

## STATE OF KANSAS

BILL GRAVES, GOVERNOR  
Alice A. Devine, Secretary of Agriculture  
901 S. Kansas Avenue  
Topeka, Kansas 66612-1280  
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## KANSAS DEPARTMENT OF AGRICULTURE

April 3, 1998

Mr. William W. Metterhouse  
Interstate Pest Control Compact  
c/o National Association of State Departments of Agriculture  
1156 15<sup>th</sup> Street, NW, Suite 1020  
Washington DC 20005

Dear Bill:

Thank you for sending the information on the distribution and commercial availability of Grecian foxglove. It appears our information from other agencies and industry sources was not as complete as they could have been.

I am including some additional information which I hope will address some of the concerns expressed by our project's reviewers.

1. **Noxious Weed Declaration.** Under the Kansas Noxious Weed Law, plants can be declared noxious only by legislative action. In this instance, we are utilizing our authority under the Kansas Plant Pest Act, which includes weeds under the definition of a plant pest, to initiate this regulatory action. Therefore, under our legal authority and terminology we are considering Grecian foxglove to be a plant pest and not a noxious weed.

We have not enacted an external quarantine because it was our understanding, based on information from our state's nursery industry, that Grecian foxglove was not being offered in the trade here. We have not enacted an internal quarantine because no agricultural plant products leave the infested areas destined for commerce. However, based on the information you provided, we are considering the development of some type of restriction to prohibit the sale of this plant in the state. I am currently working with our Legal staff to determine if a quarantine or a regulation under the Kansas Plant Pest Act would be the most appropriate mechanism to accomplish this.

2. **One-year Application.** This is our first experience in applying to the Interstate Pest Control Compact for funds. Our intent was to start small and evaluate this situation on a year-by-year basis. It will no doubt take a number of years to complete this project, and we had thought that we would evaluate our progress each year before applying for additional funds. Please let me know if a multi-year approach is more desirable.

3. Herbicide Research. With the assistance of the Kansas State University Cooperative Extension Service, we have tried a number of different herbicides using a variety of rates and application timings. We have not had much success with these various combinations. Our best success has been hand-pulling the plants and this is the reason for the low herbicide costs and higher labor costs. Also, natural springs in the infested area are the water supply for the landowner and we did not wish to do anything to jeopardize the safety of that water supply.

4. FDA Contact. I had not included the following information in the initial application as I didn't think it was germane to the application. However, it may be useful to share now.


This past summer we were contacted by U.S. Food & Drug Administration scientists in Mississippi as they learned we were attempting to eradicate Grecian foxglove. As was our experience, they could not locate any other sources of the plant. They were seeking samples on which to perform botanical analysis because they had reason to believe Grecian foxglove was an adulterant in shipments of the herb plantain from the Balkan countries of southeast Europe which is the origin of Grecian foxglove. Apparently, local citizens there have been able to earn income by collecting native plants, such as plantain, and exporting them to the United States as herbs. The FDA was responding to complaints from U.S. citizens who had become ill after consuming some of these herbs. The FDA was investigating the possibility of Grecian foxglove being a contaminant in these plantain shipments as both plants resemble each other when in the young vegetative stage. We were able to supply FDA with a sufficient supply of vegetative plant parts to conduct their research.

5. Distribution information. The information you provided was quite different than what we were able to obtain on this plant. Our sources told us that Grecian foxglove was only present in Kansas and northern California. The map you sent didn't show either of those, but it did indicate its presence in the NE US. Perhaps the plant is not a problem there, but it is here. We do not want this plant threatening our livestock producers. It has already killed some livestock and adversely affected the health of the landowner. This plant has health and safety implications in Kansas. If not contained and eradicated, this plant could easily spread in the state and into Missouri, Oklahoma, and Arkansas as the type of habitat is continuous from the infested site into these other states.

I hope the above will provide enough additional information to address the concerns expressed about this project. We had thought this to be a fairly modest, straightforward proposal. This is still a learning experience for us and I appreciate your patience and guidance as we progress through the process.

Please feel free to contact me if you have questions or need additional information.

Sincerely,



Thomas Sim IV, Program Manager  
Plant Protection and Weed Control Program  
785-296-6418

INTERSTATE PEST CONTROL COMPACT  
REQUEST FOR FINANCIAL ASSISTANCE FROM THE  
PEST CONTROL INSURANCE FUND

3. Pest involved:

- A. Common and scientific names: Grecian Foxglove (Digitalis lanata)
- B. Is pest native or introduced from outside the continental U.S.? introduced
- C. Major means of dispersal or transmission: wildlife, water
- D. Known geographical range in U.S.: Wilson County, Kansas and Northern California
- E. Potential geographical range in U.S.: Eastern Kansas, Missouri, Eastern Nebraska, Eastern Oklahoma, Northern California
- F. Type of damage caused by pest: Toxicity to animals and humans, loss of forage crops, smoke from burning plants is toxic

If not, is this request for an installment in a program which is likely to continue for a longer period of time?: Yes 10 years estimate

9. Target date for program implementation: July, 1997

Target date for program completion: July, 2007

PART II

10. Detail exactly what work will be performed and what will be accomplished with the funding request from the Insurance Fund.
11. Attach a detailed statement of the circumstances which occasion this request for the invoking of the compact. Include information on how and why the situation is serious, whether or not an emergency exists, and the reasons why financial assistance is needed.
12. Attach an itemized budget page showing how the requested money will be spent as well as any state or federal funds as listed in item 7 above.
13. If the requested insurance fund money is to be used by a non-party (non-member) state, attach a statement justifying why conditions in the non-party state warrant financial assistance, and explain the value of such expenditures to the party (member) states as a whole.
14. Attach a statement of the extent of the present and projected program of the requesting state, including full information as to legal authority for the conduct of such program and the expenditures being made or budgeted therefore, in connection with the eradication, control, or prevention of introduction of the pest concerned.
15. Application submitted by:

Thomas S. IV  
(Name)

Plant Protection and Weed Control Program Manager  
(Title)

901 South Kansas Avenue Topoka  
(Address) (City)

Kansas 66612 785-296-6418  
(State) (Zip Code) (Telephone)

4. Economic importance:

Crops Affected (List)	Acreage & Value					
	Requesting State		Responding States			
	(Name)		State #1 (Name)		State #2 (Name)	
	Acres	Value	Acres	Value	Acres	Value
1. Native hay	801,000	\$75 million				
2. Alfalfa	133,000	\$30.5 million				
3.						
4.						
5.						
6.						

B. Value of crop(s) to United States: \_\_\_\_\_

C. Estimated potential damage to crop(s) in requesting state if compact in not invoked: \_\_\_\_\_  
\$105.5 million annually

D. Other states which may be adversely impacted: Missouri, Oklahoma

5. Type of program (i.e., quarantine, eradication, suppression, delimiting survey, etc.): \_\_\_\_\_  
eradication

6. Will compact implementation result in an increase or decrease in normal plant pest control activity in the requesting state? increase

If a Decrease Results, Explain How and Why: \_\_\_\_\_

7. Amount of funds requested: \$12,092.95

A. Will state funds supplement this?: Yes

If yes, how much?: \$2,000 time/travel

B. Will federal funds also be used?: possibly

If yes, how much?: will apply for \$6,000 in CAPS funds to perform additional survey.

8. To the best of your knowledge, can the conditions which initiated this application for funds be abated, by a program undertaken with these funds, in one year or less?: No

## 10. Work Plan for Grecian Foxglove

### Survey -

1. February/March - Perform early season survey for rosettes when the other vegetation is dormant. (1 person, 2 days)
2. May/June - Delimiting survey when the plants are blooming. (6 persons, 1 day)
3. General survey - Survey a wide area (9 sections) to look for escaped plants. (One person, 10 days)

### Control -

1. Hand pull flowering plants in late May through June. (5 persons for 5 days)
2. Hand pull flowering plants through the remainder of the season. (2 persons for 16 days, equivalent to one day per week for 4 months)
3. Continue late fall, early spring herbicide trials

### Education -

1. Develop and print a color poster to inform and ask the local landowners for assistance in locating plants.
2. Educate persons who may harvest native plants for food or medicinal purposes.
3. Educate nurseries and seed companies that may be selling this species to avoid sales to areas where suitable habitat exists that promotes the rapid expansion of the plant.
4. Educate hay producers in the area that may find this plant in native hay meadows.

Item 11.

Approximately 120 acres of land in Wilson County, Kansas are infested with Grecian foxglove, the only known infestation in Kansas. California is reporting a similar problem with Grecian foxglove in the northern costal region. The scrub oak hills of Wilson County are similar to the plant's native habitat in southeast Europe and may offer an explanation for its rapid spread. Grecian foxglove has a high concentration of digitalis, a heart stimulant that is lethal to animals or humans consuming small amounts of fresh or dried material. The potential invasion of native hay meadows and grazing lands is of great concern. The bulk of the infestation is located on one property but many small colonies (19) have been located on adjoining property. The landowner has worked diligently to eradicate the plant by mechanical and chemical means. Since the occurrence is limited, research data about control does not exist. Both seedlings and large rosettes are very tolerant to cold temperatures. During mild winters the plants remain green all winter. During severe winters, temperatures near zero, the plants appear damaged but recover quickly. Seed pods are being spread by wildlife, in particular, white tail deer.

Efforts to control this plant are labor intensive due to the rough terrain and the toxic nature of the plant. Financial assistance is needed to increase the use of local labor to survey for and hand pull plants. Although most of the plants bloom from mid May to mid June, some plants will flower and produce seed through out the growing season.

DETAILED BUDGET

GRECIAN FOXGLOVE ERADICATION PROGRAM

<b>SURVEY</b>	1.	1 person early season survey	
		250 miles @ 0.31 per mile	72.00
		Motel/per diem	<u>100.00</u>
		Total	\$172.00
	2.	6 persons, perimeter survey	
		1750 miles @ 0.31 per mile	543.00
		10 quarters @ \$6.50 each X 6	390.00
		6 motel rooms @ \$45 ea	270.00
		Bags, gloves, repellent	<u>90.00</u>
		Total	\$1293.00
<b>CONTROL</b>	1.	5 persons @ \$5/hr for 40 hrs	1000.00
	2.	2 persons @ \$5/hr for 128 hrs	1280.00
	3.	Herbicides for plot work	783.00
	4.	Reimburse John Cole for previous expenses (attached)	<u>5569.95</u>
	5.	Total	\$8632.95
<b>EDUCATION</b>	1.	Develop and print poster	1000.00
	2.	Educate landowners	<u>200.00</u>
	3.	Total	\$1200.00
		Grand Total	\$12092.95

Grecian Foxglove expenditures by Mr. Cole (does not include his own labor)

year	month	expense	purpose		
1994	JAN	\$252.00	LABOR		
		\$120.00	LABOR		
	FEB	\$140.00	LABOR		
		\$102.00	LABOR		
		\$138.00	LABOR		
	MARCH	\$22.50	LABOR		
		\$108.00	LABOR		
		\$64.20	LABOR		
	APRIL	\$127.00	LABOR		
		\$45.00	LABOR		
SEPT	\$70.00	LABOR			
	\$14.25	HERBICIDE		YEARLY TOTAL	\$1,202.95
1995	FEB	\$40.00	LABOR		
		\$114.00	LABOR		
		\$160.00	LABOR		
	MARCH	\$44.00	LABOR		
		\$130.00	LABOR		
		\$252.00	LABOR		
		\$249.00	LABOR		
	APRIL	\$244.00	LABOR		
		\$208.00	LABOR		
		\$124.00	LABOR		
		\$232.00	LABOR		
	MAY	\$258.00	LABOR		
		\$168.00	LABOR		
		\$192.00	LABOR		
		\$124.00	LABOR		
	JUNE	\$100.00	LABOR		
		\$100.00	LABOR		
		\$90.00	LABOR		
\$144.00		LABOR			
\$128.00		LABOR			
JULY	\$144.00	LABOR			
	\$168.00	HERBICIDE			
	\$106.00	LABOR			
				YEARLY TOTAL	\$3,419.00
1996	JAN	\$87.50	LABOR		
		\$90.00	LABOR		
		\$85.00	LABOR		
	FEB	\$70.00	LABOR		
		\$178.00	LABOR		
		\$100.00	LABOR		
					YEARLY TOTAL
1997	JUNE	\$82.50	LABOR		
		\$40.00	LABOR		
		\$82.50	LABOR		
	JULY	\$72.50	LABOR		
		\$30.00	LABOR		
	AUG	\$30.00	LABOR		
				YEARLY TOTAL	\$337.50
TOTAL		\$5,569.95			

**COOPERATIVE AGREEMENT  
BETWEEN  
THE PEST CONTROL COMPACT AND  
KANSAS DEPARTMENT OF AGRICULTURE**

The principal parties to this Cooperative Agreement are the Interstate Pest Control Compact, hereinafter called the Compact, and the Kansas Department of Agriculture hereinafter called the Responding State.

The purpose of this Cooperative Agreement is to stipulate the general conditions under which the Compact will provide funds to the Responding State to finance other than normal pest control operations, hereinafter called Project, as approved by the Compact Governing Board. Such Project will be provided to the Responding State as an approved "Request for Financial Assistance from the Pest Control Insurance Fund," hereinafter called Request.

The cooperation shall be conducted consistent with the Compact enabling legislation, as adopted by member states, and the Bylaws of the Compact Insurance Fund and with all applicable statutes and regulations of the Responding State.

**A. The Compact Agrees:**

1. To provide funds in the amount of \$12,093 to the Responding State upon timely and satisfactory completion of the Project as outlined in the Request, or upon satisfactory evidence that expenses have been incurred on account of measures taken toward Project completion.
2. To furnish the services of the Compact Executive Director whose duties shall include coordinating activities relative to this Cooperative Agreement.
3. To furnish the services of the Compact Technical Committee for advisory purposes, as mutually agreed, or for Project evaluation and monitoring.

**B. The Responding State Agrees:**

1. To provide necessary resources to perform Project activities as outlined in the Request in an expeditious and efficient manner.
2. To submit a progress report on Project activities to the Compact Executive Director by 12/31/98.
3. To submit a final report, to include evidence of satisfactory and timely completion of the Project and including a detailed financial statement of funds expended, to the Compact Executive Director by 12/1/99.
4. To cooperate fully with the Compact Technical Committee in any evaluation or monitoring of the Project, either during progress or after completion.
5. To maintain pest control and eradication activities of interstate significance at a level that would be reasonable in the absence of the Project.
6. To meet emergency outbreaks or infestations of interstate significance to no less an extent than would have been done in the absence of this Project.

C. It is Mutually Understood and Agreed:

1. That the cooperating parties may mutually agree to minor adjustments in Project details as outlined in the Request, consistent with Project objectives.
2. This agreement shall become effective upon date of final signature and shall continue until September 1, 1999, unless amended by mutual agreement of both parties.
3. The provisions found in contractual provisions attachment form (DA-146a), which is attached thereto, are hereby incorporated into this contract and made a part hereof. Whenever the term State or Agency or words of like effect are used in the Form DA-146a, such reference shall be deemed to apply to the Kansas Department of Agriculture. The term contractor shall mean the Interstate Pest Control Compact.

Signed by Parties To This Agreement:

Kansas Department of Agriculture

Interstate Pest Control Compact

*Adrian G. Dennis*  
Signature

*William W. Mellett*  
Signature

*Secretary of Agriculture*  
Title

*Executive Director - IPCC*  
Title

*6-25-98*  
Date

*7/7/98*  
Date

## CONTRACTUAL PROVISIONS ATTACHMENT

**Important:** This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The provisions found in Contractual Provisions Attachment (form DA-146a), which is attached hereto, are hereby incorporated in this contract and made a part hereof".

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

1. TERMS HEREIN CONTROLLING PROVISIONS

It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated.

2. AGREEMENT WITH KANSAS LAW

All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of Kansas.

3. TERMINATION DUE TO LACK OF FUNDING APPROPRIATION

If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.

4. DISCLAIMER OF LIABILITY

Neither the State of Kansas nor any agency thereof shall hold harmless or indemnify any contractor beyond that liability incurred under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).

5. ANTI-DISCRIMINATION CLAUSE

The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be canceled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of the ADA, such violation shall constitute a breach of contract and the contract may be canceled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

Parties to this contract understand that the provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting state agency cumulatively total \$5,000 or less during the fiscal year of such agency.

6. ACCEPTANCE OF CONTRACT

This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.

7. ARBITRATION, DAMAGES, WARRANTIES

Notwithstanding any language to the contrary, no interpretation shall be allowed to find the State or any agency thereof has agreed to binding arbitration, or the payment of damages or penalties upon the occurrence of a contingency. Further, the State of Kansas shall not agree to pay attorney fees and late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect which attempts to exclude, modify, disclaim or otherwise attempt to limit implied warranties of merchantability and fitness for a particular purpose.

8. REPRESENTATIVE'S AUTHORITY TO CONTRACT

By signing this document, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this document on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.

9. RESPONSIBILITY FOR TAXES

The State of Kansas shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.

10. INSURANCE

The State of Kansas shall not be required to purchase, any insurance against loss or damage to any personal property to which this contract relates, nor shall this contract require the State to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the vendor or lessor shall bear the risk of any loss or damage to any personal property in which vendor or lessor holds title.

11. INFORMATION

No provisions of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.

## **Grecian Foxglove Control Project**

### **Kansas Department of Agriculture**

In the spring of 1994 Mr. John Cole, Wilson County Kansas, submitted a plant specimen to the County Extension Office for identification. He noticed the plant expanding across his land and began mechanical efforts to control the plant. Kansas State University in cooperation with the Biological Survey at Kansas University identified the plant as Grecian foxglove (*Digitalis lanata* Erth.). Dr. Ron McGregor, herbarium director at KU, visited the site to determine the extent of the infestation. He also contacted the Kansas Department of Agriculture, Plant Protection and Weed Control Program, to provide assistance to the landowner on control methods. Bill Scott, KDA Weed Specialist, visited the site in 1994 and established a series of plots to determine the most effective means of control. Herbicides and cultural methods were evaluated. KDA staff assisted in a delimiting survey in 1995 and estimated a total of 22 acres of Grecian foxglove spread across approximately 250 acres of land. Although the majority of the infestation is on the Cole property, eight other landowners adjoining the Cole property have some degree of infestation. Plots were continued in 1996 with plant densities in severely infested areas as high as 65 plants per square meter. Mr. Cole hired two workers to assist him in pulling plants on his land and on adjoining properties. He purchased an ATV with a sprayer and treated plants with various herbicides. In 1998 the Kansas Department of Agriculture applied for and received \$12092 from the Interstate Pest Control Compact to help pay the cost of controlling this pest.

The budget allocated funds for survey, control and education. \$5569.95 was budgeted as reimbursement to Mr. Cole for expenses incurred in controlling Grecian foxglove. Funds were also used to pay travel expenses for KDA staff who meet at the site in early June to survey and treat blooming plants. A hand-held GPS unit was purchased to aid in locating small patches of foxglove in the dense forest and hilly terrain. A brochure was developed and printed in 1999. The brochure, featuring identification and reporting information, was distributed to adjoining landowners, federal, state and local offices in the county and to the county noxious weed departments in Kansas. The initial printing cost \$1018.25 for 750 brochures. An additional 1000 were printed with state funds in 2001. The Kansas Department of Agriculture enacted a quarantine on May 10, 2001 prohibiting the entry or movement of Grecian foxglove into or within Kansas.

With a combination of research plots and experience, the control program has been refined to spring treatment with herbicides beginning in mid April and ending with the cleanup survey in early June. Most of the treatment is accomplished early when the plants are in the rosette stage and are rapidly growing. The cleanup survey catches the blooming plants missed by earlier application and expands the survey area to look for any new infestations. When the project began in 1997 approximately 20 acres were being treated with herbicides each year. In 2001 a total of 1.2 acres were treated and in 2002 1.1 acres were treated. Treated acres are based upon the total volume of herbicides applied for the year. The Kansas Department of Agriculture has cooperated with the Minnesota Department of Transportation on an infestation of Grecian foxglove found on their right of way and adjoining property. Numerous presentations about Grecian foxglove have been given to groups ranging from local landowners to the North Central Weed Science Society. The Cooperative Extension Service in Wilson County and the Wilson County Noxious Weed Department have provided assistance through out the project. The Kansas Department of Agriculture will continue to treat and monitor the area.