Designation: After serving at least a five (5) day notice to the affected landowner and person in charge of the land, the commissioners may make a temporary designation of a noxious weed for one year. The notice requirement may be satisfied by publication in a newspaper of general circulation serving the county.

4-2-15: **INSPECTION:**

- A. Entry On Land: For the purpose of carrying out the provisions of this chapter, the commissioners or weed superintendent may enter on any public or private land at reasonable times.
- B. Search Warrant: Should the commissioners or weed superintendent be denied access to any land where such access was sought for the purpose set forth in this chapter, they may apply to any court of competent jurisdiction for a search warrant authorizing access to such land for said purposes.

4-2-16: **VIOLATIONS:**

- A. Penalty: Any person knowing of the existence of any county noxious weeds on lands owned or controlled by him who fails to control such weeds in accordance with this chapter, and any person who intrudes upon any land under quarantine or who moves or causes to be moved any article covered by this chapter, except as provided, or who prevents or threatens to prevent entry upon land as provided in this chapter, or who interferes with the carrying out of the provisions of this chapter, shall be guilty of a misdemeanor and shall be subject to a penalty as set forth in section 1-4-1 of this code. All fines shall be credited to the county noxious weed fund.
- B. Citations: Control authorities and law enforcement officers are authorized to issue citations to anyone who violates any provisions of this section.

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4-2-17: **DESIGNATION OF WEEDS AND ACTION PLANS:**

- A. Request For Designation: Any county resident may submit to the commissioners a request for county noxious weed designation of a species if such request is in writing and includes reasons and a proposed plan for county action on such species. All requests for county noxious weed designation must be considered by the noxious weed board for recommendation for county noxious weed designation to the commissioners within six (6) months of request or recommendation to either the commissioners or the county noxious weed board. Records of all such considerations must be maintained on permanent file by the county commissioners.

- B. Procedure: Every species for which county noxious weed designation is deemed feasible, including species considered for temporary designation, shall be designated a county noxious weed only upon recommendation including reasons and a written plan for county action to control such species, including clear designation of any special management zones, from the commissioners, using the form shown on exhibit 1 to ordinance 95-8-2, available for inspection in the office of the county clerk. County noxious weeds under this chapter shall be designated by a separate resolution of the commissioners, and shall be listed by both common and scientific names using the form shown in exhibit 2 to ordinance 95-8-2, available for inspection in the office of the county clerk. Any species designated noxious pursuant to this chapter shall automatically and immediately become no longer designated under this chapter if and when that species is designated noxious under the Idaho Code.

4-2-18: **EXHIBITS:** Exhibits are as set forth on the following pages:

EXHIBIT 1

CASSIA COUNTY NOXIOUS WEED REVIEW AND DECISION RECORD

Review requested by: _____ Date Prepared: _____

Weed _____
Family _____ Genus/species _____ Common Name _____

A. *Criteria for review ("yes" answers on all six criteria are necessary for noxious designation):*

- | | Yes | No |
|--|-------|-------|
| 1. <i>Is it absent from the state noxious weed list?</i> | _____ | _____ |
| 2. <i>Is it verified to be in this County?</i> | _____ | _____ |
| 3. <i>Is it potentially more harmful than beneficial to this County overall?</i> | _____ | _____ |
| 4. <i>Is a sufficient plan for economically, physically, and biologically feasible eradication or prevention in the County attached to this exhibit?</i> | _____ | _____ |
| 5. <i>Will the potential adverse impact of the weed exceed the cost of control?</i> | _____ | _____ |

B. *Other information (comments or additional information may be entered on reverse side of this sheet; if so, check here _____):*

Known distribution in this County _____

C. *County Noxious Weed Board Recommendation:*

- | | Yes | No |
|--|-------|-------|
| 1. <i>Should this species be designated noxious?</i> _____ | _____ | _____ |
| 2. <i>Noxious Weed Board Signature</i> _____ | | |
| <i>Date</i> _____ | | |

	Yes	No
D. <i>County Commissioner's approval of Noxious Weed Board recommendation: (Include reason hereon, if not approved)</i> _____	_____	_____

County Commissioner Signature

_____ *Date:* _____

EXHIBIT 2

CASSIA COUNTY NOXIOUS WEEDS¹

<u>LATIN NAME</u>	<u>COMMON NAME(S)</u>
1. <i>Taeniatherum Caput-medusae</i>	<i>Medusahead</i>
2. <i>Gutierrezia Sarothrae</i>	<i>Broom snake weed</i>
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____
7. _____	_____
8. _____	_____
9. _____	_____
10. _____	_____
11. _____	_____
12. _____	_____
13. _____	_____
14. _____	_____
15. _____	_____
16. _____	_____
17. _____	_____
18. _____	_____
19. _____	_____
20. _____	_____

¹ In addition to noxious weeds designated under authority of Idaho Code, chapter 24.