

PEST CONTROL DISTRICTS

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The industries involved with the problem of controlling pests and diseases requested that the Department of Agriculture during the 1969 legislative session prepare a bill that would make it more convenient and less time consuming to control pests and diseases. This law was to replace in particular the cumbersome pest and disease control procedure that had been established previously through court action. Thus, during the 1969 legislative session the department sponsored a bill entitled horticultural pest and disease boards and it is incorporated under Chapter 15.09 RCW.

The purpose of the chapter is to enable the counties to more effectively control and prevent the spread of horticultural pests and diseases. The board would function in your behalf in the control of all pests and disease under its jurisdiction, within the counties' borders. The creation of the board must be made through a petition filed by 25 land owners within the county or instigated by the Board of County Commissioners on its own initiative or motion.

The members of the board are limited to five voting members, four of whom shall be appointed by the Board of County Commissioners and one of whom shall be the inspector-at-large for the horticulture district in which the county is located. The inspector-at-large in Grant County is Mr. Clif Nielsen, who had most of the powers incorporated in this law under the previous statute. In addition, the law further provided that the Chief County Extension Agent or a County Extension Agent appointed by the Chief Agent shall be a non-voting member of the board. Of the four members appointed by the Board of County Commissioners, it is also further stipulated that one such member shall have at least a practical knowledge of horticulture pests and diseases and other members shall be residents of the county, shall own land within the county, and shall be engaged in the primary and commercial production of any horticultural product or products grown within the border of the county. The board members will serve without salary for a term of two years, which means that they must be reappointed every two years.

The powers and duties of the pest control districts board are as follows:

- (1) The board shall receive complaints concerning horticultural pests and diseases in any parcel of land within the county.
- (2) The board shall have the power to inspect or cause to be inspected any parcel of land within the county for the purpose of ascertaining the presence of a horticultural pest or disease.
- (3) Further, the board shall have the power to order any land owner to control and prevent the spread of horticultural pests and disease within the property that he owns.
- (4) If the property owner or land owner does not reply to the request with proper control the board has the right to control and prevent the spread of horticultural pests and disease on any property within the county as provided for in 15.09.080 RCW.
- (5) Charge the owner with the expense of such work in accordance with 15.09.080 RCW which will place those charges as a lien against the property on the tax rolls.
- (6) The board has the power to employ such persons and purchase such goods and machinery as the Board of County Commissioner will provide.

(7) Adopt following a hearing such rules and regulations as may be necessary to administer their business.

This then in general spells out how the board will operate. I think that now we should get into some of the functions that the board will become involved in. The owners of property and land have the responsibility to perform the duties of maintaining a clean property as it relates to horticultural pests and diseases. The owner in this chapter is defined here to mean the possessor or possessors of any form of legal or equitable title to the land, and entitlement to possession. For the purposes of liability under this chapter, the owners of land shall be jointly and severally liable. The reason for this is to eliminate the need for absentee ownership problems which we have had in the past. Location of absentee owners is time consuming. The law also provides that any agent or employee of the County Horticultural Pest and Disease Board may enter upon any property for the purposes of administering this chapter and any power pursuant thereto, including the taking of specimens, general inspection, and the performance of such acts as are necessary for control and prevention and preventing the spreading of horticultural pests and diseases. Such entry may be without the consent of the owner and no action for trespass or damages shall lie so long as such entry and any activity connected therewith are undertaken and prosecuted with reasonable care.

This board further has the right to petition to any court of competent jurisdiction to receive a search warrant if any employee or authorized agent of the County Horticultural Pests and Disease Board is denied access to such property when such access was sought to carry out the purposes and provisions of this chapter.

As was stipulated in the general description whenever a Horticultural Pest or Disease Control Board finds that an owner of land has failed to control and prevent the spread of horticultural pests and diseases on his land as is his duty under chapter 15.09.060 RCW it shall provide such person with written notice. This notice shall identify the pest and disease found to be present and shall order prompt control or disinfection action to be taken within a specified and reasonable time period. If the person to whom the notice is directed fails to take action in accordance with this notice then the board shall perform and prevent the spread of the pest and disease on such property and the expense of this work shall be charged to such person, provided: that the board shall have no power to order the destruction of any plant. In relation to the destruction of plants, it is to be remembered that this has been determined as personal property and this board could not constitutionally destroy personal property. The board will cause the elimination of the infestation and if the problem persists, the costs for eliminating the infestation will mount. This hopefully then will prevent the owner from maintaining the property because of this high expense and he will in turn destroy the personal property himself due to mounting costs.

Any property owner may upon request appear before the Horticultural Pest and Disease Board for a hearing on the charges for the costs that are being levied against his property. This hearing may be reviewed by the Superior Court of the County where the property is situated and to rule any damages suffered on account of disinfection work wrongfully undertaken, but no stay or injunction shall lie to delay any such disinfection work subsequent to notice given to the property owner.

This once again has been the problem under the previous system. It has taken too long for the courts to act to allow disinfection in time to provide satisfactory protection to the surrounding property owners, therefore, the disinfecting will be done and the property owner has a right to a hearing and a review by the Superior Court after it is done and any liability will be taken care of at that time.

Any amount charged to the owner of land in accordance with the provisions of this chapter shall be paid by such owner within 60 days of the date which he was billed for such amount. If payment is not made within a 60 day period the amount of such charge together with a 10% penalty surcharge for purposes of collection shall become a tax lien on the property and shall be promptly collected as such by the county treasurer. There is a provision that where good cause is shown the board may extend for an additional two months the time period during which payment shall be made.

The law further provides that refunds in regard to any charge made, if either the Horticultural Pest and Disease Board or the Superior Court orders a judicial review to disallow such charges then any amount paid on such charge together with any interest or penalty shall be promptly refunded by the county from the county's current expense fund or from any other county funds available. In addition the county shall pay 6% simple annual interest on such amounts refunded.

Any monies collected under this chapter through the action of the board shall be placed in the county current expense fund, together with any taxes collected pursuant to provisions of chapter 15.08.260 RCW.

The board shall have sufficient operating monies for the Horticultural Pest and Disease Board action. The monies shall be provided for pursuant to the provisions of chapter 15.08.260 and 270 RCW as now or hereafter amended. This really means that the board must receive its financial support from the County Commissioners. The entire law regarding Horticultural Pest and Disease Boards is contingent upon the participation of the commercial producers of the county lending its full support through the County Commissioners so that the board first will be formulated, second will be properly funded, and third, can carry out the functions designed with the full cooperation of the county organization which will include the County Commissioners, the County Treasurer, and in some cases the County Sheriff. Thus the success of a pest and disease board depends entirely upon the participation of the commercial growers in any given county.

This in general then gives you the scope of the law as it is written in the statutes. I will now attempt to convey to you its application for the specific requirements of the potato industry. The boards as they exist are representative of each county. The work done will have to be done by county, but the concept of pest and disease control by larger areas than the counties boundaries is not ruled out. The actions of a combined board agreement of several counties is not impossible, but can be worked out within each board. Let me relate this to your industry and the pest Green Peach Aphids. The control of this insect must be done on a larger scale than the area of one county. The board efforts in Grant, Adams, Franklin, and Benton counties can be agreed upon as to the treatment and the timing and the enforcement within the time restriction to control this pest. Each board is responsible for the county of origin, but coincides its efforts with one or more counties involved with the same pest problem. Thus, area controls are possible under this statute.

The major problem or obstacle so far by your industry is getting proper support and participation from you the producers in each of these counties.

The research efforts of Birely Landis and Donnie Powell as it relates to the Green Peach Aphid is presently wasted since you as producers are not availing yourselves of the results and conclusions of this research effort in the control of this pest. I might add that this insect is also detrimental to the sugar beet industry and others and thus could demand even more support from each of your local County Commissioner Boards. The County Commissioners will adhere to this large segment of the tax paying voters in each of your respective counties.

The seriousness of this insect to your industry is further emphasized in the recent action taken by your Potato Commission by passing a motion that the Potato Commission will match dollar for dollar any monies expended in the Green Peach Aphid control program through county efforts. This should further emphasize to your County Commissioners the need. They will receive 50% of the financial help necessary to control this pest. The beet growers should be contacted since they also have a definite financial gain in producing sugar beets without the Green Peach Aphid pest.

I would like to summarize my remarks by saying that the Department of Agriculture has provided you, the producers, with the necessary tool, but you as a tax payer and county citizen as well as voter must use this tool by giving your full support to this program. This will then inform your county government of the seriousness of your problems, and further make them aware of your willingness to help in the efforts of solving these problems. Thank you very much.