

2018

# Montana Invasive Species Summit Report



January 2019

## Background/Summit Theme

In 2018, the Montana Invasive Species Council undertook a comprehensive review of federal, state, local and tribal laws and regulations which pertain to the management of invasive species within the state of Montana. The purpose of the review, which culminated in a [Compendium of Invasive Species Laws](#) was to:

1. provide managers and lawmakers with a systematic compilation of the laws and regulations relevant to the management of all-taxa invasive species in the state;
2. provide information and ideas to improve funding, authority, and management responsibility; and
3. provide the necessary information for the council to evaluate the need for a comprehensive Montana Invasive Species Act, as outlined in the 2016 Montana Invasive Species Framework

The Summit was intended to provide a forum for invasive species managers, county leaders, local and tribal governments, private landowners and other stakeholders to evaluate law review findings, hear panelists discuss different models from across North America, suggest action, provide the latest science, and develop recommendations to address invasive species regulatory issues. Sessions were developed based on findings from the law review, which included the following topics: 1) all taxa invasive species listing; 2) managing pathways instead of species; 3) addressing species with economic benefits but environmental impacts; 4) aquatic invasive plant management in Montana; 5) regulations and enforcement of invasive species; and 6) political champions.

The two day-event, held November 15-16 in Helena, featured national and state leaders and technical experts who provided insight and best practices on invasive species laws and regulations. A summary and bulleted outcomes from each session are listed below.

## Topic 1 – All Taxa Invasive Species List

**Goal:** Explore value and benefits for an all-taxa invasive species list. Look at different models that could be applied to increase efficacy and use in Montana.

**Panelists:** Mike Lee (*Montana Fish Wildlife and Parks*), Slade Franklin (*Wyoming Department of Agriculture*), Justin Bush (*Washington Invasive Species Council*), and Brenden Quirion (*New York Partnership for Regional Invasive Species Management (PRISM)*)

### **Session Summary:**

**Montana** currently utilizes multiple processes for listing invasive species, depending on the regulating agency. For example, Montana Fish, Wildlife and Parks uses a three-category classification system – noncontrolled, controlled, and prohibited. The classification includes any wild animal, bird, reptile, amphibian, fish, mollusk, crustacean, or other wild animal or the egg, sperm, embryo, or offspring of the wild animal; the classification does not include plants, insects, or domestic animals. The Montana process incorporates a review committee, which receives and reviews petitions for classifications from members of the public or other government agencies. The committee reviews the decision after public comment and brings recommendations or changes to the FWP for the final rule change, which is then certified by the Secretary of State.

**The State of Wyoming** utilizes a two-list system –designated and declared species. The designated list (state list) encompasses noxious weeds, EDRR species, aquatic invasive species, cheatgrass, and Russian thistle. The declared list (county list) includes cheatgrass, mosquito, alfalfa weevil, geyer larkspur, plains pricklypear, varroa mites, Eurasian watermilfoil, etc. To list a species on the state designated list, there is a local board hearing, which approves and submits a resolution. To list a species on the county declared list, a local board hearing must take place, however, neither supporting documentation nor a public comment period is required. Wyoming also can issue an emergency designated or declared list, which is decided upon by the president of the Wyoming Weed and Pest Council.

**Washington State** utilizes a priority system. The priority system includes both proximity (here, near, far), impacts (ecological, economic, human health), and ability to prevent/manage (invasive potential, difficulty of control, feasibility of prevention and early action). Their list also includes species that cause economic or environmental harm and can spread to new areas of the state.

**New York's PRISM** system incorporates scientific data in their assessment strategy. Their Invasive Species Coordination Unit includes members of state agencies, federal agencies, environmental groups, colleges, and industry groups. The system has two assessment tools: (1) Invasiveness Assessment Tool, which evaluates ecological impact, biological characteristic and dispersal ability, ecological amplitude and distribution and difficulty of control; and (2) Socio-

economical Assessment Tool, which evaluates economic, human health, and cultural impacts. A score above 80 points is very high (prohibited), and anything below 50 points is low (unregulated). The PRISM system is currently looking to create preemptive regulation regarding climate change.

## OUTCOMES OF SESSION:

- Develop species listing committee that will:
  - Develop short-term “priority species list of concern for State of Montana;
  - Review listing models from other jurisdictions to create recommendations on how to incorporate all taxa species list into Montana’s regulatory framework;
  - Review and make recommendations on the delegation of authority for particular taxa to the appropriate agency; and
  - Present recommendations in Fall of 2019 at mini-summit to stakeholders for feedback and review.

## Topic 2 – Managing Pathways Instead of Species

**Goal:** Understand strategies and options for regulating pathways; ways to adjust regulations/laws to better manage vectors.

**Panelists:** Lynn Hurst (*US Customs and Border Patrol*), Josh Atwood (*Hawaii Invasive Species Council*), Mark Deluge (*Wyoming Weed and Pest District*), Helmuth Rogg (*Oregon Department of Agriculture*)

### Session Summary:

**The US Customs and Border Patrol (CBP)** only has enforcement power of APHIS’ regulations for the entry of cargo, people, and conveyances. They manage “dangerous things,” which includes exotic pests and foreign animal diseases. CBP provides numerous training opportunities and houses a Pest Risk Committee, which identifies: pathways for invasive species entry; high risk commodities and shippers for pest risk; and training needs. They also develop training and conduct joint agency special operations (e.g. US Fish and Wildlife Service, US Department of Agriculture). The challenges they face in regulating pathways include the ability to regulate only the invasives which are federally listed and the work-arounds with USDA and FWS.

**The Hawaiian Invasive Species Council** experiences difficulties within their airports and its cargo. Their goal is to improve biosecurity for the facilities themselves and for the cargo. In 2002, they performed a case study at the Kahului Airport. The study resulted in the development of joint state-federal inspection facilities in Maui. HISC also has an Interagency Biosecurity Plan, which recommends developing transitional facilities (third party facilities built to specifications) and electronic manifesting (provides advanced notification and focuses on high risk management).

**Wyoming** tackled hay management using the Farm Product Quarantine. The problem was there was a growing infestation of noxious weeds within the district and the spread of the noxious weeds impaired the aesthetic quality and scenic value of the land. One enforcement strategy they included were agreements with the Highway Patrol officers in Teton County. This gave those officers the ability to search vehicles transporting hay, however, the problems were lack of funding and lack of officers on the ground.

**Firewood** is one of the most apparent pathways in need of regulation; regulated means quarantine restrictions apply. The National Plant Board must look to other management options – managing firewood pathway through a national approach.

## OUTCOMES OF SESSION:

- Develop Invasive Species Act Committee to:
  - Review and make recommendations on ways to consolidate existing Montana Invasive species statute into a comprehensive Invasive Species Act;
  - Review models from other jurisdictions and make recommendations for what statutes should be incorporated into Invasive Species Act;
  - Make recommendations on how to incorporate local government (conservation district/weed districts) into all taxa model; and
  - Present recommendations in Fall of 2019 at mini-summit to stakeholders for feedback and review.

## Topic 3: Lightning Round – Species with Economic Benefits, Known Environmental Impacts

**Goal:** Explore issues and concerns with managing non-native species that have an economic benefit.

**Panelists:** Justin Bush (*Washington Invasive Species Council*), Sharlene Sing (*US Forest Service*), Grant Sizemore (*American Bird Conservancy*)

### Session Summary:

**Northern pike** are a voracious ambush predator and non-native to the Columbia River Basin. Recently, the increased number of pike are negatively affecting native salmon and orca populations. Some collaboration and regional solutions recommended by the Washington Invasive Species Council includes asking questions such as: (1) what is the potential cost to the economy and environment of the Columbia River Basin; (2) what actions can the lower Columbia River Basin take to prevent impacts to salmon and steelhead; (3) if the spread continues, how can Oregon and Washington quickly respond and what's the long-term strategy; and (4) how can we work together to avoid illegal fish introductions?



**Russian olive** provides numerous benefits including: shade, windbreak, and shelter for wildlife; however, it also displaces native species, encourages water loss, and reduces wildlife foraging. Recent studies show cottonwoods are pushed into the lower areas where beaver activity is prominent, thus are more susceptible to beaver predation; an increase in West Nile virus from mosquito species inhabiting the olive species; increase in bat species, which feed on the mosquitoes.

**Feral cats** are responsible for 26% of all extinctions amongst birds. Feral cats also carry diseases, which can affect human health, such as: Zoonotic Disease and Toxoplasmosis. Cats kill around 2.4 billion birds per year in the US and 196 million in Canada. A loss of about 17 million dollars is due to cat predation on birds. A case study in Hawaii found Toxoplasmosis infections in Nene with infections and direct takes on bird nests. Management of feral cats includes easy solutions like building fences, lethal control, and non-lethal control.

### OUTCOMES OF SESSION:

- Develop Squeal on Pigs Education campaign for Montana; and
- Move these particular species into listing committee responsibilities for consideration.

## Topic 4: Montana's Hot Potato: Aquatic Invasive Plants

**Goal:** Discuss issue of aquatic invasive plants and explore options for agency ownership

**Panelists:** Cort Jensen (*Montana Department of Agriculture*), Aimee Hawkaluk (*Montana Fish, Wildlife and Parks*), Barbara Chillcott (*Montana Department of Natural Resources and Conservation*)

### Session Summary:

The **Montana Department of Agriculture** (MDA) specified that aquatic invasive species control is within Title 80 of the Montana Code Annotated because MDA had broad quarantine authority involving plant pests prior to the AIS act, thus when it was created, AIS was under MDA's control. However, when invasive mussels became a program focus, MDA needed to transfer responsibilities to FWP, which was the reason for the initial interagency MOU. The problem is that water is a shared resource, so what department has jurisdiction?

**Montana Fish, Wildlife and Parks** (FWP) emphasized coordination and communication being the key to working well between the multiple agencies, while the **Department of Natural Resources and Conservation** (DNRC) stated the agency must focus on the three primary roles of the AIS act – providing a home for two invasive species-focused title II agencies (Montana Invasive Species Council and the Upper Columbia Conservation Commission), the Invasive Species Grant Program, and coordination with other agencies (primarily FWP and MDA).

Another concern occurs in instances when a controlling agency was not present to deal with a state-wide problem. The panelists stressed the importance of the shared responsibility between the three agencies and reminded people of the bigger picture; in picking one department over the other, you are limiting yourself to one side and not hearing the concerns of the other department.

## OUTCOMES OF SESSION:

- It was determined that FWP is the lead for aquatic invasive plants in the State of Montana; and
- Work with FWP to develop forums for discussion with stakeholders on next steps regarding coordination, priorities for management, and funding for projects.

## Topic 5: Regulatory and Enforcement

**Goal:** Identify and discuss key invasive species issues that could benefit from increasing enforcement and penalties.

**Panelists:** Nicole Kimmel (*Alberta Environment and Parks*), David Loewen (*Montana Fish, Wildlife and Parks*), Honorable Greg Mohr (*Justice of the Peace*), Cort Jenson (*Montana Department of Agriculture*)

### Session Summary:

**Alberta's Aquatic Invasive Species Program** is a provincial program tasked with response, inspections, monitoring, education, and policy and legislation. Enforcement of the program incorporates Fish and Wildlife Officers, Conservation Officers (in provincial parks), Royal Canadian Mounted Police (RCMP), Traffic Sheriffs, and Commercial Vehicle Enforcement Officers. Fines in Alberta for an individual can be a fine of not more than \$100,000 or imprisonment for a term of not more than 12 months, or both; for a corporation, it can be a fine or not more than \$500,000. After instituting mandatory inspections for the past several years, specified penalties for failing to stop for an inspection (\$310) and failing to pull the drain plug (\$172) were instituted last season. These specified penalties are intended to increase enforcement and compliance, making it easier for officer to write tickets on the spot and for the penalty to be a deterrent for potential violators.

**Montana's Aquatic Invasive Species Program enforcement** includes the use of commissioned Game Wardens (FWP). Where there is an increased presence of Game Wardens, compliance increases. Their duties include, water safety enforcement, hunter education, boating education, aquatic invasive species, and other priorities. Currently the fine in Montana for failing to stop for a mandatory inspection is an \$85 penalty. In addition to Game Wardens, other law enforcement can enforce aquatic invasive species rules, such as sheriffs, counties and Tribal Wardens.

Montana Game Wardens encourage public participation during agency meetings and contact with local legislators regarding legal changes.

A bond, in Montana, is kept in a bond book and includes the violation and sentencing statute. The bond is the appearance in court, while the fine associated with the bond is the penalty set by the legislature. A **bonding Committee** comprised of three judges sets the minimum fine (e.g. one that can be written up as a ticket on the spot). There are two categories of bonds: negligent drive-by and knowingly and purposely drive-by. In 2017, Montana enforcement agents witnessed 288 drive-bys, with 81 citations and the remainder were warnings. In 2018, Montana enforcement officers witnessed 224 drive-bys, with 51 citations and the remainder were warnings.

Non-compliance, in Montana, means to suspect a person has a noxious weed on property, but the private property owner does not allow inspections or entrance onto property at all. In Montana, individuals have extreme property rights and this can conflict with noxious weed enforcement. This enumerated right inspired the certified letter or post regarding the property under the Noxious Weed Act. However, it still does not address the instances where immediate resolution is required. For example, stakeholders proposed adding cameras onto inspection stations to capture drive-bys and license plate information, however, due to the heightened right to privacy within the state, legislative consent and testing in front of a judge is required and thus the purpose of having cameras must outweigh the need for privacy. Although many ideas were discussed during this panel, further conversation is required to develop solutions to the already existing gaps in the current invasive species laws within the state.

## OUTCOMES OF SESSION:

- Recommend to FWP the development of a ‘Pull the Plug’ (drain plugs in watercraft) rule rather than by statute;
- Work with FWP wardens to advocate increased Bond from bonding judge committee for drive-by’s at watercraft inspection stations; and
- Continue conversation on noncompliance process in County Noxious Weed Act with MACO and stakeholders.

## Topic 6: Political Champions

**Goal:** Discussion of priority issues such as invasive species funding and legislation.

**Panelists:** Senator Mike Cuffe (*Republican, SD1 – Eureka*), Senator Alan Redfield (*Republican, HD59 – Livingston*), Senator Russ Tempel (*Republican, SD14 – Chester*), Senator Janet Ellis (*Democrat, SD41 – Helena*), Representative Willis Curdy (*Democrat, HD98 – Missoula*)



## **Session Summary:**

In responding to the **Aquatic Invasive Species Program funding proposals** for the, Montana legislators were optimistic. Representative Curdy responded that the draft agreement for the program is to fund with money from the General Fund and additional fees from watercraft inspections, which is beneficial, however, the proposal needs hydro funding and federal funding. Senator Ellis stated a bipartisan committee passed the funding bill, meaning the issue is of importance, but the parameters can change during the legislative process. Representative Cuffe said the funding was a direct source of funding and then funding from the General Fund. All the legislators encouraged public comment and participation and were enthusiastic for the legislative session.