

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE.

The meeting was called to order by Chairman Senator Robert Tyson at 8:08 a.m. on March 21, 2003 in Room 234-N of the Capitol.

Members present: Senator Downey, Senator Lee, Senator Tyson, Senator Taddiken, Senator Umbarger, Senator Corbin, Senator Huelskamp, Senator Adkins, Senator Schmidt

Committee staff present: Raney Gilliland, Legislative Research
Lisa Montgomery, Revisor of Statutes
Shannon Stone, Secretary

Conferees appearing before the committee:

Representative Dan Johnson, 110 th District	Secretary Hayden, Dept. of Wildlife and Parks
Steve Swaffar, Kansas Farm Bureau	Fred Flax, Kansas Legislative Policy Group
Bob Bolen, Wallace County, Prairie Dog Supervisor	Mike Beam, Kansas Live Stock Association
Randy Allen, Kansas Association of Counties	Ron Klatasky, Audobon Society of Kansas
Representative John Faber, 120 th District	JoAnn Hablutzal, Sierra Club
Senator Stan Clark, 40 th District	

Others attending: See attached guest list

Hearing on House Bill 2027

Representative Dan Johnson gave testimony in support of **HB 2027**. He saw the bill as a preventative measure to keeping the black-tailed prairie dog off the U.S. Fish & Wildlife Service's threatened and endangered species list. He encouraged the Committee to "bring the statute up to date" to keep Kansas lands from becoming designated "critical habitat" areas for the prairie dog. ([Attachment 1](#))

Secretary Mike Hayden provided background information explaining why the Department of Wildlife and Parks saw a need for the bill. The black-tailed prairie dog currently has a listing status of "warranted but precluded". The Department initiated a working group, made up of conservation organizations, agricultural interest groups and landowners. The group's suggestions were incorporated into the bill. ([Attachment 2](#))

Steve Swaffar stated that Kansas Farm Bureau supported the bill and supported the development of conservation management plans that were the result of voluntary and cooperative efforts by landowners, agricultural producers, conservationists and state and federal agencies. ([Attachment 3](#))

Fred Flax of the Kansas Legislative Policy Group gave testimony supporting the shifting of responsibility from Township Boards to the Board of County Commissions as outlined in the bill. They supported the bill. ([Attachment 4](#))

Wallace County Noxious Weed and Prairie Dog Supervisor, Bob Bolen stated that he had only documented the use of ultimate county authority to force a landowner to control prairie dogs three times in twenty-two years. Mr. Bolen and the Wallace County Commission supported the passage of **HB 2027**. ([Attachment 5](#))

Mike Beam said the Kansas Livestock Association identified key provisions of the bill which they supported. Among them, the declaration of the prairie dog as a species of management concern, noting that it is of value to some but a nuisance to others. ([Attachment 6](#))

Kansas Association of Counties (KAC) representative, Randy Allen said the bill "ensured a wider, more consistent approach to the control of prairie dogs. KAC supported the bill. ([Attachment 7](#))

CONTINUATION SHEET

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE at 8:08 a.m. on March 21, 2003 in Room 423-S of the Capitol.

Representative John Faber gave testimony in opposition to **HB 2027**. Ambiguity regarding the phrase “manage and control”, the changing of the status of the prairie dog from a pest to a species of management control, and the absence of State identified “focus areas” on State controlled grounds were reasons he could not support the bill. ([Attachment 8](#))

Ron Klutaske of Audobon of Kansas said the bill “erodes property rights in a way that eclipses the progressive elements of the bill...” He believed the bill would make prairie dogs the obligation of landowners beyond the boundaries of their own property. He opposed **HB 2027**. ([Attachment 9](#)) Mr. Klutaske also submitted written testimony from several biologists and some of the members from the working group convened by the Department of Wildlife and Parks who also opposed passage of the bill. ([Attachment 10](#)) A second sheet identified members of the working group. ([Attachment 11](#))

JoAnn Hablutzel of the Sierra Club stated that the prairie dog had “suffered a bad reputation as a nuisance...and a pest”. While the Club applauded the progressive efforts of the bill, they saw a need for a “clearly defined oversight heirarchy”. They urged the Committee to use caution in reviewing the bill. ([Attachment 12](#))

Written testimony was submitted by Senator Stan Clark for the following who have prairie dogs on or around their land, and who were unanimously opposed to **HB 2027**:

Elton and Ella Mae Keller, Robert Grace, Paula Perry Keller, Tom Keller, Kay Shay, Danielle Crouch, Ranae Pilkington, Dan Keller, Gordon and Betty Orth, and Gerald Feikert. ([Attachment 13](#))

Senator Stan Clark gave testimony opposing **HB 2027**. He saw the bill as part of an effort to turn private property over to government control. He also informed the Committee that the Endangered Species Act of 1973, which was ratified by Congress, would not supersede any existing [state] law; thus there was no need for Kansas to change its law in an effort to appease any federal environmental agency. ([Attachment 14](#))

Comments and discussion over the property rights as well as questions regarding the definitions of “management”, “control”, and “protection” followed testimony. Senator Huelskamp requested that Wildlife and Parks provide a list of wildlife currently on the “endangered species list”.

The meeting was adjourned at 9:30.

SENATE NATURAL RESOURCES COMMITTEE

GUEST LIST

DATE: 3/21/2003

NAME	REPRESENTING
Randall Allen	Ks. Assoc of Counties
Todd Johnson	KLA
Steve Shaffar	Ks Farm Bureau
Steve Clark	Representative of Senate
John Faber	Representative
Ralph Ostmyer	Representative
Dan Johnson	Representative
John Pincgar	Kansas Legislative Policy Group
Dale Lambly	KFA
Leslie Kaufman	KFB
Chris Tymeson	KDWP
Mike Hydad	KWP
Mike Bean	KS LISTK ASSN.
Larry Powell	117 dist
Bob Bower	Wallace County
Ann Habitzel	KS Sierra Club
Mitchell Allen	

STATE OF KANSAS

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BARTON, ELLIS, ROOKS, RUSH
AND RUSSELL COUNTIES
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TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

CHAIRMAN: AGRICULTURE
MEMBER: BUSINESS, COMMERCE AND LABOR
ENVIRONMENT

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TOPEKA, KANSAS 66612-1504
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SENATE NATURAL RESOURCES COMMITTEE

RE: HB 2027 – Control of prairie dogs, moles and gophers

March 21, 2003

Topeka, Kansas

Presented by

Representative Dan Johnson

Mr. Chairman and members of the committee, I appear before you today in support of HB 2027. As you know, the black-tailed prairie dog is a candidate to be placed on the threatened and endangered species list by the U.S. Fish & Wildlife Service.

I am dedicated to working to prevent their listing by voluntary management options. I believe HB 2027 is a step in the right direction by changing the statute calling for the eradication of the species.

This bill is important to landowners because “nothing in this act shall be construed to prevent a landowner from voluntarily managing and controlling prairie dogs on the landowner’s land . . .”. The bill would also allow landowners to develop a management plan in conjunction with the county to maintain and control prairie dogs on their property.

The bill gives counties final approval and control of prairie dogs in their county. If a landowner chooses to allow prairie dogs on their property and the county commissioners determine they are out of control the landowner may be asked to pay for their control.

If critical habitat is designated in Kansas, landowners will no longer be able to control prairie dogs on their property and will have to ask the authorities in Washington what they can do with their property.

It is time for Kansas to bring our statutes up to date and to do everything we can to keep Kansas land from being listed as critical habitat.

Mr. Chairman, I will stand for questions.

Senate Natural Resources Committee
Date: March 21, 2003
Attachment 1



STATE OF KANSAS
DEPARTMENT OF WILDLIFE & PARKS

Office of the Secretary
1020 S Kansas Ave., Room 200
Topeka, KS 66612-1327
Phone: (785) 296-2281 FAX: (785) 296-6953



HOUSE BILL NO. 2027
Testimony provided to
Senate Committee on Natural Resources
21 March 2003

House Bill No. 2027 would amend certain laws pertaining to black-tailed prairie dogs.

As background for the Committee, in 1998, the U.S. Fish and Wildlife Service (USFWS) received a petition to list the black-tailed prairie dog on the federal threatened and endangered species list. At that time, the department joined other states in opposing this listing. In 2000, the USFWS ruled that the listing status of the prairie dog is "warranted but precluded." In essence, this ruling states that the prairie dog is a candidate for listing but because of higher priority species and funding limitations, it is not listed at this time. The species status is evaluated on an annual basis and was last re-evaluated in February 2002. The status remained unchanged at that time.

Since then, the department has taken a number of steps. In addition to working with other states to develop a regional conservation plan for the prairie dog within its historic range, the department also held workshops in western Kansas to discuss development of a conservation plan for Kansas. A working group was created with representation from conservation organizations, agricultural interests and individual landowners and the Kansas Black-Tailed Prairie Dog Conservation and Management Plan was developed from this working group.

House Bill No. 2027 incorporates several of the ideas of the working group. First, the bill replaces certain terms such as extermination and destroy with manage and control. More important, the bill describes prairie dogs as a species of management concern, requiring at times both protection and control. If an unmanaged or uncontrolled prairie dog population is determined to be destructive, injurious or detrimental to neighboring lands, upon notice, the landowner would be required to enter into a management and control plan with the department or permit the county to undertake management and control measures on the landowner's property and reimburse the county for costs accrued. And most notably, nothing in the bill would preclude a landowner from voluntarily managing or controlling prairie dogs upon their own land.

The department strongly supports House Bill 2027, along with several partners in this endeavor with the ultimate goal in mind of preventing the black-tailed prairie dog from reaching threatened or endangered status under federal law.

Senate Natural Resources Committee
Date: March 21, 2003
Attachment 2



Kansas Farm Bureau

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800 S.W. Jackson, Suite 817, Topeka, Kansas 66612 • 785.234.4535 • Fax 785.234.0278

PUBLIC POLICY STATEMENT

SENATE NATURAL RESOURCES COMMITTEE

RE: HB 2027 – and act relating to prairie dog control.

**March 21, 2003
Topeka, Kansas**

**Presented by:
Steve M. Swaffar, Director
KFB Natural Resources**

Chairman Tyson and members of the committee, thank you for this opportunity provide comments on House Bill 2027 addressing the control of prairie dogs. I am Steve Swaffar, Director of Natural Resources for the Kansas Farm Bureau. Kansas Farm Bureau is a grassroots organization that develops policy through the input of our 105 county organizations and the more than 41,000 farmer and rancher members across the State.

Kansas Farm Bureau offers the following comments regarding HB 2027. The black-tailed prairie dog is a species that has caused considerable concern and damage to ranches in the western 2/3 of the state for last 150 years. Ranchers have spent thousands of dollars and many hours trying to prevent prairie dogs from damaging valuable livestock grazing areas. Yet the efforts to control populations of the black-tailed prairie dog and other factors have caused the U.S. Fish & Wildlife Service (USFWS) to consider listing the black-tailed prairie dog as a threatened species under the Endangered Species Act. Clearly, listing the black-tailed prairie dog will reduce the ability of ranchers to control prairie dogs and could be detrimental to ranchers who still need to control the animals to preserve the quality of their grazing lands.

Kansas Farm Bureau members through their policy development process have created the following language addressing threatened and endangered species:

As an alternative to placing species on threatened or endangered lists, we support developing conservation management plans that will increase or maintain the population and make listing unnecessary. Conservation management plans should be the result of cooperative efforts by landowners, agricultural producers, wildlife managers, conservation technicians, and the appropriate state and federal agencies. Any conservation management plans should be voluntary and provide incentives to private landowners for protecting or enhancing habitat for species needing protection.

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Attachment 3-1*

Additionally, the American Farm Bureau Federation also has developed policy that is germane to this legislation:

We believe threatened and endangered species protection can be more effectively achieved by providing incentives to private landowners and public land users rather than imposing land use restrictions and penalties. Conservation agreements should be considered in lieu of listings provided they are consistent with Habitat Conservation Plans (HCP). Habitat Conservation Plans should be voluntary incentive-based programs. Private property must not be included in an HCP without the written permission of the private landowners.

In accordance with our policy, Kansas Farm Bureau has participated over the last two years in the Kansas Prairie Dog Working Group, formed by the Kansas Department of Wildlife and Parks. This group worked to create the Kansas Black-tailed Prairie Dog Conservation and Management Plan. Multiple stakeholders in this group helped identify potential threats to the species and conservation efforts that could preserve it in hopes of creating a plan that will prevent the listing of the prairie dog. One of the recommendations of the group is to amend Kansas law K.S.A. 80-304. Amending the law will demonstrate to USFWS that Kansas is interested in preserving and conserving prairie dog populations. By replacing the word "destroy" with "manage and control" and adding the ability for landowners to work with counties to maintain prairie dogs, should they chose to do so, we believe HB 2027 demonstrates Kansas' commitment to conservation of the species to USFWS.

Equally important to members of our organization, HB 2027 maintains the ability for landowners to continue to prevent prairie dogs from damaging their property. Kansas Farm Bureau would not support HB 2027 if we believed the bill would prevent our members from controlling prairie dogs as they do now. Clearly, other steps may need to be taken in the future to prevent the black-tailed prairie dog from becoming a listed species. However, we believe amending the law as HB 2027 proposes is a good first step. Thank you for the opportunity to provide these comments.

Kansas Farm Bureau represents grassroots agriculture. Established in 1919, this non-profit advocacy organization supports farm families who earn their living in a changing industry.

**Testimony of
Fred Flax, President
Kansas Legislative Policy Group
Before the Senate Committee on Natural Resources
RE: House Bill No. 2027**

Chairman Tyson and Members of the Committee:

Kansas Legislative Policy Group (KLPG) is pleased to offer testimony regarding House Bill No. 2027. KLPG represents the interests of 30 plus counties located in western Kansas.

Members of our Association have reviewed the proposed legislation and KLPG is in support of House Bill No. 2027.

This issue has been of keen interest to many of our members. We would like to thank Wildlife and Parks Secretary Mike Hayden and the Department for inviting KLPG to participate in the development and drafting of the proposed legislation.

Although attitudes and opinions can vary with respect to the control and management of prairie dogs, KLPG does support shifting the responsibility from Township Boards to the Boards of County Commissions. This will insure that countywide perspective is given to the implementation of a management and control plan.

We encourage the Committee to act favorably on House Bill No. 2027.

Thank you for your consideration and the opportunity to present these remarks.

(Mr. Flax was unable to attend the hearing and John D. Pinegar, representing KLPG delivered his remarks).

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Attachment 4*

Testimony before the Senate Natural Resources Committee

In support of
House Bill No. 2027
By

Bob Bolen
Wallace County Noxious Weed and Prairie Dog Supervisor

March 21, 2003

Mr. Chairman and members of the Committee:

My name is Bob Bolen. For the past twenty-two years, I have served as the Noxious Weed and Prairie Dog Supervisor in Wallace County. In March of 2000, I was invited by the Kansas Department of Wildlife and Parks to serve on the Kansas Black-Tailed Prairie Dog Working Group. I must admit, there were several times during this group's discussions that I became impatient with the various view points from some working group members. I was resistant to several proposals from this group, including a couple of bill drafts to amend or repeal our state prairie dog laws. In fact, I testified against a prairie dog bill (HB 2470) before the House Environment Committee in 2001.

Last fall, Kansas Department of Wildlife and Parks Secretary Hayden asked for our input on amendments to the law to accomplish concerns by the U.S. Fish and Wildlife Service without undermining our program in Wallace County. We appreciate Secretary Hayden's willingness to cooperate in this manner. Our recommendations regarding the county approval of any management plan was our county's recommendation.

On February 10, 2002, I met with Wallace County Commissioners, Blaine Rohn, John Miller, and Bruce Buck and Wallace County Attorney, R. Dean Dinkel to discuss HB 2027. The bill appeared to retain control of prairie dogs in the hands of the local county commissioners and protect the adjacent landowners if the adjoining landowners do not want to enter into and follow a prairie dog control plan with the county. After discussing the bill, the Board voted unanimously to support HB 2027. I am here today to testify as a proponent on behalf of the Wallace County Commission and myself.

Wallace County started an intensive prairie dog control program in 1977 because the prairie dogs were taking over the pasturelands. Wallace County is one of the very few counties in the state to actually use the existing prairie dog laws. We feel we have one of the best prairie dog control programs in Kansas. In our case, in the twenty-two years of my tenure, I have only documented the use of our ultimate authority to force a landowner to control the species on three occasions.

Our Commissioners feel that HB 2027 will allow us to continue our program much like we have for the past twenty-five years.

In summary, I would ask you to vote in favor on HB 2027.

I'd be happy to try and answer any questions you have at this time.

Thank you for the opportunity to testify in front of this committee this morning.

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Date: March 21, 2003
Attachment 5*



Since 1894

TESTIMONY

To: The Senate Natural Resources Committee
Sen. Robert Tyson, Chairperson

From: Mike Beam, Senior Vice President

Date: March 21, 2003

Subj: **House Bill 2027** - Control of prairie dogs, moles, and gophers

The Kansas Livestock Association is a proponent of this bill. HB 2027 is a result of a two-year effort among various stakeholders to identify amendments to the state statutes that maintain authorities of local governments to conduct prairie dog control programs while allowing a landowner, in certain situations, to maintain a population of prairie dogs if so desired.

We believe HB 2027 has several key provisions:

- Changes local authority to control prairie dogs from townships to county governments. (Section 2)
- Strikes words like "destroy", "infested", and "exterminate" and replaces them with terminology such as "manage" and "control". (Sections 2 & 3)
- Declares prairie dogs a species of management concern and makes note the species has a value to some, while being a nuisance to others. (Subsection a of Section 3)
- Provides authority to counties to determine that a prairie dog town is a threat to surrounding lands and to give notice to landowners to either: (1) submit a management and control plan, that is eventually approved by the county, or (2) permit the county to undertake prairie dog management and control actions and bill the landowner for such costs. (Subsection b of Section 3)

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- Modifies existing statutes outlining procedures for a local official to enter a person's property and to take action to control prairie dogs. (Subsection c of Section 3)
- Modifies existing statutes authorizing counties to collect costs of controlling prairie dogs from landowners. (Subsection d of Section 3)
- Provides authority to county officials to take action if a landowner is not meeting his/her obligations under the approved management and control plan, including an assessment of costs for controlling prairie dogs on surrounding lands. (Subsection e of Section 3)
- Prohibits KDWP from adopting rules and regulations related to the act. (House amendment found in Section 3)
- Prohibits transplanting of prairie dogs except in certain situations. (House amendment found in New Section 4)
- Amends the law to authorize the harvesting of prairie dogs for commercial purposes for sale outside of the state of Kansas. (House amendment found in New Section 5)

Background

In July of 1998, The National Wildlife Federation filed a petition to list the black-tailed prairie dog as a threatened species under the federal Endangered Species Act. Later, the Predator Conservation Alliance, Biodiversity Legal Foundation, and a private individual filed a supplementary petition.

On February 2, 2000, the U.S. Fish and Wildlife Service (USFWS) announced its response to the petitions. The USFWS stated in its news release ... *"After an extensive biological review, the U.S. Fish and Wildlife Service has determined that the black-tailed prairie dog warrants listing under the Endangered Species Act. However, because there are other species also awaiting listing that are in greater need of protection, the Service is not proposing to list the species at this time."* USFWS cited a significant decline in habitat and state laws authorizing mandatory control of the species as key factors in their concern about the future of the prairie dog.

KDWP Forms Work Group

On March 1, 2000, KLA was invited by the Kansas Department of Wildlife and Parks (KDWP) to submit a nomination for their Prairie Dog Work Group. The purpose of the Work Group was to involve most stakeholders in developing a management plan to conserve the species and divert a listing by USFWS. (Mark

Smith, a rancher from Wallace County, eventually was appointed to this group to represent KLA.) One of the first tasks of the Work Group was to appoint a subcommittee to consider a recommendation to address the Kansas statutes (KSA 80-1201 to 80-1208) identified as a concern by the USFWS.

Prior to the formation of the work group, legislation (HB 2866) was introduced to simply repeal the state laws regarding local prairie dog control programs. On February 21, 2000, the Kansas House Agriculture Committee held a hearing on HB 2866 and promptly killed the bill.

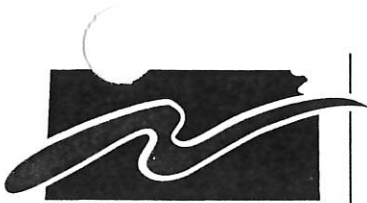
One of the first recommendations by the work group's subcommittee was to not seek legislation that repealed the Kansas prairie dog laws. Instead, the group determined it was best to look at other states' laws and to craft amendments that would give local ranchers authority to control prairie dogs, while preserving the right of landowners to harbor the species if it were their preference.

Developing such a bill has not been an easy task. The subcommittee was not in agreement on specific language and concluded on November 8, 2000, that it would be best to not push for legislation during the 2001 Kansas Legislative Session. Last year, after several public meetings and discussions by many individuals on the Work Group, it was determined we were not ready to forward a legislative proposal to the Kansas Legislature for 2002.

HB 2027 - 2003 Legislation

Last fall, KLA, Kansas Farm Bureau, representatives from Wallace County, and KDWP continued discussions about a bill to address the concern identified by the original petitioners and USFWS. The result of these discussion is a compromise that I believe addresses most concerns by landowners, local governments, KDWP, and conservation groups that want some assurances the black-tailed prairie dog, and the associated short grass prairie ecosystem, is not in serious jeopardy.

We urge this committee to act favorably on the bill. I'd be happy to respond to any questions or comments. Thank you.



KANSAS
ASSOCIATION OF
COUNTIES

TESTIMONY

Before the Senate Natural Resources Committee

HB 2027

March 21, 2003

Presented by Randall L. Allen, Executive Director

Thank you, Chairman Tyson and Members of the Senate Natural Resources Committee for allowing the Kansas Association of Counties to provide testimony on HB 2027.

The Kansas Association of Counties is in support of HB 2027. Our member counties have varying ideas as to what constitutes control and management of prairie dogs; however the KAC does support the responsibility residing at the Board of County Commissioners rather than the township board. This ensures a wider, more consistent approach to the control of prairie dogs.

In addition, the Kansas Association of Counties does not wish to the endangered species list broadened to include prairie dogs. For these reasons, the Kansas Association of Counties urges the committee to move favorably on the passage of HB 2027.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to Randy Allen or Judy Moler by calling (785) 272-2585.

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Senate Natural Resources Committee
Date: March 21, 2003
Attachment 7

STATE OF KANSAS
HOUSE OF REPRESENTATIVES

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TOPEKA

JOHN FABER

REPRESENTATIVE, 120TH DISTRICT

COMMITTEE ASSIGNMENTS

MEMBER AGRICULTURE
EDUCATION
FEDERAL AND STATE AFFAIRS
SELECT COMMITTEE INFORMATION MANAGEMENT

Mr. Chairman and members of the committee, thank you for the opportunity to testify on this important matter for Western Kansas.

I would like to go through a few concerns I have regarding the implementation of HB 2027.

1. Protection of private property rights should be a priority in program design and implementation. We cannot allow the Fish and Game to set limits on prairie dog control. What is the definition of manage and control? Page 2 Line 28

(a) Prairie dogs are a species of management concern requiring both control and protection. Species of management concern or its habitat, or both, are of value ecologically and aesthetically and at the same time may be damaging for property owners. Species of management concern may warrant protection at times, and control at others, depending on the rate of reproduction, climate, disease, population viability and other factors.

In the original bill, it allows Wildlife and Parks to consult with county commissioners but it also defines management and control as increasing numbers or decreasing numbers. We have to ask the question does Wildlife and Parks approve the county plan or does the county have jurisdiction over this program. Counties do not have "local control", what impact will that have on the ultimate decision concerning management? Do rules and regulation oversee what the county does? Does this allow the fish and game to set limits on hunting and trapping through the direction of rules and regulations? In other word does this supersede what a county deems necessary to the control over the management requirements of the law?

2. State management authority for the black-tailed prairie dog is preferable to federal management authority. I don't disagree with this, but what is the difference. Changing the statutes from a pest to a species of management concern are two different things. This swings the door wide open for the intercession of federal guidelines. We can all, as legislators, see how the Federal Government "oversees programs it deems necessary.

3. State input on landowner incentives for prairie dogs should emphasize minimizing or eliminating impacts to adjoining nonparticipating landowners. I don't disagree with this and the bill does address this but again I ask the

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question, how much regulation does this constitute and who has the authority to regulate what this means? How do you "brand" a prairie dog. Who knows from where he comes? The findings indicate that a prairie dog travels up to five miles. Can a land owner prove that an infestation originates from his closest neighbor or from somewhere five miles away? Who decides this matter?

4. The State will not identify "focus areas" on lands over which it has jurisdiction. However, it is possible that "focus areas" will be identified in Kansas by other entities, such as federal agencies, EPA, Wildlife and Parks.

5. The State will address the need for pesticide regulation as follows:

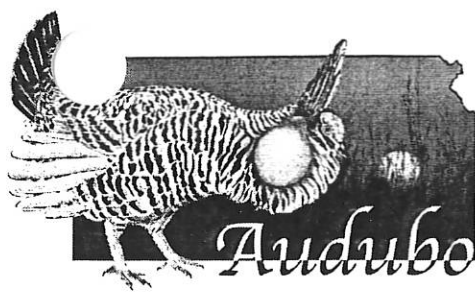
a) the population level at which pesticide regulation will be implemented (trigger acreage level) will include all prairie dog acres within Kansas's boundaries;

b) the trigger acreage level will be determined based on results of a black-tailed prairie dog population survey conducted in 2002, how accurate is this?

1. Acreage estimates and goals should be clarified
2. Reference to the multistate umbrella document should be studied.
3. Clarification should be made between references to prairie dog colony acreages and prairie dog populations.
4. The term "ecosystem" should be defined.
5. The discussion of the use of cropland capability classes to determine the state prairie dog acreage goal should be clarified.
6. The bill should be reviewed for appropriateness of the term "infestation" in describing prairie dog occupation.
9. The discussion of private landowner incentives should be clarified to reflect the most recent information available, and what those incentives include.
10. What incentive funding will be made available?

In conclusion my recommendation would be for the Senate to request an interim study and review all the information as it has to do with the Black Tailed Prairie Dog and make recommendations to the control of this species. The study group that put this bill together did not have public input nor does it address all the concerns of passing such a law. It did not take into consideration the impact of the federal government as Kansas changes its definition of pest control. I believe those responsible have great intentions as far as this legislation goes but I don't believe they have anticipated the unintended consequences of passing this legislation.

Again thank you for the chance to testify on this important matter. I would also remind the committee of the lengths that Western Kansas went to protect Eastern Kansas from sericea lespedeza. I ask for the same consideration in this matter.



Audubon of Kansas

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March 21, 2003

Statement of Ron Klatske
Executive Director, Audubon of Kansas
to the Senate Natural Resources Committee
Regarding House Bill 2027

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Lawrence
- Charles E. Wright**
Lincoln, NE

Mr. Chairman and members of the Committee. I am here on behalf of the 7,000 members of Audubon of Kansas and twelve local Audubon Societies in Kansas.

Most of us share the objective of preventing the listing of the Black-tailed Prairie Dog as a federal threatened species. Repealing or modifying the antiquated statutes enacted a hundred years ago is part of an appropriate state strategy.

However, H.B. 2027 erodes property rights in a way that eclipses the progressive elements of the bill designed to soften the 1903 eradication provisions. If it is allowed to stand it would potentially make a landowner who has a prairie dog colony on his/her land financially liable for prairie dogs that may occur anywhere else in the neighborhood. This may be viewed as much more draconian than simply requiring landowners to "eradicate" prairie dogs on their own land. Taken to its extreme, a landowner with a colony could be accused of "repopulating" an entire township or county and be faced with the prospect of an unpredictable financial obligation.

This bill would make prairie dogs the obligation of landowners far beyond the boundaries of their property. This is a slippery slope for state wildlife policy. Will we take the same approach with noxious weeds and invoice a ranch landowner for control of Sericea Lespedeza on surrounding land if it is suggested that their property was first to be infested.

Faced with the prospect outlined above, landowners who now tolerate or manage prairie dogs on their land would be more inclined to eradicate this native species from their land. Thus, enactment of this bill will undermine the objectives of the committee. The Kansas Prairie Dog Conservation Workgroup discussed the merits of a provision of this nature two years ago and soundly rejected it.

Our concerns about this bill are further detailed in the attached document.

I am also enclosing an even more ridiculous bill promoted by the Nebraska Farm Bill and the Nebraska Cattlemen's Association. It has been opposed by all other members of the Nebraska Working Group, including the Nebraska Farmers Union, and is not expected to pass out of committee this year. Previously the two organizations blocked establishment of a state conservation plan. This type of counterproductive advocacy against conservation of prairie dogs has been underway in several states. The objective seems to be one of challenging the Endangered Species Act in a state by state, county by county strategy. We trust that this committee will request that Secretary Hayden take the measure back to the Kansas Black-tailed Prairie Dog Working Group to start over, as requested separated by ten members of the team. They were appointed by Secretary Williams and devoted more than two years developing the Conservation and Management Plan, and it was signed by Secretary Hayden last year. H.B. 2027 is not consistent with that state plan.

Thank you for your careful consideration of this issue.

Senate Natural Resources Committee
Date: March 21, 2003
Attachment 9-1

CITIZENS COMMITTED TO CONSERVATION

Audubon of Kansas is a nonprofit membership organization devoted to wildlife and prairie conservation in Kansas and America's heartland. Audubon chapters in Kansas include: Burroughs A.S. - Kansas City; Jayhawk A. S. - Lawrence; Kanza A. S. - Emporia; Leavenworth A. S.; Northern Flint Hills A. S. - Manhattan; Sand Hills A. S. - Hutchinson; Smoky Hills A. S. - Salina; Sperry-Galligar A. S. - Pittsburg; Southeast Kansas A. S. - Parsons; Topeka A. S.; and Wichita A. S.

THE RESPONSIBILITY OF KEEPING THE BLACK-TAILED PRAIRIE DOG FROM BECOMING A FEDERALLY LISTED SPECIES SHOULD NOT BE SHIFTED FROM THE STATE OF KANSAS TO A FEW LANDOWNERS.

As you will note in the statement presented on January 29, 2003 on behalf of Audubon of Kansas, I am concerned that House Bill 2027 may actually accelerate the decline of prairie dog colonies in Kansas by imposing new requirements on landowners that have prairie dogs on their land. I am concerned that H.B. 2027 would undermine one of the shared objectives of all parties in the Kansas Prairie Dog Conservation Workgroup--as well as those who participated in drafting the legislation. That objective is to keep the black-tailed prairie dog from being listed as a federally threatened species. If H.B. 2027 leads to accelerated eradication, it would compel the parties who filed the original petition to go back to court and ask that the USFWS make that determination.

There are landowners who for a variety of reasons enjoy having prairie dogs on their land. Some like seeing them around to remind them of our prairie heritage or perhaps because of their charming qualities. Others recognize them as an integral part of the prairie ecosystem. Their presence attracts burrowing owls, ferruginous hawks, golden eagles and mountain plovers, just to name a few. However, at present most prairie dog colonies occur on lands where the landowners simply have some degree of "tolerance" and accommodate these native animals as long as the population does not get out of hand. In some cases, eradication may not seem to be worth the cost and time needed to poison a large prairie dog colony, and/or they may want to let predators control the colony in good years when the grass is high. Others do not like using poison, and some have friends who appreciate the opportunity to "keep them under control" with sport hunting.

All of this could change if H.B. 2027 is enacted and implemented. It would impose new bureaucratic and regulatory burdens, and financial liabilities, on landowners who have prairie dogs on their land for any reason. The bill would give landowners compelling reasons to get rid of any prairie dogs that now exist. The idea of having prairie dogs on one's land may become unacceptable to most landowners who now tolerate their presence.

Most people, including ranchers and farmers, do not seek to have more obligations to prepare and file more applications, plans and reports on their private land management practices.

USDA has worked to reduce this burden, however operators are still obligated to fill out forms and make appointments at the FSA and/or NRCS office to fulfill requirements of participation in price support and cost share programs, and to be eligible for disaster payments and crop insurance. The financial benefits are worth the time and effort. There are no major downsides to the procedure. They do not have to go before a potentially hostile panel and seek public approval because their motivation is not questioned.

In contrast to this, H.B. 2027 if passed and implemented would require a landowner wanting to retain a prairie dog colony to:

(1) Develop a "Prairie Dog Management and Control Plan" and pledge to implement and keep it current under any conditions that may arise.

The task of preparing a plan will not be easy for many. There are no template plans available from KDWP, the County Extension Service or county officials, and the agencies have indicated that they do not have the manpower to give any priority to help landowners prepare plans. Landowners will in effect have to become "ecologists" in order to develop a prairie dog management plan. In the shortgrass prairies of western Kansas, aggressive management and periodic control practices may be needed on some sites to keep colonies from expanding and from colonizing other areas. By contrast, in the eastern part of their range in Kansas a landowner may have to intensively graze or mow the immediate vicinity of the colony to keep coyotes, bobcats, badgers, foxes, hawks and owls from totally eliminating the colony! Sites that they can occupy may be very limited to "hard pan" hilltops where the soil is less productive and the grass is short. They will not readily move into areas with vigorous midgrass and tallgrass prairie rangelands.

(2) Take the newly prepared management and control plan to the county commission (and public) for approval.

Approval may not be easy. The landowner's motives may be questioned in the public meetings, in the cafe, and in the local newspaper. Only a few landowners dedicated to wildlife conservation, and or to the concept of helping to keep the species from becoming threatened (and thereby off the endangered species list) would be willing to make their case in the public forum and media.

Although the landowner will (appropriately) be required to base his plan on sound science and wildlife management practices, and in the case of prairie dogs on appropriate range management practices, opponents to the landowner will not have to meet the same standards. Opponents could even find a less than qualified individual to declare that the landowner is threatening his neighbors with plague and financial ruin.

A landowner who develops a formal plan to accommodate prairie dogs may be cast into a different light than those who now simply imply that they "tolerate" prairie dogs, even if they prefer having a few around over the option of eradication.

Some counties take the same "tolerant" approach. Wildlife enthusiasts or sportsmen may regard that as a "progressive" approach. However, an ardent noxious weed and animal control agent for a county with a history of aggressive eradication may regard the tolerance of any prairie dogs as "negligence" on the part of the landowner and the county.

Most people, including most ranch and farm families, prefer to avoid controversy. Requiring

landowners to subject their wildlife and range management (especially prairie dog management and control plans) to county and public scrutiny is a concept that should be considered cautiously. Such a mandatory requirement would erode private property rights, especially considering that the species is native, naturally occurs throughout the western two-thirds of the state, and is currently a candidate for federal listing.

(3) Assume financial and legal responsibility for prairie dogs that relocate onto the property of others.

The state appropriately owns the wildlife in public trust, but this bill would effectively make the landowner financially liable for prairie dogs that leave his/her land unless the landowner conforms to a series of regulatory requirements. If the ranch or farm landowner is the only person in the neighborhood who has "declared" the presence of prairie dogs on his/her land, the liability could extend for miles, regardless of whether or not the colony is actually the "source" population for new colonies. When prairie dogs disperse, they often repopulate sites that were previously inhabited, or establish sites that are more suitable. The neighbor's land across the road may be intensively grazed and therefore the best prospective habitat for a new colony, but animals that colonize it may be from three or four miles away. Travel of individual prairie dogs up to six miles has been recorded.

As an acquaintance suggested, *tongue in cheek*: "Landowners will just have to brand 'em all to know where they came from and go"!

LANDOWNERS, COMMUNITIES AND THE STATE SHOULD WORK TOGETHER TO FIND WAYS TO TRANSFORM THE PRAIRIE DOG "PROBLEM" INTO AN ECONOMIC RESOURCE.

(1) Example of an Innovative Meade Rancher Who Sells Prairie Dogs.

If it can be documented that one's prairie dogs originated from Texas, New Mexico, South Dakota or North Dakota a landowner can raise and sell pups on the pet market. That adds a new twist on the "get along little doggies" western song, but the market price of \$20 per pup could help to justify a management plan. Kansas has one innovative rancher, J.W. Vanderpool, who raises prairie dogs (with a paper trail) for this purpose to help support his southwestern Kansas ranching livelihood. He sold 9,000 to the wholesale export pet industry in 1999. That is comparable to taking 400 spring calves off in the fall and selling them for \$450 each!

Statutes relating to prairie dogs present several unique dilemmas. They can be poisoned or killed at will and counties or township boards in Kansas can compel landowners to eradicate them from their own land, but wild prairie dogs cannot be captured in Kansas and sold.

The market might become saturated in a hurry if a lot of ranchers followed J.W. Vanderpool's lead, but prairie dogs represent a natural resource that can be sustainable and of economic value in

some situations. Prairie dog colonies are not going to replace cow herds, but it is appropriate for landowners, county officials, KDWP and the Legislature to look at all dimensions of the resource and all perspectives of landowners. The prospect of marketing a prairie dog "crop" isn't any more of a threat to the species than the husbandry of bison ranching.

(2) There Are Places Where Prairie Dogs Can Contribute to Nature-Based Tourism.

Prairie dogs are the most popular attraction for wildlife watching in several National Parks. The colonies at Wind Cave National Park are the most significant above ground attraction, and they are very popular for visitors to Badlands National Park, Theodore Roosevelt National Parks, and Devil's Tower National Monument. The state parks in Kansas that maintain small prairie dog colonies to greatest advantage as added attractions include Kanopolis State Park and Prairie Dog State Park. Lovewell State Park also has a small colony and an adjacent parking area that is available for "wildlife watching".

Prairie dogs on property owned by The Nature Conservancy at Cheyenne Bottoms contribute to visitation of the area by providing not only viewing opportunities for prairie dogs but also for burrowing owls and other prairie wildlife dependent upon prairie dogs. Some ranch landowners who are interested in complementing their income with development of wildlife watching opportunities should receive the philosophical support of the State of Kansas, local counties and communities that benefit from nature-based tourism. I visited with a rancher from Kiowa County this week who is interested in developing a bed and breakfast operation based on the fact that their ranch has opportunities to view lesser prairie chicken leks, prairie dogs and other wildlife. He can also offer hiking on 7,000 acres of native grassland. The Comanche Pool Grazing Association based nearby in Coldwater is actively exploring this type of tourism on a regional scale.

On a personal note, my family is pursuing the reestablishment of a small prairie dog colony on pastureland we own in Washington County, three miles from one of the last prairie dog colonies eradicated from the county in the 1950s. If we are successful we will make the area a "Walk-In-Wildlife-Watching Area" and include it on the **Kansas Birding and Prairie Flora Trails** system being developed by Audubon of Kansas in partnership with many other public and private entities in the state. This trail system will draw attention to at least 200-300 sites that offer opportunities for birding, wildlife watching, nature photography, viewing of wildflowers and scenic vistas. This type of outdoor recreation and tourism is growing throughout country.

(3) Sportsmen are Willing to Pay Landowners for the Privilege of Controlling Prairie Dog Populations, Potentially Bringing Significant Economic Benefits to Local Communities and Landowners.

Landowners can secure as much as \$100 a day from sportsmen who enjoy shooting prairie dogs. This is a common enterprise in South Dakota. Sportsmen travel to rural communities in South

Dakota from several states to participate--probably from Denver to Chicago. I personally know hunters who go up from Omaha.

At least one county in western Kansas is currently considering implementation of a new eradication program. The area has suffered severe drought during the past few years. Rangelands are in dire shape, livestock forage is at a premium (when available), and prairie dog colonies are expanding in acreage to sustain themselves. Would it not be better to address management and control in ways that would bring in economic resources, rather than burden landowners with a mandatory eradication program? Someone like former Kansas House Speaker Robin Jennison could greatly help to organize and develop such an alternative. A friend from Pratt County indicated recently that he knows of several prairie dog colonies that have been saved from eradication by landowners who allow a "management level" of shooting. The size of the colonies is controlled, but they are not eliminated.

It is better to harvest some prairie dogs on a sustainable basis than to poison them all. It is better to control and manage prairie dogs in partnership with landowners than to force landowners to eradicate the species in an entire county.

Some people may be surprised by explanation of the role of shooting in the overall context of prairie dog management, but Audubon of Kansas works in partnership with farm and ranch landowners, and sportsmen/women, to achieve common conservation goals. Nineteen members of our Board of Trustees are involved in ranching, farming or management of rural lands for wildlife conservation, and about half or the thirty-one members are sportsmen/conservationists. All are committed to conservation.

(4) Landowners Who Keep Prairie Dogs in Sufficient Numbers are Helping to Keep the Species From Becoming Federally Listed.

By preventing the prairie dog from becoming a Federally threatened species, regulations will not be imposed on other landowners who do not want prairie dogs. This is in their best interest--and is an objective of the Kansas Legislature.

THE STATE OF KANSAS SHOULD RETAIN STATUTORY RESPONSIBILITY FOR NATIVE WILDLIFE.

We can certainly argue that commercialized marketing of wildlife can be problematic when painted with a wide brush to include other species. However, it is an even more slippery slope to require landowners to prepare, submit and implement management and control plans for native wildlife that they may want to retain (as naturally occurring wildlife) on their land. Should a sportsman-landowner who has a wetland be required to have a county approved management and control plan, and assume financial liability for the depredation or control of blackbirds that roost in the cattails by night and flock to neighboring milo or sunflower fields, and feedlots, during the day?

Should landowners be “responsible” for preventing geese from flying from their ponds to a nearby field, and should they be charged with responsibility for herons and egrets that nest on their land and feed on fish in a neighbor’s pond? What is the responsibility of landowners who maintain habitat that is ideal for wild turkeys, deer, beaver, coyotes, and many other species of wildlife that range beyond the boundaries of any single property?

There are better ways to deal with problems of this nature than shifting responsibility for prairie dogs to the landowners who have colonies. Most landowners strive to be good neighbors without statutory requirements, and state agencies have responsibility for wildlife management programs. In addition, the K-State Extension Wildlife Damage Control Program is available to assist landowners. And, if we all work together we can come up with creative solutions.

Wildlife conservation is compatible with private property rights, and the status of wildlife as a trust of the state, but this balance could unravel if the mandatory provisions of H.B. 2027 are enacted at the beginning of this century. It would give renewed “legitimacy” to a slight variation on the antiquated laws enacted exactly a hundred years ago when views toward wildlife were much different. If we cannot come up with a more enlightened and progressive approach, it would be far better to simply repeal the prairie dog, gopher and mole eradication statutes enacted in 1903. The Nebraska Unicameral accomplished that statutory reform in 1995.

Kansas counties have authority to implement reasonable control programs under “Home Rule”. There are no compelling reasons to keep the antiquated statutes or to diminish the property rights of ranch and farm landowners in other ways by enacting H.B. 2027 as it is currently written.

--Ron Klataske

As updated February 7, 2003

LEGISLATURE OF NEBRASKA
NINETY-EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 363

Introduced by Smith, 48; Baker, 44; Burling, 33; Combs, 32;
Cudaback, 36; Engel, 17; Erdman, 47; Hudkins, 21;
Janssen, 15; Jones, 43; Kremer, 34; Louden, 49;
McDonald, 41; Stuhr, 24; Stuthman, 22; Vrtiska, 1;
Wehrbein, 2

Read first time January 14, 2003

Committee: Rereferred to Natural Resources

A BILL

1 FOR AN ACT relating to animals; to adopt the Prairie Protection
2 Act.
3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 4 of this act shall be known
2 and may be cited as the Prairie Protection Act.

3 Sec. 2. For purposes of the Prairie Protection Act,
4 destructive rodent pests means one or more rodents, including but
5 not limited to prairie dogs, ground squirrels, pocket gophers,
6 jackrabbits, and rats, that pose a threat to agricultural,
7 horticultural, or livestock concerns or to human health.

8 Sec. 3. (1) The county board may purchase materials and
9 equipment and employ one or more suitable persons to eradicate
10 destructive rodent pests within the county. Any materials and
11 equipment so purchased and compensation for such services may be
12 paid out of the county general fund or a specially designated fund
13 of such county.

14 (2) The county board may levy a tax upon the taxable
15 property within the county at the time other levies and assessments
16 are made and subject to section 77-3443 to pay for the eradication
17 of destructive rodent pests and to put into operation a plan for
18 the eradication of destructive rodent pests within the county. The
19 plan shall be in accordance with the approved procedure of the
20 Animal and Plant Health Inspection Service of the United States
21 Department of Agriculture. The county board may solicit
22 cooperation from the federal agency for the eradication of
23 destructive rodent pests and may enter into cooperative agreements
24 with federal agencies for such eradication.

25 Sec. 4. (1) No person shall release destructive rodent
26 pests into a county unless such person has complied with all
27 requirements for such release imposed by the Department of
28 Agriculture and obtained both the prior approval of the department

1 and the prior approval, by resolution duly adopted, of the county
2 board of such county. A person need not obtain such prior approval
3 before:

4 (a) Transporting destructive rodent pests through a
5 county without releasing such destructive rodent pests;

6 (b) Confining destructive rodent pests indoors or in
7 cages or similar enclosures and using such destructive rodent pests
8 for scientific purposes or as food for human or animal consumption;

9 (c) Keeping destructive rodents pests indoors or in cages
10 or similar enclosures as pets; or

11 (d) Releasing destructive rodent pests at the location
12 where such destructive rodent pests were originally taken into
13 captivity.

14 (2) The county board of any county into which a person
15 releases destructive rodent pests without the prior approval of
16 such board may:

17 (a) Require the person who released the destructive
18 rodent pests to eradicate the destructive rodent pests or remove
19 the destructive rodent pests from the county; or

20 (b) Impose a fine upon the person who released the
21 destructive rodent pests in an amount sufficient to compensate the
22 county for the cost of eradicating the destructive rodent pests or
23 removing the destructive rodent pests from the county.

6-6

Written Testimony on HB 2027
Submitted to the Senate Committee on Natural Resources

March 21, 2003

Prepared and submitted by Greg Wingfield, Charlie Lee, Bill Busby, Rob Manes, Dan Mulhern, Ron Klataske, Jerry Choate, Bill Hlavachick, Elmer Finck, Jack Cully

Honorable Senators:

We are all professionally trained biologists and members of the working group convened by the Kansas Department of Wildlife and Parks (Department) to develop a Kansas Black-tailed Prairie Dog Conservation and Management Plan (Conservation Plan). Our letter reflects our collective professional perspective as members of the working group and is not designed to represent positions of our respective organizations or agencies.

Our experience on the working group was largely a positive one, working with agricultural, landowner and conservation interests in a good faith effort to provide for the best interests of Kansans. A common objective among all parties was a strong interest in developing and implementing measures that would preclude any listing of the black-tailed prairie dog as a threatened or endangered species under federal law. Another common thread was recognition that prairie dogs are important members of the grassland ecosystem. This recognition was formalized in the Conservation Plan by a statement, tied to the plan's goal, that "The Kansas Black-tailed Prairie Dog Working Group recognizes prairie dogs and their habitat as valuable, important, and desired components of the grassland ecosystem, while also recognizing the economic and political realities that control of the species will be necessary in many instances".

Because of our experience on the working group, including the relationships we developed with other members, we do not offer our opinion lightly. We all have done our share of soul-searching, particularly in that we understand our testimony will be in opposition to the current language of HB 2027 as supported by the Kansas Department of Wildlife and Parks and other members of the working group. That said, we simply believe that HB 2027 does not accomplish the purposes of the Conservation Plan and is, in fact, fatally flawed for the following reasons.

It is evident that HB 2027 does not provide a framework that would adequately **insure** that prairie dogs will be maintained in viable populations. We believe a reasonable argument can be made that the opposite might occur and more aggressive attempts to eliminate prairie dogs could take place as a result of HB 2027. While there is the potential that landowners either desiring or tolerating prairie dogs on their property will enter into management plans to maintain some level of prairie dog population, there is the equal or stronger possibility that they will not be willing to enter into management plans, both because of the public forum that plan approval would be subject to (the County Commission approval process) and the exposure to financial risks if claims are made that "their" prairie dogs infested neighboring lands. We believe the U.S. Fish and Wildlife Service will use a standard of **assurance** – not potential – in judging whether states within the range of the black-tailed prairie dog are taking sufficient actions to secure the status of prairie dog and thus prevent listing.

Another common thread among working group members was recognition that there are few, if any, practical and fool-proof ways to keep prairie dogs from dispersing. Under certain circumstances, limiting dispersal to a minimal level is the best that can be achieved. So the working group conceived a two-pronged management plan framework that included recognition that there should be public funds and other assistance to provide incentives to landowners to accommodate prairie dog colonies, but at the same time assistance to control unwanted spread to neighboring landowners. Essentially, landowners providing prairie dog habitat and prairie dogs are providing services, including those of maintaining viable populations, meeting the Conservation Plan's goal of maintaining a target statewide acreage, and helping to prevent Endangered Species Act listing. But those services can come at a cost both to the landowner and neighboring landowners. The working group eventually came to accept that it was appropriate to consider this a societal cost worthy of state or federal funding.

These concepts resulted in the drafting and introduction of proposed legislation in 2001. Unfortunately, the specific programs and other sources of funds that would be foundation of this approach have not yet been identified and secured. But there are individuals and organizations that continue to work diligently to make this a reality.

Instead, we now have a much different approach suggested via HB 2027. This bill contemplates a system of management plans dependant on approval by the various Counties, a vague "in consultation with" tie to the Department, a prohibition that keeps the Department from establishing rules and regulations that might lend some consistency to how plans are developed, administered and judged by the various Counties, and the possibility of financial risk to individual landowners should such plans "fail". We see this as a significant departure from the foundation laid by the working group. What could have been a clear-cut demonstration that Kansas was taking actions to alleviate, improve or at worst neutralize Service-identified threats to the species, would now become inconclusive, even a demonstration that little has changed in Kansas.

Finally, but perhaps most important, we believe an absolutely unacceptable precedent would be set with passage of HB 2027 -- the precedent of making individual landowners financially responsible for native wildlife populations. For hundreds of years in this country, native wildlife have been owned by the public, held in public trust to be managed by the appropriate state agency. HB 2027 would erode that time-honored doctrine and privatize native wildlife. We believe this represents a dangerous step down a very "slippery slope" that would have far-ranging, unforeseen, almost inconceivable implications to many species of wildlife. In our opinion, this alone should be considered a fatal flaw.

We respectfully recommend that HB 2027 be tabled and that the working group be reconvened to continue refining potential legislation so that it strikes the balance of protection and control required to meet the goal of the Conservation Plan. We stand ready and willing to participate in that effort.

Kansas Black-tailed Prairie Dog Working Group

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*Senate Natural Resources Committee
Date: March 21, 2003 20
Attachment 11-1*

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Sierra Club Testimony for HB2027
JoAnn Hablutzal

The intent of HB2027 is to radically alter the way that Kansans perceive and manage the native prairie dog. For a century, Kansas law has actively promoted the eradication of this humble species which has suffered a bad reputation as a nuisance, a competitive pest and a plague-carrier. 2027 could change all of that.

The Sierra Club applauds the progressive efforts behind this proposal and strongly supports the intent of the bill, especially with respect to Section 6, which repeals outdated laws and management practices. However, we do have some concerns with the proposed legislation as it is written.

For instance, this measure does not provide a cohesive regulatory body. While Section 3b obliges the Secretary to review the proposals of the county commission or the landowner, Section 3f specifically prohibits action by the Secretary in these matters. Landowners with property that abuts or encompasses a neighboring county could present management complications beyond the jurisdiction of any one county. We believe that it is unwise to enter into a very large-scale wildlife program without the benefit of a clearly defined oversight hierarchy.

Also, the State currently lacks the funds to create and implement the sort of outreach services that are normally associated with this kind of mandate. In ecological terms, gophers, moles, and prairie dogs fill a specialty niche and require special consideration from a management viewpoint. We feel that the absence of such assistance places an unfair burden on the county commissioners and landowners who will be left to their own devices to develop complicated regulation schemes.

Finally, the Sierra Club of Kansas is not aware of any other wildlife species wherein the onus of management is on the private citizen and to the exclusion of Wildlife and Parks. Because this is a drastic departure from tradition, we recommend this body to use caution and foresight in its review of this bill.

Thank you.

Senate Natural Resources Committee
Date: March 21, 2003
Attachment 12

Sen. Stan Clark

Subject: FW: This letter is to be used by you for senate prairie dog hearing

-----Original Message-----

From: Elton & Ella Mae Keller [mailto:ekeller@cityofstfrancis.net]

Sent: Sunday, March 16, 2003 10:19 PM

To: clark@senate.state.ks.us

Subject: This letter is to be used by you for senate prairie dog hearing

"It's time for food producers to come out of the shadows and show their faces," according to Steve Kapperud, a senior vice-president of the Government Affairs Directions in Washington, D.C., which specializes in agricultural production of food, research and health-related issues. As farmers and ranchers, the asset of our profession in farming and ranching is the expertise through knowledge by college education and on-the-job training. Our family can tell you every creek, spring, trail, type of grass and animal that has graced our land. For over a century on the land, we blend with its every need and care. We are now moving into the sixth generation of caring for the land and its wildlife. As the land lives, we live.

We've seen where the eagle nests, pheasant, quail and red tail hawk fly, jackrabbit and coyote, beaver, raccoon and even mountain lion live on our land - and yes, even prairie dogs. Gulls fly along with the tractors cultivating the fields in the spring, snatching fish worms, mice, gophers and snakes. Every farmer is aware of whitetail and mule deer and their numbers in the area. Snow geese, ducks and cranes fly their usual pattern every spring and fall over our land. We as rural people know the land and its wildlife and habitat. I began helping control prairie dogs when I was a child by following my mother around the numerous prairie dog colonies. They are far from extinct, and even more numerous than years ago.

A huge problem for food producers, it seems, is communication and just how a farm or ranch in the 21st century survives. It's becoming more difficult as we are now told what, when and how to do our jobs by so-called educated professionals. Now animal activist groups are joining in the job of knowing how to care for the wildlife, their habitat and habits. We feel we are knowledgeable and capable to care and maintain or control prairie dogs, who are many more in numbers and colonies than in earlier years.

We ask that the Wildlife & Parks have no part in HB 2027. We urge you to examine this bill and please remove the words "Wildlife & Parks Service." We feel Wildlife & Parks should not have entrance to privately owned property for procedures and regulations to gather information relating to occurrences of plant or animal life on private property without written consent of the land owner. We do not agree with laws and policies that

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allow conservation easements on privately owned land, and feel that's what this law would allow.

Thank you for your interest on our behalf.

Elton & Ella Mae Keller

Cheyenne County

Sen. Stan Clark

From: Robert Grace [robert@cityofstfrancis.net]
Sent: Saturday, February 01, 2003 12:16 PM
To: sclark@ink.org
Subject: Re: Stan Clark's newsletter - Jan. 31, 2003



pdogs.jpg (143 KB)

Senator Clark:

Thanks for the email. Attached is a Colorado article on prairie dogs that I thought you might find relevant. It's from the Jan/Feb issue of "Colorado Outdoors" magazine.

I'm not sure that it answers any of your questions, but it does indicate that the National Wildlife Federation errored greatly--by a 6X factor--in their petition.

Take care.

-Robert

01/31/2003 3:35:50 PM, "Sen. Stan Clark" <sclark@ink.org> wrote:

>
> With all the problems confronting the state, its citizens
> and the residents in my district, I spent most of this week working
> on Prairie Dog testimony. Why? In the scheme of things isn't there
> more important
things
> to do?
>
>
>

STUDY FINDS BLACK-TAILED PRAIRIE DOGS OCCUPY GREATER RANGETHAN THOUGHT

A just-completed, comprehensive rangewide aerial study by the Colorado Division of Wildlife shows that prairie dogs occupy about 631,000 acres in the state, more than six times the acres reported by the National Wildlife Federation in their 2000 petition to the U.S. Fish and Wildlife Service (USFWS) asking for a listing of the black-tailed prairie dog as threatened under the Endangered Species Act (ESA).

Greg Walcher, Executive Director of the Department of Natural Resources, said the results were as he expected.

"Two years ago when we sent a letter to the Fish and Wildlife Service asking them not to put prairie dogs on the endangered species list, we were confident that Colorado's population was far larger than early predictions and reports," said Walcher. "We can now study on a broader scale, with the knowledge that our efforts to ensure the survival of the species are working."

The intensive, yearlong study came in response to a February 2000 petition for listing to the Fish and Wildlife Service by the National Wildlife Federation. To complete the survey, Division field personnel flew 475 hours and about 28,000 miles over the entire range of the black-tailed prairie dog, the Front Range and Eastern Plains.

The first black-tailed prairie

dog study, done in June 1998 by Fauna West Wildlife Consultants of Boulder, Mont., looked primarily at data from northeast Colorado and the metro Denver area. It determined that prairie dogs occupied only 44,000 acres in Colorado. The Fish and Wildlife Service examined the numbers for a year, and estimated in February 2000 the black-tailed prairie dog's range in Colorado to be about 90,000 acres.

"We knew it was an error," said Russ George, Director of the Division. "It was our goal to conduct a thorough rangewide survey that would result in more succinct numbers and the best science by which to study the species - I am pleased that we have reached that goal."

Of the prairie dogs found, 87 percent were in eastern Colorado, and 13 percent were in the northern Front Range within Adams, Arapahoe, Boulder, Denver, Douglas, Elbert, El Paso, Jefferson and Larimer counties. Denver County was not flown because of airspace closures around Denver International Airport.

All 11 states in the black-tailed prairie dog's range, including Colorado, are developing management goals to help conserve the species to ensure that federal listing does not occur.

The Division has a grassland species working group that will help in defining conservation measures needed for these species, including the prairie dog. It consists of affected interests such as developers, ranchers and animal welfare, environmental and economic representatives, as well as federal and

Sen. Stan Clark

From: Paula & Perry Keller [pkeller@ruraltel.net]
Sent: Wednesday, February 12, 2003 4:59 AM
To: Senator Stan Clark
Subject: HB 2027(Prairie Dog Legislation)

Senator Clark:

Thank you for the material you sent via USPS re: the above-referenced bill in committee currently. I'm taking the liberty to give you my feedback on this material, since I believe it is important that you hear from your constituents on this issue.

Several important points stand out to Perry and I after a cursory scanning of the documents submitted by Ric Frost. These are:

1. Virchow and Hygnstrom's research that concludes that *"recent determination to list the species as threatened under the Endangered Species Act is flawed because presettlement distribution and abundance were not carefully considered;"* also,
2. The White Paper dealing with liability of state agencies and local governments under the Endangered Species Act which summarizes *"After several years of ESA listings, state and local governments have learned that the sky has not fallen. Far from it, we are aware of no state agencies, counties, or cities that have been found liable for 'take' of ESA-listed salmon or steelhead because of their regulatory and permitting decisions."* (Perkins Coie, LLP, "A White Paper")

My question is, did the various organizations that put their stamp of approval on this proposed legislation (KLA, Wildlife & Parks, etc.) have this information before compiling this bill? I would think it would be very instructive for them, if not. Also, if HB 2027 is born out of the threat of a lawsuit (listing prairie dogs on the ESA), then it's terrible legislation, in my opinion. Aren't we a state where laws are based on need versus being threatened to legislate?

3. Mr. Frost states *"The push by the NWF to change the status of the prairie dog from rodent to fur-bearing wildlife and to move the management of the species from the Department of Agriculture to the various State Wildlife and Game Departments is obviously an attempt at . . . superseding or limiting. . . the functions of the Secretary of Agriculture. . ."* in protecting agriculture and *". . . controlling range-destroying rodents . . ."*. This is the strategy involved here. As a result, it makes it much more difficult for the landowners to defend their rights without the Secretary of Agriculture's authority over all this.

4. Mr. Frost also says, *"A species used to shut down an industry for whatever reason has shown time and again the same basic template: find a candidate species for listing, threaten or enact listing measures on the target industry and states, force a management plan development through the threats of listing, get Federal agencies to incorporate the management plan into their operations, impose further restrictions on that target industry or*

2/12/2003

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region until that target dies on the vine." Again, the strategy of these "green" groups needs to be exposed.

Senator Clark, I wish you all the best in your efforts in fighting this legislation. I pray that the House Agricultural Committee will see the value in hearing from Mr. Frost, as I feel he has much valuable information they should have. Please keep us advised of the status of this legislation. Thank you for your efforts thus far.

Paula & Perry Keller
St. Francis, KS
78/332-2209

Sen. Stan Clark

From: Tom Keller [tomk@ruraltel.net]
Sent: Monday, January 27, 2003 10:40 PM
To: clark@senate.state.ks.us
Subject: Hearings on black tailed Prairie dog as an endangered species.....

I was just made aware that there will be hearings this week on the above mentioned subject. I would like to voice my opinion regarding the management of prairie dogs. My background as a farmer, rancher, veterinarian, and now banker, allows me to make observations of the effect of prairie dogs on our rural ecosystem. Most landowners realize the detrimental effect of various pests on their real estate. Whether these pests are plants or animals, they will cause economic losses to a land owner. In most cases a few isolated pockets of these animals are tolerated. In many cases the prairie dogs are found on property that is not closely managed or maintained. Peer review by other land owners often criticize the land owner that allows such pests to overrun their property. The problem with such pests is the fact that even a few can multiply rapidly and become a problem in a short period of time. The shortage of roughage for grazing livestock due to the drought, is only worsened by the competition for the limited grass. The public health concerns for the various zoonotic diseases harbored by the prairie dog are also a concern.

I also question the means by which the estimated population of the animals is determined. It has been my observation that in Cheyenne County these little critters are holding their own quite well without the protection by the state or federal government. In my discussions with various ranchers I sense that there has been an increase in the number of active prairie dog towns in our county. I also find it interesting that a just recently completed, comprehensive rangeland aerial study by the Colorado Division of Wildlife in our neighboring state found that prairie dogs occupy about 631,000 acres in the state of Colorado. This observation is more than six times the acres reported by the National Wildlife Federation in their 2000 petition to the U.S. Fish and Wildlife Service asking for a listing of the black-tailed prairie dog as a threatened under the Endangered Species Act. If there is that much discrepancy in the state of Colorado, could the numbers also be questioned in other High Plains states. I would wonder if a similar study in Kansas might find similar results. I can not speak for the incidence and detrimental effect of prairie dogs in other regions of Kansas, but in Western Kansas they are a problem.

1/28/2003

13-7

Sen. Stan Clark

From: Kay Shay [shayrealty@cityofstfrancis.net]
Sent: Monday, March 17, 2003 7:24 PM
To: Clark, Stan
Subject: Prairie Dog bill

Dear Stan:

I am not sure of the exact bill which your Senate committee is debating. I called today to get an update, but didn't get a real person. So I will just tell you what I have observed about one of the effects of prairie dogs on our ag economy.

I would like you to tell the committee that in addition to the obvious and well-known problems created by the rodents (including competition for grass, hazards to livestock and horses, increase in rattlesnake population, and possible health hazards), prairie dogs create a very real economic problem for the cattlemen of Kansas.

As a Realtor and real property appraiser, I can verify that grassland infested with prairie dogs will sell anywhere from 15% to 25% less than pasture that is free of the rodents. When I appraise grassland, I must take into consideration its condition. Being infested with prairie dogs creates physical depreciation which results in a lower appraised value for the land.

With the poor ag economy, cattlemen don't need the additional worry of losing part of the value of their property because of prairie dogs.

Thanks for all you do, Stan.

Rodney Shay
Broker, KS-CO-NE
Certified General Appraiser, KS-CO-NE

3/17/2003

13-8

Sen. Stan Clark

From: cvhorses [cvhorses@sunflowertelco.com]

Sent: Wednesday, February 05, 2003 4:53 PM

To: sclark@ink.org

I support the elimination of prairie dogs in Kansas. As a self-employed horse trainer and cattleman, my husband and I both believe strongly that the prairie dogs are nothing but a danger to ourselves and livelihood. The dangers of checking cattle in the pasture are an everyday threat to our horses as well as them just being turned out in a pasture to graze. I don't believe we'll ever be able to totally get rid of the prairie dog population in Kansas but I do believe in supporting any cause that would give us the ability to do what we must to protect ourselves and our investments. I do not know of anyone that raises cattle or horses who believes different. Like I said, we'll never be able to totally rid ourselves of these pests. The supporters of a nuisance they know nothing about will always be able to drive down many Kansas roads and see these "wonderful" creatures that we have to live and deal with everyday. Thousands of people (I'm sure more) in large cities do anything possible to trap, poison, and any other way kill rats and roaches that invade their lives...We are asking for the same consideration. A prairie dog is a Kansas rat.

Please do whatever you can to help us rid ourselves of these pests as much as we can.

Thank you for your efforts,

Danielle Crouch

2/9/2003

13-9

Stan Clark

From: Dan Schlittenhardt [cnnoxiousweed@hotmail.com]
Sent: Monday, February 03, 2003 10:42 AM
To: sclark@ink.org
Subject: prairie rodents

Dear Mr. Clark,
Thank you for taking a stand for common sense!! Prairie rodents need to be eradicated instead of managed. I agree the wording needs to be changes to counties instead of townships, but that's about it.

Ranae Pilkington, Secretary
Cheyenne County Noxious Weed
Cheyenne County Road & Bridge

MSN 8 helps eliminate e-mail viruses. Get 2 months FREE*.
<http://join.msn.com/?page=features/virus>

Sen. Stan Clark

From: Elfriede Cooper [elfriedecooper@hotmail.com]
Sent: Monday, February 03, 2003 2:08 PM
To: sclark@ink.org
Subject: Prairie Dogs

Hello,

I just received a copy of your newsletter.

If prairie dogs were called what they really are (PRAIRIE RATS) people's point of view might be different. I live in Colby where we owned pasture property with our house and barns on it. We had too many prairie dogs that dug holes, and in turn attracted snakes. One of our horses was bit in the head and nearly died. Only the effort of a vet and a very large bill saved him.

We need to remind everyone that this is a world for people first. The preservation of rodents should not be an issue.

Keep on going,

Elfriede Cooper
elfriedecooper@hotmail.com

Get more from the Web. FREE MSN Explorer download : <http://explorer.msn.com>

Sen. Stan Clark

From: Danjkeller1@cs.com
Sent: Monday, January 27, 2003 10:00 PM
To: clark@senate.state.ks.us
Subject: Prairie dog legislation

Dear Senator Clark

I am a land owner in Cheyenne County with about a section of pasture where we run cows. I have heard that the Kansas legislature is considering introducing a law to make prairie dogs an endangered or protected species. Any study that the animal rights extremists put forward on prairie dogs is nothing but "junk science." One study I read said that over 99% of the prairie dog population has been killed and that it was one large prairie dog town from Canada to Mexico. They have no real evidence to back this up.

I could tell you all the reasons prairie dogs should be destroyed but then the extremist would just say that due to ranchers extermination efforts, they are going to totally killed out. The bottom line is that ranchers have been trying to destroy them for 100 years and have not succeeded. Just like a rat or the coyote, this rodent will out wit any effort of man to get rid of them.

The only reason that the extremists are pushing this erroneous science is because we ranchers are in a small segment of the voting public which they feel can be overpowered by their environmentalists voters & lobbyists. They have no right to impose their will over our land.

Please vote no on this legislation.

Thank you,

Dan Keller

Dan Keller
DanJKeller1@cs.com

1/28/2003

13-12

Sen. Stan Clark

From: gordon and betty orth [orth@kans.com]
Sent: Sunday, March 16, 2003 5:46 PM
To: clark@senate.state.ks.us
Subject: Comments on Prairie Dog Legislation

Senator Stan Clark:

We would like to take this opportunity to voice our concerns regarding the Kansas Wildlife Department taking over the control of prairie dogs.

We are in the livestock business and prairie dogs destroy our pastures. If left uncontrolled, there will be no grass for anyone's livestock.

Prairie dogs need to be eradicated from all pasture land. Those individuals who do not control the prairie dogs and they move into our pastures should be fined. We feel the county weed department needs to have the authority to eradicate prairie dogs and bill those who do not control them and prairie dogs are allowed to move into our pastures and fields and our neighbors pastures and fields.

We do not want the Kansas Wildlife Department taking control of this prairie dog eradication issue because when the prairie dogs need controlled we cannot wait until the "department" gets around to it.

We cannot afford to share our grassland and/or fields with rodents.

If an individual wants prairie dogs on his land, then he better well, keep them there. We have no problem with him having them, as long as they don't come on our land.

Gordon and Betty Orth
St. Francis, Kansas
785-332-2540

Marvin and Veda Orth]
St. Francis, Kansas
785-332-2453

Roger and Terri Orth
St. Francis, Kansas
785-332-3929

3/17/2003

13-13

Sen. Stan Clark

From: GERALD FEIKERT [gerald@ruraltel.net]
Sent: Sunday, March 16, 2003 8:33 PM
To: clark@senate.state.ks.us
Subject: prairie dogs

Senator Clark

Regarding the prairie dog bill coming before you, I live in Cheyenne Co. I do not think that we need Fish and Game or any government entity involved in the prairie dog issue. These "pests" should be eradicated and the local government (commissioners) need to be in control of this very basic issue. Control needs to be kept at a local level.

Not only are these "pests" a health hazard, due to the **severe drought** in the area they eat a lot of grass in this area and there is a large number of prairie dogs in the northwest area of this county. I, myself, and neighbors are trying to keep them in control.

Gerald K. Feikert
R. R. 3 Box 375
St. Francis, Kansas 67756
785-332-3050

3/17/2003

13-14

Sen. Stan Clark

From: Robert Grace [RobertGrace@compuserve.com]
Sent: Sunday, February 09, 2003 6:57 PM
To: Senator Stan Clark
Subject: prairie dog comments

Sen. Clark:

I looked over the prairie dog info that you sent. Thanks.

I think that the study which casts into doubt the number of pdogs which existed a century or two ago is relevant: one of the strong arguments for pdog protection is that their numbers have been reduced to 1-2% of the original number. If the original number is suspect, then so is one of the prime arguments for endangered species protection.

Still, I think that there exists a simple and effective solution to this problem.

It is this: the agencies which would like to protect pdogs (EPA/NWF/whomever) need to simply pay pasture owners rent in return for the pasture owners hosting the dogs. I see this along the lines of a CRP program: the lowest bidders get the dogs and the payments, along with a contract. The contract would stipulate that the recipient of the payments allow the dogs to live unmolested, and further, to keep the dogs from leaving their property onto the neighbor's land (unless the neighbors are also signed up.) By bidding it, the taxpayers would get the lowest cost.

This concept has several benefits:

-First, it solves the NIMBY issue. Right now, those who want dogs want them on someone else's property (few NWF members would literally allow pdogs in their lawns and gardens, but they want ranchers to host them at no charge, apparently), and those who have the property want neither the pdogs (because they reduce property values and alienate the neighbors) nor the intrusion into their collective rights to control their own property.

-Next, it puts a realistic value onto the pdog protection concept. If the EPA/NWF would decide how many pdogs they want to protect (they surely know this number?!), and then divide by the number of pdogs/acre that they know is appropriate, and finally multiply by the estimated cost per acre of renting the land, they'd have an annual value (plus administrative and research costs) that the program would cost. This number would be trumpeted by the press, and then taxpayers could decide whether or not pdog protection is worth what it realistically costs we taxpayers. Those taxpayers might decide that it's worth the money, or they might not, but right now the idea seems to be that we can protect the pdogs at minimal expenditure. And, naturally, many people would support that idea-- it's a "free lunch."

Before all of this could be done, however, there would have to be some research into stopping pdogs from moving from one pasture to the next. In my personal experience, I don't mind having a few pdogs in the corner of a pasture, but I certainly don't want them to migrate onto a neighbor's property, nor take over my pasture with their (sometimes) rapid expansion.

But it's tough in the real world to control the critters: they send out scouts and expand. If there is a solution to this problem, it needs to be found before my rental solution can be implemented. If a solution can't be found, then those who want to protect the dogs need to publicly admit to this serious shortcoming in their logic.

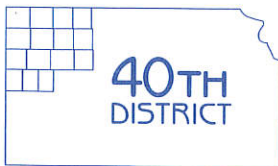
Next, there would be need to be some education done: many people hate pdogs with such a passion that they don't even want them on their neighbor's land. If those people could be confident that the "pdog ranches" were required by contract to stop out-migration, and that effective methods were extant to allow this to be accomplished, then I think that the neighbors would be mollified--if not happy--about the concept.

I hasten to add that I don't like government programs which pay farmers any more than anyone else, but this proposal is very straightforward: it's a simple rental contract.

not really any different than renting pasture out for cattle, except that the a is smaller and of less obvious value.

Have a great day.

-Robert



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**TESTIMONY BEFORE THE
 SENATE NATURAL RESOURCES COMMITTEE**

**HB 2027
 MARCH 21, 2003**

Chairman Tyson and members of the committee:

My main source of information is Ric Frost, policy analyst for the Range Improvement Task Force of New Mexico State University, who has been studying Prairie Dogs and the Endangered Species Act for the past 4 years. A number of ranchers and myself in western Kansas offered to pay his way to testify before you today but he had prior commitments that he could not cancel. Any question that I cannot answer, I will gladly call or email him for an answer.

I am here to testify against HB 2027. This bill is part of a concerted effort at both the national and state level to manage and control private property. It is stalled in Congress and I ask for your help in keeping this bill in your committee.

Congress created the Endangered Species Act in 1973 in response to a treaty that was ratified two years later in 1975. Congress did not declare that the Endangered Species Act would supersede any existing law, an action that Congress specifically would have to declare, in fact part of the Endangered Species Act [Title 16, Chapter 35, Section 1540] says:

Section 1540 – Penalties and enforcement

(h) Coordination with other laws

The Secretary of Agriculture and the Secretary shall provide for appropriate coordination of the administration of this chapter with the administration of the animal quarantine laws (21 U.S.C. 101-105, 111-135b, and 612-614) and section 306 of the Tariff Act of 1930 (19 U.S.C. 1306). **Nothing in this chapter or any amendment made by this chapter shall be construed as superseding or limiting in any manner the functions of the Secretary of**

1 *Senate Natural Resources Committee*
Date: March 21, 2003
Attachment 14-1

Agriculture under any other law relating to prohibited or restricted importations or possession of animals and other articles **and no proceeding or determination under this chapter** shall preclude any proceeding or be considered determinative of any issue of fact **or law** in any proceeding **under any Act administered by the Secretary of Agriculture**. Nothing in this chapter shall be construed as superseding or limiting in any manner the functions and responsibilities of the Secretary of the Treasury under the Tariff Act of 1930 (19 U.S.C. 1202 et seq.), including, without limitation, section 527 of that Act (19 U.S.C. 1527), relating to the importation of wildlife taken, killed, possessed, or exported to the United States in violation of the laws or regulations of a foreign country

So what are the Acts administered by the Secretary of Agriculture? I cite two, USC Title 7, Chapter 17 – Miscellaneous Matters, and USC Title 16, Chapter 3, Subchapter I, General Provisions. In Title 7, Chapter 17, Section 426 states:

§ 426. Predatory and other wild animals; eradication and control; investigations, experiments, and tests by Secretary of Agriculture; cooperation with other agencies

The Secretary of Agriculture is authorized and directed to conduct such investigations, experiments, and tests as he may deem necessary in order to determine, demonstrate, and promulgate the best methods of eradication, suppression, or bringing under control on national forests and other areas of the public domain as well as on State, Territory, or privately owned lands of mountain lions, wolves, coyotes, bobcats, prairie dogs, gophers, ground squirrels, jack rabbits, brown tree snakes, and other animals injurious to agriculture, horticulture, forestry, animal husbandry, wild game animals, fur-bearing animals, and birds, and for the protection of stock and other domestic animals through the suppression of rabies and tularemia in predatory or other wild animals; and to conduct campaigns for the destruction or control of such animals: Provided, That in carrying out the provisions of this section the Secretary of Agriculture may cooperate with States, individuals, and public and private agencies, organizations, and institutions.

This is not an obsolete, obscure Federal law, it has been amended twice in the last 4 years and, in my opinion, strengthened both times.

§ 426b. Authorization of expenditures for the eradication and control of predatory and other wild animals - The Secretary of Agriculture is authorized to make such expenditures for equipment, supplies, and materials, including the employment of persons and means in the District of Columbia and elsewhere, and to employ such means as may be necessary to execute the functions imposed upon him by section 426 of this title.

In Title 16, Chapter 3, Subchapter I (Granger-Thye Act of 1950)

§ 580h. Range improvements from appropriated funds

Of the moneys received from grazing fees by the Treasury from each national forest during each fiscal year there shall be available at the end thereof when appropriated by Congress an amount equivalent to 2 cents per animal-month for sheep and goats and 10 cents per animal-month for other kinds of livestock under permit on such national forest during the calendar year in which the fiscal year begins, which appropriated amount shall be available until expended on such national forest, under such regulations as **the Secretary of Agriculture**

may prescribe, for (1) artificial revegetation, including the collection or purchase of necessary seed; (2) construction and maintenance of drift or division fences and stock-watering places, bridges, corrals, driveways, or other necessary range improvements; **(3) control of range-destroying rodents; or (4) eradication of poisonous plants and noxious weeds, in order to protect or improve the future productivity of the range.**

Note –The Secretary of Agriculture has discretion on how to spend the fees, in fact, we passed a resolution on Wednesday to encourage her to spend part of is on item #4, eradication of noxious weeds (sericea lespedeza).

Clearly, Congress gives the Secretary of Agriculture the duty to eradicate range destroying rodents - prairie dogs and noxious weeds.

Another intent of Congress built into the Endangered Species Act, in terms of recognizing Constitutional issues, was the issue of state's rights over wildlife as asserted by the 10th Amendment. The following subsection appears in USC Title 16, Chapter 35, Section 1533, Determination of endangered species and threatened species.

(d) Protective regulations

Whenever any species is listed as a threatened species pursuant to subsection (c) of this section, **the Secretary shall issue such regulations** as he deems necessary and advisable to provide for the conservation of such species. The Secretary may by regulation prohibit with respect to any threatened species any act prohibited under section 1538(a)(1) of this title, in the case of fish or wildlife, or section 1538(a)(2) of this title, in the case of plants, with respect to endangered species; except that with respect to the taking of resident species of fish or wildlife, **such regulations shall apply in any State which has entered into a cooperative agreement** pursuant to section 1535(c) of this title only to the extent that such regulations have also been adopted by such State.

Prior to the Endangered Species Act, a Supreme Court opinion (Missouri V. Holland, S.Ct. 609, 1920) held, “. . . the treaty-making power of the National Government is so limited by other provisions of the Constitution, including the Tenth Amendment, that it cannot divest a State of its police power or of its ownership or control of its wild game. . .”

Current State law states on page 2, line 8 of the bill states that people will be employed **“to destroy prairie dogs.”** On page 3, lines 9 and 10 it says that **prairie dogs will be exterminated.** On line 28 it talks about **“eradication of prairie dogs.”**

There is a push by the National Wildlife Federation to change the status of the prairie dog from rodent to fur bearing wildlife and to move the management of the species from the Department of Agriculture to the various State Wildlife and Game Departments. This is an obvious attempt at “...superseding or limiting ...the functions of the Secretary of Agriculture... in protecting agriculture and ...controlling range-destroying rodents...” This attempt to change the status is also the National Wildlife Federation’s recognition of the power of the Secretary of Agriculture I highlighted at the start of this testimony. You have the power today to stop this nonsense. It is existing law.

What will happen if you don’t?

Turn to attachment 1 - Kansas Department of Wildlife and Park’s Kansas Black-tailed Prairie Dog Conservation & Management Plan:

1. On page 5- . . . Cases of human death from Plague carried by prairie dogs have been documented. . . .”
2. On page 8- “Plague has been documented in western Kansas.”
3. On page 16- “Implementation Priority II – Develop a coyote blood test to monitor Plague.” There have been 3 major outbreaks of Bubonic Plague in world history in which 137 million people died.

Why would we as a state, spending millions of dollars on biosecurity, consider changing from *eradication* to *manage* this known carrier of the fleas that cause the Plague?

4. Turn back to page 5 . . . “prairie dogs cause the worst damage by any wildlife species in the state. They damage hundreds of thousands of dollars to crops, pastures, earthen dams, airports, and golf courses annually.” Don’t people and livestock deserve respect?
5. On page 6 – “In 1956, a study indicated that there was 57,045 acres of prairie dog towns in Kansas” Three studies since then have been conducted but the population of prairie dogs have remained relatively constant.
6. On page 10 – “Objective 1.3 –
Maintain at least 130,000 acres of Black-Tailed Prairie Dogs in Kansas. . . .
10 year goal of increasing acreage to 150,000 acres.

7. Appendix 3 is the study that determined that there currently are 130,000 acres of prairie dog towns in Kansas.”

I have no idea how many acres of prairie dog towns exist, the latest study shows there over 3 times as many acres today as existed 10 years ago and twice as many acres today as existed 50 years ago. With that kind of growth why do we need this bill? Do you put any credibility in the National Wildlife Federation’s claim that we currently have only 1% of the Prairie Dogs that we had 100 years ago? Do you really believe that there was over 20,000 square miles of Prairie Dogs in Kansas then? Instead of writing about dust storms and drought and being over run by jack rabbits, our ancestors would have talked about being overrun by prairie dogs. It’s just false!

I am sure that many of you receive the “Environment & Climate News.” The January 2003 issue (attachment 2) contains an interesting article titled: Saving Prairie Dogs. . .to Kill Them . The article described the planning process in implementing a Management Plan. Public hearings, extensive public participation are part of the process. The final Plan provides for “hiking, camping, hunting and recreational shooting of unregulated wildlife.”

The US Fish and Wildlife Service (FWS) then decided to introduce black-footed ferrets into the area.

Without any hearings, BLM closed the area to all hunting.

“The federal government is not seeking to protect the prairie dog because they are listed under the endangered species act. Nor is the federal government seeking to prevent the shooting of ferrets. . . . The government is seeking is to save prairie dogs so the ferrets can eat them. They said, “the prairie dog colony provides prey base and habitat for the survival of the ferrets.” The natural extension of this interpretation is mind boggling: Any plant or animal could be placed off-limits because it is used as food or shelter by a plant or animal protected by the Endangered Species Act!

Look at the proposed language in Section 3 of the bill (page 2 starting at line 22). *(a) Prairie dogs are a species of management concern requiring both control and protection. Species of management concern or its habitat, or both, are of value ecologically and aesthetically.* **LOOK!** We are giving up our property rights to Wildlife and Parks not only for prairie dog control but management of habitat also! Current law is very clear: “Destroy, Exterminate and Eradicate.” Do you want Wildlife and Parks to have the power to determine how you use your land based on aesthetics? They are trying to turn our ranches into parks! We have enough problems in western Kansas, let’s not create another one! The current language has served us well for 100 years, I shudder to speculate how this will be interpreted 100 years from now.

The step by step tactics in attempting to force you and the Federal Government into action is described (in attachment 3). It was taken from the National Wildlife Federation website. This describes how they are forcing you and the Federal Government into action. Let's admit it up front, Ranchers have a bulls-eye painted on them now! And the mode of operation is always the same:

1. Find a candidate species for listing,
2. Threaten or file listing measures on the target industry and states,
3. force a management plan through the threats of listing,
4. Get Federal agencies to incorporate the management plan into their operations,
5. Impose further restrictions until the target dies on the vine.

Pay particular attention to the Nov. 1998 item. Notice that Turner Broadcasting was involved. Remember that Ted Turner is the largest land owner in Kansas. I wouldn't put it past some individuals to develop a management plan and then they would try to introduce Ferrets.

If you pass this legislation you are in favor of:

1. Changing the classification of a Prairie Dog from a "rodent" to a "fur-bearing animal."
2. Changing Kansas' working relationship from USDA to the Dept. of Interior and their Kansas counterpart – Kansas Dept. Of Wildlife and Parks
3. Changing "eradication" to "manage and control"
4. Start implementing the Kansas Black-tailed Prairie Dog Conservation & Management Plan whose goal is to have 20,000 more acres of Prairie Dogs by 2012.
5. Make the prairie dog eligible for listing as an endangered species.
6. You want to wave the white flag and surrender Kansas' sovereignty and only hope for control on this matter and you will be lead down the primrose path of compromise, compromise, compromise and turn into a pitiful lackey and eventually die on the vine.

Please look at the coordinated action by environmental organizations at the Federal level as set forth in attachment 4. On December 20, 2001 at 11:45 pm, Sen. Henry Reid from Nevada, called for "unanimous consent" to pass S. 990 – The American Wildlife Enhancement Act of 2001. With only 3 Senators present, the bill had **NO** hearings, **NO** debate, **NO** vote, just "unanimous consent on the last night in session for the year.

On Nov. 15, 2002 at two thirty-five in the morning the US House of Representatives at the motion of Rep. James Hansen from Utah, with **NO** hearings, **NO** debate, **NO** vote, just “unanimous consent” passed the same bill with a \$1 billion price tag.

What was in this bill?

- Creates a new category in the Endangered Species Act. Currently we have “Endangered Species” and “Threatened Species,” it adds “species at risk.” It provided \$150 million per year to “environmental organizations” to enforce this new category.
- Gives \$50 million per year to states for “cooperative conservation” plans that include “property acquisition.”
- Gives \$50 million per year for “shrubland and grassland” conservation. Grass and shrubs are defined as: Grass and Shrubs; and areas “historically dominated” by grass and shrubs; and areas that “if restored to natural grassland or shrubland, would have the potential to serve as habitat for endangered species, threatened species, or species at risk.”

Thankfully, we alerted our US Senators to stop a motion to concur and this nonsense did not become law. Part of my correspondence with Sen. Robert’s office follows:

-----Original Message-----

From: Stones, Harold (Roberts) [mailto:Harold_Stones@Roberts.senate.gov]
Sent: Friday, November 22, 2002 9:08 AM
To: sclark@ink.org
Subject: RE: s. 990

Well, it sounds as if it has been handled, but it was my experience, dealing with federal regulatory issues for bankers for 30 years, that you NEVER REALLY win, you just delay, if you're lucky. A bureaucrat, properly dedicated, will bring the same issues up time and time and time again until he/she finally achieves them, or retire. So constant vigilance is necessary. A little like my Dad used to say. He wondered why bond issues are voted on time and time again if they lose, and only once when they pass. He thought the money should be held in escrow until at least two more elections, if successful. Sort of "best 2 out of 3", but he wasn't very successful in selling his idea.....

Best Holidays to you.

There are new chairmen of the U.S. House and Senate Environment Committees (attachments 5 & 6). They are men who believe in property rights and they are headed in the right direction, let us not let them down by selling out today.

Committee members, Prairie Dog State Park is in my district, as is Prairie Dog Creek, Prairie Dog Golf Course and thousands of acres of Prairie

Dog Towns. I enjoy reading the Prairie Dog Press and the World's largest Prairie Dog is less than 2 ½ miles from where I live. We now have new chairmen in both the US House and Senate Environment and Natural Resources Committees that will stand against the radical environmentalists, I ask you to do the same today.

If I haven't convinced you yet, please grant me one favor. Make the management plans apply only: **"In counties where there are more people than prairie dogs . . ."** If prairie dogs are *endangered species*, or *threatened species*, or *species at risk*, I would assert that people in western Kansas and their habitat deserve the same protection.

I will gladly stand for questions.

Attachment #1
Sam Clark

KANSAS BLACK-TAILED PRAIRIE DOG CONSERVATION
& MANAGEMENT PLAN

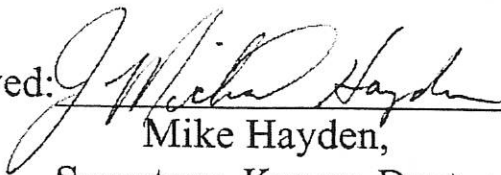


Prepared by:

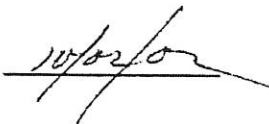
Kansas Black-Tailed Prairie Dog Working Group

July, 2002

Approved:


Mike Hayden,

Date:



Secretary, Kansas Dept. of Wildlife & Parks

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Overview of the Conservation and Management Plan

The Kansas Black-Tailed Prairie Dog Conservation and Management Plan is designed to minimize and potentially eliminate the current threat to prairie dog populations as listed in the US FWS 12-month finding published in the Federal Register (Feb 4, 2000: Vol. 65, No. 24). The five threats are as follow:

1. Present or threatened destruction, modification, or curtailment of its habitat or range.
2. Over utilization for commercial, recreational, scientific, or educational purposes.
3. Disease or predation.
4. Inadequacy of existing regulatory mechanisms.
5. Other natural or manmade factors affecting its continued existence including Control (Poisoning) and Habitat Fragmentation.

Summary of the Threats

1. **Habitat loss:** Population declines related to loss of black-tailed prairie dog habitat across its range can be traced to conversion of prairie grassland to farmland, urbanization, habitat conversion (conversion of grassland and savanna to shrubs), vegetative succession and fragmentation. The Service's 12-month finding rated habitat loss as a moderate threat.
2. **Over-utilization / Unregulated Shooting:** Over-utilization for recreational purposes is primarily related to shooting. Shooting contributes to population fragmentation and reduction in colony productivity and health, causes some loss of non target species and may preclude or delay recovery of colonies reduced by other factors such as Sylvatic plague. Shooting can significantly impact colonies in areas where shooting is intense or persistent over an entire year. Prairie dog shooting was uncontrolled in all 11 states within the range in 1998. The Service rated shooting as a low threat in the 12-month finding.
3. **Plague:** Bubonic plague, referred to as Sylvatic plague in wild animals, is the major disease affecting black-tailed prairie dogs and has the potential to decimate complete colonies or complexes within one season. There is currently no treatment for plague in prairie dogs or a known preventative measure that is effective. Plague was rated as a moderate threat in the 12-month finding.
4. **Inadequate Regulatory Mechanisms – Pest Status and Unregulated Poisoning:** The black-tailed prairie dog was classified as a pest by all states within its historic range at the time the listing petition was filed in 1998. Some state statutes required eradication and all states permitted uncontrolled take in 1998. The major federal land management agencies, Bureau of Land Management, and Forest service, manage prairie dogs to meet multiple –use objectives, and allowed poisoning before the black-tailed prairie dog was added to the candidate species list.
5. **Other Natural or Manmade Factors:** Extensive poisoning was conducted throughout most of the black-tailed prairie dog's range from 1912 to 1972 in order to reduce forage competition between prairie dogs and domestic livestock.. Control by poisoning occurs at a lesser but significant rate today. Currently, USDA, APHIS – Wildlife Services is the primary federal agency contributing to prairie dog control through assistance to private landowners and direct control programs. In some states county weed and pest districts, state departments of agriculture, and state extension service provide financial or extension assistance to landowners for control of prairie dogs. Control by poisoning was rated as a moderate threat in the 12-month finding.

Description

The black-tailed prairie dog (*Cynomys ludovicianus*) is a diurnal, burrowing rodent, almost 15 inches in length, including a 2-inch, black-tipped tail. It is yellowish buff in color and weighs up to three pounds.

Life History

Black-tailed prairie dogs are highly social animals. They live in colonies or towns, which cover from one acre to thousands of acres of grassland habitat typically in short or mid-grass prairies. A family group, or coterie, is made up of an adult male, one to four breeding females and their offspring younger than two years of age. With the emergence of young, coteries can number as many as 40 individuals (Hoogland 1996). Black-tailed prairie dogs are active all year long, but during extremely cold weather will remain underground for several consecutive days.

Black-tailed prairie dogs become sexually mature in the second February or March following birth (Hoogland 1995). Breeding season varies with latitude. It starts in January in the southern parts of its range and continues into April in the northern part (Hoogland 1996). They normally have one litter per year and litter sizes range from one to eight young. However, due to mortalities, on the average, only three individuals survive and come above ground. Pups emerge at about 41 days and will stay with their natal coteries for a minimum of two years (Hoogland 1996). Prairie dogs have been documented to live up to eight years in the wild (Foster and Hygnstrom 1990).

Black-tailed prairie dogs are herbivores and feed on a variety of vegetation including grasses and forbs (Koford 1958), and to a lesser extent seeds and insects (Foster and Hygnstrom 1990). Short-grass species commonly eaten by prairie dogs include buffalo grass (*Buchloe dactyloides*) and blue grama (*Bouteloua gracilis*). Estimates suggest that it takes 256 prairie dogs to eat as much as one cow eats in one month (Koford 1958). Grasses and other vegetation are clipped close to the ground to allow for a greater range of sight. The digging actions of prairie dogs contribute to enhancing soil structure, water filtration, and forb growth.

Prairie dogs and their colonies are used by a wide variety of wildlife species. A number of species prey on prairie dogs, and in the case of the black-footed ferret (*Mustela nigripes*), have become very specialized in killing this communal rodent (Koford 1958). Because the black-tailed prairie dog influences ecosystem functions through its activities in unique and significant ways, it is considered by some as a keystone species of the short-grass prairies.

However, the same activities some consider a necessity to the grassland ecosystem, others consider a nuisance. In a study by Conover and Decker (1991), prairie dogs, and their activities were identified by some as causing the worst damage by any wildlife species in their state and contribute hundreds of thousands of dollars worth of damage to agriculture crops, earthen dams, airports, and golf courses annually. In addition to damages, prairie dog species can be a health hazard. Cases of human death due to plague contracted from handling Gunnison's prairie dog (*Cynomys gunnisoni*) have been documented in Arizona (ADHS 1993).

Historical Status

The first description of the prairie dog in Kansas occurred in 1806-07 by Pike and he designated it by its Native American name, Wishtonwish. In 1859, J.R. Mead (1899) indicated that prairie dogs were innumerable; the divide between the Saline and Solomon rivers in Ellsworth County (north-central Kansas) and west was continuous prairie dog towns for miles. Lantz (1903) reported that sixty-eight counties in Kansas were occupied with prairie dogs. Lantz used a landowner survey to approximate occupied acreage. Results indicated that 1,224,855 acres were occupied by prairie dogs, which he rounded off to two million acres to account for non-respondents in the survey questionnaire. The historic range of the prairie dog in Kansas included the western two-thirds of the state, west of the tallgrass prairie of the Flint Hills.

Legislative action directed at extermination of prairie dogs in Kansas was initiated in 1901 (Lantz 1903). The decline of the black-tailed prairie dog was largely due to poisoning efforts (Smith 1958). Changes in land use practices after settlement of western Kansas by Europeans also contributed to abrupt declines in populations of the prairie dog. Nearly two-thirds of the 33 million acres of range and pasture land within the geographic ranges of the prairie dog in Kansas was converted to cropland and other uses after settlement by Europeans. Because prairie dogs prefer deep, relatively level soils, much of this agricultural development probably occurred in areas inhabited by prairie dogs, with resultant destruction or fragmentation of many of the larger colonies (Choate 1982).

The number of prairie dogs in Kansas declined following the onset of the extermination efforts but seems to have remained fairly stable since the earliest known account by Smith (1958). In 1956, Smith (1958) indicated that there was a total of 57,045 acres of prairie dog towns remaining in Kansas, a large decrease from the 2 million acres reported by Lantz in 1903. Starting in 1973 Kansas Department of Wildlife and Parks (KDWP) requested from the Soil Conservation Service (SCS) agents and the Department's Wildlife Conservation Officers (WCO) current distribution and abundance of prairie dog colonies throughout their historical range in Kansas. The surveys conducted in 1973, 1977, and 1989 indicated that there were approximately 35,395 acres, 57,432 acres, and 25,025 acres of prairie dog towns each year respectively (Henderson and Little 1973, KS Dept. of Wildl. and Parks, unpubl. data). However, Powell (1992) evaluated the reliability of the opinion survey in 1989 by using Agriculture Stabilization and Conservation Service (ASCS) crop evaluation color slides. Although only eight counties were compared (Clark, Decatur, Ford, Gray, Hamilton, Meade, Norton, and Scott) he reported an overall underestimate of 57% in the opinion survey with a wide array of under and over reporting depending on counties and level of participation. Information from SCS and WCO survey respondents also indicated that most areas were not ground truthed and responses differed from SCS and WCO employees. Estimated acreage between individuals mapping the same colonies also varied greatly. Based on Powell's report (1992) the 1989 statewide SCS opinion survey estimate could thus be more accurately evaluated to be 44,222 acres. Similarly, Lee and Henderson (1988) evaluated the size of prairie dog colonies in eight selected counties. They used the 1986 Department of Property Valuation aerial photographs for Barber, Cheyenne, Gray, Hamilton, Meade, Morton, Rooks, and Wallace counties. An estimated 10,929 acres were determined to be active colonies with a balance of 4,323 acres not active (71.6% active colonies based on ground truthing). The estimates of Lee and Henderson (1988) were comparable to those provided by Powell and approximately twice the acreage reported in the 1989 SCS Opinion Survey. Finally, Vanderhoof and Robel (1992, 1994) used 1991-1992 ASCS crop evaluation slides to evaluate the distribution and abundance of prairie dog colonies for most of the historical range (62 counties). They determined that approximately 46,542 acres of short and mid-grass prairies were occupied by prairie dog colonies in Kansas.

The use of aerial photography was shown by three separate authors in Kansas (Lee and Henderson 1989; Powell 1992; Vanderhoof and Robel 1992, 1994) to provide more reliable and accurate estimates than the opinion survey of SCS and WCO. The population of prairie dogs in Kansas seemed to have oscillated slightly but remained relatively constant since the 1956 estimates.

State Status

The black-tailed prairie dog is classified as *wildlife* in Kansas (KSA 32-701). A hunting license is required to hunt them (KSA 32-919). Kansas also specifies legal equipment and taking methods (KAR 115-20-2). The season is open all year with no limit on number of prairie dogs taken. Through these regulations the Kansas Department of Wildlife and Parks has the authority to regulate hunting of the black-tailed prairie dog.

In 1901 and 1903, the Kansas legislature passed laws (KSA 80-1201, 1203) authorizing townships to conduct prairie dog eradication programs. These laws also provided funds for the Kansas State Agricultural College to hire a field agent to direct and conduct experiments for the purpose of destroying prairie dogs and gophers (Lantz 1903). In recent years some counties have invoked "Home Rule" to take over authority for prairie dog control from the townships and impose mandatory control requirements on landowners. In most instances, the landowner is first given the opportunity to control prairie dogs on his or her land and if he or she fails to do so it is done by the county at the landowners' expense (Lee and Henderson 1989). A prairie dog control permit (KAR 115-16-2) is required to use any poisonous gas or smoke to control prairie dogs, except toxicants labeled and registered for above ground use. Each permit needs to be approved by the Secretary of the Kansas Department of Wildlife and Parks and the Extension Specialist in wildlife damage control. Persons offering their services in controlling prairie dogs with pesticides including baits and fumigants on a commercial basis must have a pesticide business license and commercial applicator certification.

Present Situation

Historically grazing of rangelands was done by many species of animals. Following settlement most ranchers did not want cattle to compete for forage and so attempted to remove prairie dogs from their rangeland. The black-tailed prairie dog diet is variable (Fagerstone 1982) and the degree of dietary competition between cattle and prairie dogs can be high with the majority of plants eaten by prairie dogs also eaten by cattle (Taylor and Loftfield 1924, Koford 1958). However, some studies have also shown that prairie dogs increase the productivity of grasslands under some circumstances and do not negatively impact cattle (Bonham and Lerwick 1976, O'Meilia et al. 1982, Detling and Whicker 1987). More recent accounts have indicted that prairie dogs feed selectively, so 80% of the biomass they ingest may come from plant parts not highly used by cattle (Crocker-Bedford 1976). Also, competition might be minimized by beneficial effects that cattle obtain from plants growing in prairie dog colonies because of increases in plant digestibility and nitrogen content (Coppock et al. 1983) during certain times of the year. However the conditions under which competition is minimized and the factors that may influence such competition are not well known.

Threats to the continued existence of the black-tailed prairie dog are still present. Grassland is still being converted to cropland, although at a much slower rate than in the early 1900's. Most of the grassland suitable for farming with present techniques have already been converted to cropland. Habitat loss to urban development does not appear to be an immediate threat in the very sparsely populated areas of western Kansas. Sylvatic plague is an important factor in the reduction of black-tailed prairie dog populations in some states. Lantz (1903) investigated the use of contagious diseases for control of prairie dogs and reported that diseases had killed off prairie dogs over large areas of Kansas at intervals. Plague has since been documented in southwestern Kansas (Cully 1993). Its extent or impact in other areas of Kansas is unknown. Plague also was identified in mammals and fleas in western Kansas in the 1940's and 1950's, but has not been reported from the state since that time. There have been no human plague cases in Kansas with the result that little plague surveillance has occurred there since 1950. It is likely that plague has been present but not recorded (Culley et al 2000).

Possibly, many threats to prairie dog populations could be minimized or potentially eliminated. However without the support of the local communities and ranchers, it will not be possible to achieve a reasonable conservation goal that both addresses the need to protect prairie dogs as well as control them when necessary in situations where they become too abundant. The following goals and objectives have been established by a group of representatives both from agricultural/landowner interests and from wildlife/environmental interests to address prairie dog conservation in Kansas. Our hope is that the implementation of this plan will prevent the need for future federal listing of the black-tailed prairie dog under the Endangered Species Act (ESA).

Goal

The Goal of the Plan is to maintain biologically viable populations of black-tailed prairie dogs at selected sites across the historical range in Kansas. Seven objectives were determined to be necessary to achieve this goal.

Statement

The Kansas Black-Tailed Prairie Dog Working Group (KS PDWG) recognizes prairie dogs and their habitat as valuable, important, and desired components of the grassland ecosystem, while also recognizing the economic and political realities that control of the species will be necessary in many instances.

Objectives

1. Establish a Statewide Prairie Dog Working Group and Conservation Strategy
2. Determine and monitor species distribution and status
3. Establish regulatory protection
4. Identify, maintain, and promote existing and additional suitable prairie dog habitats
5. Education and Outreach
6. Identify, prioritize, and implement research needs
7. Implementation of State Conservation Strategy

Strategies to Meet Objectives

Objective 1. Establish a Statewide Prairie Dog Working Group and Conservation Strategy

1.1 Public meetings

Public meetings were hosted to inform landowners and other interested parties about the new federal status of prairie dogs. Current and historical background about prairie dog population in Kansas was provided. Information was also provided about the Interstate Prairie Dog Workgroup and the need to develop a statewide prairie dog workgroup. These public meeting were held in Hutchinson, Garden City, and Goodland in March of 2000.

1.2 Statewide Prairie Dog Working Group

The Kansas Department of Wildlife and Parks initiated the development of a Statewide Prairie Dog Workgroup composed of representatives from both agricultural/landowner interests and wildlife/environmental interests. Representatives from various organizations, encompassing both stakeholder types, were requested to voluntarily participate in the workgroup and work toward the development of a mutually acceptable approach to conserve prairie dogs in Kansas in order to preclude listing under the ESA. The list of names and affiliation of members of the workgroup can be found in appendix.

1.3 Kansas Conservation Strategy

- **Maintain at least current acreage of 130,000 acres of Black – Tailed Prairie Dogs in Kansas**
- **Maintain distribution of Black-Tailed Prairie Dogs over 80% of historic range (west of Flint Hills) in Kansas.**
- **Maintain 1 complex greater than 5000 acres**
- **Maintain 10% of acres in complexes of greater than 1000 acres**
- **10 year goal of increasing Black tailed Prairie Dog acreage to 150,000 acres (1% of suitable land) by 2012 if appropriate landowner incentive programs are developed at the federal level.**

Objective 2. Determine the current status and population trend of prairie dogs in Kansas, and establish a long-term monitoring protocol.

2.1 Inventory Prairie Dog Populations over the entire Kansas historical range

Kansas Department of Wildlife and Parks cooperated with the Interstate Prairie dog group to determine the most efficient, reliable, comparable (to other states, not to previously published literature necessarily), and cost effective manner of inventorying prairie dog's over the species historical range in Kansas.

An aerial survey was conducted to evaluate the distribution and abundance of prairie dogs in Kansas throughout their historical range. The counties surveyed were the same as those surveyed in previous efforts using opinion surveys or ASCS crop evaluation slides. The aerial survey also provides colony acreage estimates for the state. Random ground truthing was attempted in January, February and March of 2001 to determine activity levels of colonies as well as to determine accuracy of aerial survey acreage estimates. Ground truthing was determined to be entirely too difficult and time consuming to obtain permission to do this work due to the majority of land inhabited by prairie dogs being privately owned. Aerial truthing was done by re-flying a portion of the transects to compare results of observers. Results of the survey can be found in the Appendix.

2.2 Population Monitoring Protocol.

The Black-Tailed Prairie Dog population estimate survey in Kansas will be updated every three years. It is anticipated that an aerial survey similar to the one completed in the spring of 2001 will be completed in 2004, 2007, and 2010 to monitor any changes in population, density, complex size and location, and distribution in Kansas.

Objective 3. Establish regulatory protection

3.1 Propose legislative and regulatory changes that are consistent with the goals of this strategy.

The legal classification and management policies for black-tailed prairie dogs are consistent and reflect the value of the species and associated ecosystem among state agencies. Currently the black-tailed prairie dog is classified as *wildlife* in Kansas (KSA 32-701). Although it may be referred to as a pest, there are no laws in Kansas legally classifying it as a pest.

Current laws and regulations concerning prairie dog management and control in Kansas have been evaluated and changes recommended. Changes in the legal status of prairie dogs would facilitate the implementation of management measures necessary to achieve appropriate conservation of black-tailed prairie dogs and other associated species.

- Hunting, take and season lengths have been evaluated and no change is recommended at this time. KDWP has ample regulatory authority to set season dates and harvest limits. Hunting, take and season lengths will be reevaluated in 2004, 2007, and 2010 after completion of surveys to protect over harvest of prairie dogs in the state. Questions have also been added to the small game harvest survey to document the amount and portion of the state where shooting takes place. Hunting may bring extra-unforeseen revenues to landowners as has been documented in other states.
- Commercial harvest of live prairie dogs, i.e. pet commerce, is not recommended at this time. Therefore, no changes are recommended to the state regulation regarding commercialization of some wildlife species. These regulations will be reviewed at least every three years to address changes in the population level of prairie dogs or to address new concerns.
- The use of pesticides for prairie dog control will be reevaluated at least every three years. The effectiveness of products currently recommended and their impact on other wildlife will be evaluated. Changes in methods will be recommended based on these outcomes and on new better products reaching the market.
- Statute change recommendations to existing legislation, which currently mandates prairie dog eradication in many cases, were drafted and a bill, HB 2470 - Regarding options for the control of prairie dogs, was submitted to the 2001 Kansas Legislature jointly by the Dept. of Agriculture and the Dept. of Wildlife and Parks. The focus of proposed changes would make conservation and/or control of prairie dogs voluntary for landowners, providing more flexibility in management decisions and removing the threat of mandatory eradication. More work is needed in developing this legislation before voting on the measure, and the Kansas Workgroup will continue to be involved in this effort.

Objective 4. Identify, maintain, and promote existing and additional suitable prairie dog habitats.

4.1 Identify suitable prairie dog habitat.

The amount of suitable habitat existing in Kansas has been determined in conjunction with the 11 state conservation team from GIS layers developed from Bailey's Eco-Region maps. This shows about 15 million acres of land suitable for prairie dogs in Kansas, to meet the state goal of 1% of suitable land this would translate to a 10 year goal of 150,000 acres. This map is included in the appendix.

Landownership pattern is available in a GIS stewardship layer that includes both specific public ownership (Bureau of Reclamation, Department of Defense, USFWS, National Grasslands, and KDWP) and private ownership. Private ownership will not be broken down to any further specifics. This map is included in the appendix.

4.2. Identification of Prairie dog complexes.

Based on the best information available and survey information compiled under this strategy (see 4.1), locations of black-tailed prairie dog complexes have been determined. Complexes are defined by previously published information and by agreement by the Black-tailed Prairie Dog Interstate Conservation Team as the number of colonies that are adjacent to each other within a 7 km (4.3 mile) radius. Complexes have been identified on both public and private lands. This map is included in the appendix.

4.3. Development and maintenance of complexes.

The use of education and outreach programs highlighted in this strategy will play a major role in the development and maintenance of complexes.

Development of management incentives for prairie dog conservation on private lands would most likely provide the best means to maintain or increase prairie dog acreage in Kansas. Priorities for funding will be placed in areas where complexes already exist or may potentially be developed. Existing programs may need modifications and/or new programs may be developed to provide incentives for landowners. At this time Kansas will evaluate any potential program that is developed on a national basis but is unlikely to be in the financial situation to develop a state based program.

- Proactively contact private landowners in areas that have had complexes determined or areas that have been determined suitable for complex development. This approach would more likely be successful if incentive programs are available for landowners that are acceptable to them.
- Investigate the possibility of developing a statewide Candidate Conservation Agreement with Assurances (CCAA).

Objective 5. Education and Outreach

5.1 Develop and implement education and outreach programs

Programs should focus on the black-tailed prairie dog ecology, economic value and constraints, and related human health issues. Programs will also be developed within a global prairie ecosystem overview encompassing other wildlife species and their ecological needs, particularly those associated with prairie dog towns.

- Identify target audiences and determine how best to reach each one.
- Prepare general and targeted information and educational materials. These may include but are not restricted to trade newsletters, pamphlets, news releases, magazine articles, group presentations, special prairie dog web page, other educational programs, and public meetings.
- Review materials prepared by other states within the interstate group and, when appropriate, request permission to use them.
- Prepare well-written and accurate information to be made easily available to private landowners, which informs them of options available for their voluntarily assisting in conservation and management initiatives.
- Advertise widely and vocally the fact that pro-prairie dog actions on private lands under this plan will be completely voluntary and can possibly prevent the necessity of listing of prairie dog under the ESA.
- Assist individuals and wildlife cooperatives in developing educational materials and programs that promote both ecotourism and an understanding of the potential economic value of prairie dogs, associated species, and prairie conservation and management.
- Identify an official spokes-person for the KS PDWG in order to send out a consistent message. The Kansas Department of Wildlife and Parks has been designated as the center point for major issue coverage as required.
- Address human health risk concerns related to plague in prairie dogs by developing and distributing a fact sheet.

Objective 6. Identify, prioritize, and implement research needs

6.1 Identify important research needs for the state of Kansas

Research projects are currently being implemented in various states across the prairie dog range. It is therefore important to coordinate with the Interstate Prairie Dog Workgroup when developing and implementing research projects, to ensure comparable information is acquired and to prevent unnecessary duplication of projects. It may however be necessary to implement some projects in various parts of the prairie dog range to ensure adequate coverage of the various conditions encountered and to address sociological concerns. Projects will be implemented based on available funding and source of expertise. The following is a list of high priority projects for the state of Kansas. The top priority item is determined to be prairie dog effects on livestock. The second highest priority is to determine the extent of plague in Kansas. This project is currently funded and already underway.

- a. Grazing practices - Long term study.
 - i. Determine livestock gains on land with and without the presence of prairie dogs, especially in the short-grass region.
 - ii. Examine the impact of prairie dog presence on assessed valuation and land values.
 - iii. Identify grazing practices that are most compatible and profitable on lands containing prairie dogs.
 - iv. Examine flora and fauna responses to livestock grazing in the presence of prairie dogs.
- b. Plague - Long term study.
 - i. Determine distribution of plague in Kansas.
 - ii. Examine factors limiting the geographical distribution of plague.
 - iii. Develop monitoring system for the presence of plague in Kansas.
- c. Control measures - Short term study.
 - i. Develop and or test non-lethal measures to contain prairie dogs at a site and prevent expansion (vegetative buffer strips, fences, etc.) into unwanted areas.
 - ii. Effects of recreational shooting on prairie dog populations.
- d. Evaluate existing data on prairie dog populations in Kansas for information on distribution, abundance, and population trends.
- e. Economic analysis of recreational shooting and wildlife viewing.
- f. Other research topics as needed.

Objective 7. Implementation

A feasible administrative structure must be determined and funding for implementing the conservation management plan will be developed through the KDWP budget process. As funding allows different levels of the plan will be implemented. An annual evaluation of each objective of this plan will be conducted by the Kansas Prairie Dog Working Group. The plan may be amended as needed and distributed accordingly.

The number 1 priority at current time is for continued monitoring and evaluation of the population in Kansas.

Priority I

- Survey and monitor black-tailed prairie dogs populations in Kansas.
- Identify black-tailed prairie dog complexes in Kansas.
- Work to amend prairie dog eradication statutes, to allow more management options for landowners

Priority II

- Develop a plague monitoring survey in Kansas (most likely a coyote blood test to determine presence or absence of plague antibodies)

Priority III

- Develop Statewide CCAA

Priority IV

- Implement research projects
- Develop information and outreach programs

Priority V

- National Landowner Incentive Program (If developed, Implementation will increase priority)

Literature cited

- Bonham, C.D., and A. Lerwick. 1976. Vegetation changes induced by prairie dogs on shortgrass range. *Journal of Range Management* 29:221-225.
- Choate, J.R., E.K. Boggess, and F.R. Henderson. 1982. History and status of the black-footed ferret in Kansas. *Transactions of the Kansas Academy of Science* 85:121-132.
- Conover, M.R. and D.J. Decker. 1991. Wildlife damage to crops: perceptions of agricultural and wildlife professionals in 1957 and 1987. *Wildl. Soc. Bull.* 19(1) 46-52.
- Copock, D.L., J.K. Ellis, and M.L. Dyer. 1983. Plant-herbivore interactions in a North American mixed grass prairie. *Oecologia* 56:10-15.
- Crocker-Bedford, D.C. 1976. Food interactions between Utah prairie dogs and cattle. Thesis, Utah State University, Logan.
- Cully, J.F. 1993. Plague, prairie dogs, and black-footed ferrets. Pages 38-49 in J.L. Oldemeyer, D.E. Biggins, B.J. Miller, and R. Crete, eds. *Proceedings of the Symposium on the Management of prairie dog complexes for reintroduction of the black-footed ferret*. U.S. Fish and Wildlife Service, Biological Report 13.
- Cully, J.F., Jr, L.G. Carter, and K.L. Gage. 2000. New Records of Plague in Kansas. *Journal of Wildlife Diseases* 36:389-392
- Detling, J.K. and A.D. Whicker. 1987. Control of ecosystem processes by prairie dogs and other grassland herbivores. *Proceedings of the Great Plains Wildlife Damage Control Workshop* 8:23-29.
- Fagerstone, K.A. 1982. A review of prairie dog diet and its variability among animals and colonies. *Proceedings of the Great Plains Wildlife Damage Control Workshop* 5:178-184.
- Foster, N.S. and S.E. Hygnstrom. 1990. *Prairie dogs and their ecosystem*. University of Nebraska, Lincoln. Dept. of Forestry, Fisheries and Wildlife. 8 pp.
- Henderson, F.R., and R.J. Little. 1973. Status of the black-footed ferret and black-tailed prairie dog in Kansas. Pages 34-40 in *Proceedings of the Black-footed Ferret and Prairie Dog Workshop*, Rapid City, South Dakota.
- Hoogland, J.L. 1995. *The black-tailed prairie dog: social life of a burrowing mammal*. University of Chicago Press, Chicago, Illinois. 557 pp.
- Koford, C.B. 1958. Prairie dogs, white faces and blue grama. *Wildlife Monographs* 3:1-78.
- Lantz, D.E. 1903. Destroying prairie dogs and pocket gophers. *Kansas State Experimental Station Bulletin* 116:147-163.

- Lee, C.D., and F.R. Henderson. 1988. Prairie dog populations in Kansas. Unpublished report to KDWP. Kansas St. Univ. Ext. Animal Sci., Manhattan. 27pp.
- Lee, C.D., and F.R. Henderson. 1989. Kansas attitudes in prairie dog control. Ninth Great Plains Wildlife Damage Control Workshop, Fort Collins, Colorado, April 18-20,1989. Pp.162-165.
- Mead, J.R. 1899. Some natural-history notes of 1859. Transactions of the Kansas Academy of Science 16:280-281.
- O'Meilia, M.E., F.L. Knopf, and J.C. Lewis. 1982. Some consequences of competition between prairie dogs and beef cattle. Journal of Range Management 35:580-585.
- Powell, K.L. 1992. Prairie dog distribution, habitat characteristics, and population monitoring in Kansas: implications for black-footed ferret recovery. Thesis, Kansas State University, Manhattan, Kansas.
- Smith, R.E. 1958. Natural history of the prairie dog in Kansas. Museum of Natural History and State Biological Survey of Kansas. University of Kansas. Miscellaneous Publication 16.
- Taylor, W.P. and J.V.G. Lofffield. 1924. Damage to range grasses by Zuni prairie dog. U.S. Department of Agriculture Bulletin 1227.
- Vanderhoof, J.L., and R.J. Robel. 1992. Numbers and extent of black-tailed prairie dog towns in western Kansas. Final Report. Kansas State University, Manhattan, Kansas.
- Vanderhoof, J.L., and R.J. Robel. 1994. Numbers and extent of black-tailed prairie dog towns in Kansas. Transactions of the Kansas Academy of Science 97:36-43.

APPENDIX I

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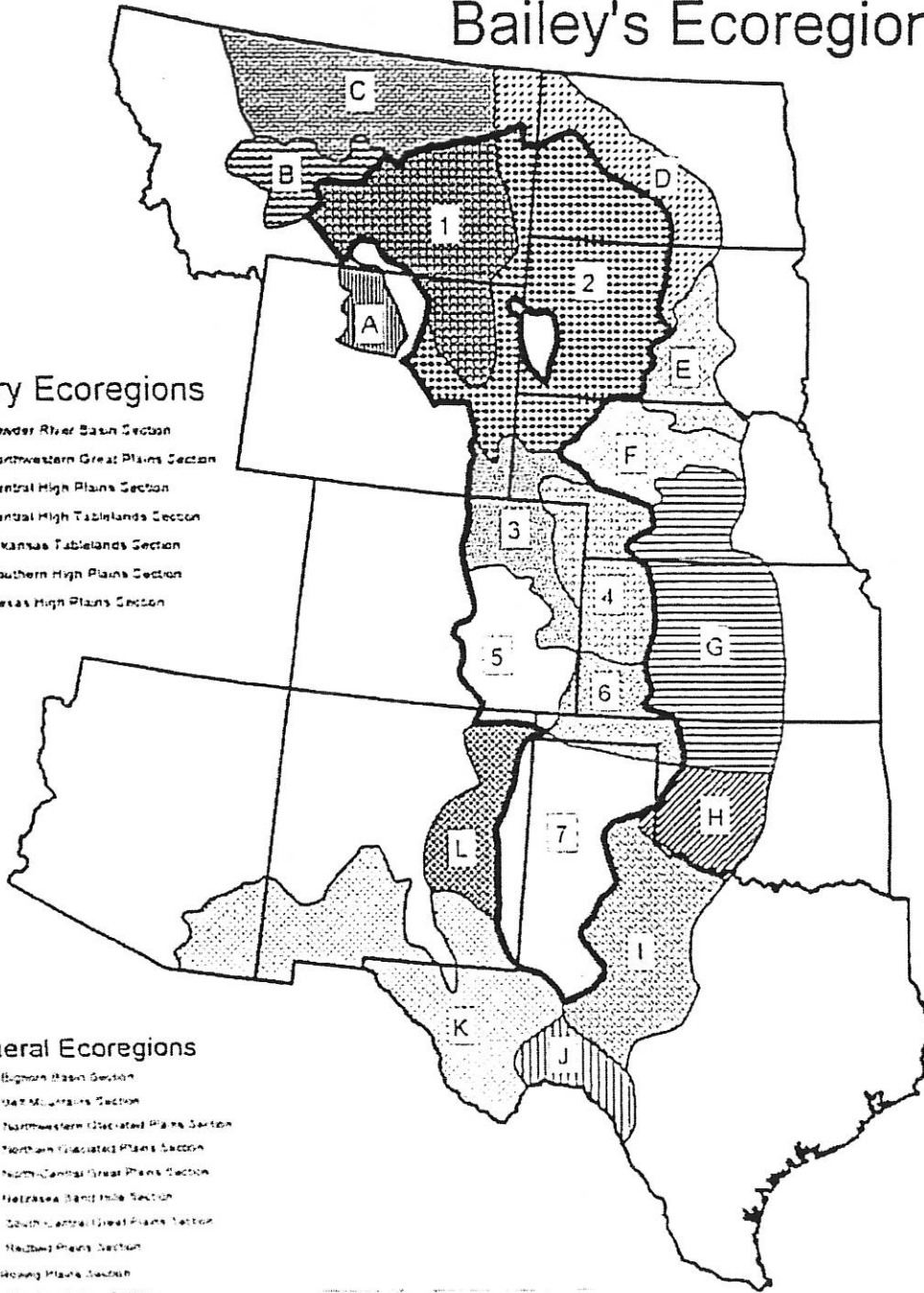
Christiane Roy
KDWP
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APPENDIX II

Bailey's Ecoregions

Primary Ecoregions

- 1 Powder River Basin Section
- 2 Northwestern Great Plains Section
- 3 Central High Plains Section
- 4 Central High Tablelands Section
- 5 Arkansas Tablelands Section
- 6 Southern High Plains Section
- 7 Texas High Plains Section



Peripheral Ecoregions

- A Big Horn Basin Section
- B Salt Mountains Section
- C Northwestern Glaciated Plains Section
- D Northern Unglaciated Plains Section
- E North-Central Great Plains Section
- F High Plains Sand Hills Section
- G South-Central Great Plains Section
- H Redbed Plains Section
- I Rolling Plains Section
- J Oklahoma Plateau Section
- K Basin and Range Section
- L Mexico Valley Section

* Solid Areas Calculated at a Ranking of 1.0%
 Stippled Areas Considered Peripheral Areas
 Calculated at a Ranking of 0.1%
 Unshaded Areas Considered Outside STPD Range

Based on U.S. Forest Service and U.S. Fish and Wildlife Service (USFWS) ecoregions and subregions of the United States. Modified from U.S. Fish and Wildlife Service (USFWS) ecoregions and subregions of the United States. Modified from U.S. Fish and Wildlife Service (USFWS) ecoregions and subregions of the United States.



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APPENDIX III

ESTIMATES OF ACREAGE AND NUMBER OF BLACK-TAILED PRAIRIE DOG TOWNS IN WESTERN KANSAS

submitted to Mike Mitchener, Kansas Department of Wildlife and Parks, January 18, 2002

JEFFREY S. PONTIUS

DEPARTMENT OF STATISTICS

KANSAS STATE UNIVERSITY

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1. ESTIMATES OF ACREAGE AND NUMBER OF PRAIRIE DOG TOWNS IN WESTERN KANSAS

The object of this report is to provide (1) an estimate of the acreage covered by black-tailed prairie dog towns in western Kansas, and (2) provide acreage estimate standard error and confidence limits on (1) for the Kansas Department of Wildlife and Parks (KDWP). In addition to the required items above, included in this report are acreage estimates per survey "quadrant", corresponding estimates related to the number of black-tailed prairie dog towns, and an analysis of the association between acreages and numbers of prairie dog towns. An additional analysis of the association between observer sighted acreages and line intercept measurements of prairie dog towns will be forthcoming separate from this report.

- (a) **SAMPLING DESIGN AND DATA COLLECTION:** A brief description of the sampling design and data collection relevant to estimation is given. Data are supplied by KDWP. Four quadrants, encompassing the area of western Kansas, were surveyed aerially for black-tailed prairie dog towns using systematically placed north-south oriented strip transects. Acreages and numbers of prairie dog towns were visually measured by observers in planes flying over the strip transects. Assuming that the spatial pattern of prairie dog towns is random with respect to the systematically laid out transects, estimation is based on simple random sampling within each quadrant (Thompson, 1992).
- (b) **ESTIMATION METHODOLOGY:** The basic estimation strategy is to compute an average proportional area covered by prairie dog towns in each quadrant and multiply this average by the number of acres in the quadrant. The four quadrants (labeled by h) are considered as four independent strata. The number of strip transects available, N_h , and the number of transects flown (sample sizes, n_h) are in Table 1. Areas covered by strip transects are not the same for all transects, so because larger transect areas could conceivably result in larger observed acreages of prairie dog towns, the observed acreage of prairie dog towns on each transect is scaled by the acreage of the strip transect. Estimated total acreage is weighted based on N_h per estimation under a stratified random sampling design. Note that Sidle et. al.'s estimation approach is similar, but they ignored the finite population aspects in estimation.

Table 1: Sample sizes and numbers of transects available per quadrant.

quadrant	numbers of available transects	sample sizes
northeast	112	23
northwest	108	27
southeast	128	22
southwest	132	33

In some detail, the estimation approach, following stratified random sampling (Thompson, 1992), is:

- i. Let $y_{ih} = a_{ih}/b_{ih}$ be the proportion of transect i in quadrant h that is covered by prairie dog towns using the acreage of prairie dog towns, a_{ih} , and the acreage of the strip transect, b_{ih} . The mean proportion of land per transect covered in quadrant h is $\bar{y}_h = \frac{1}{n_h} \sum_{i=1}^{n_h} y_{ih}$, where n_h is the sample size in quadrant h .
- ii. The estimated total acreage covered by prairie dog towns in quadrant h is $\hat{y}_h = A_h \bar{y}_h$, where A_h is the land acreage of quadrant h .
- iii. The standard error estimator of \hat{y}_h is $s.e.(\hat{y}_h) = \sqrt{A_h^2 \left(\frac{N_h - n_h}{N_h} \right) \left(\frac{s_h^2}{n_h} \right)}$, where the data variance estimator is $s_h^2 = \sum_{i=1}^{n_h} (y_{ih} - \bar{y}_h)^2 / (n_h - 1)$.
- iv. The estimated total acreage covered by prairie dog towns is $\hat{y} = A \bar{y}_{st}$, where $\bar{y}_{st} = \sum_{h=1}^4 \frac{N_h}{N} \bar{y}_h$ ($N = \sum_{h=1}^4 N_h$) and the standard error of \hat{y} is $s.e.(\hat{y}) = \sqrt{A^2 Var(\bar{y}_{st})}$.
- v. 90% normal confidence limits are computed as $\hat{y}_h \pm 1.645 s.e.(\hat{y}_h)$ and $\hat{y} \pm 1.645 s.e.(\hat{y})$.
- vi. Estimates of \bar{y}_h , \bar{y}_{st} , and their standard errors were computed using Proc Descript of SUDAAN (Shah, et. al., 1996).
- vii. Estimates of the number of prairie dog towns were computed similarly to estimates of acreages.

- (c) ESTIMATES: Estimated acreages covered by black-tailed prairie dog towns per quadrant and total (Table 2) and estimated number of prairie dog towns per quadrant and total (Table 3) are listed. Note that the estimates for total acreages and numbers are not simple sums of the four quadrant acreages or numbers estimates because of the stratified weighting, N_h/N .

Table 2: Estimates of acreage of western Kansas covered by prairie dog towns by quadrant.

quadrant	acreage of quadrant	estimated acreage covered by prairie dog towns	standard error of estimated acreage	ratio of std. error to estimated acreage	90% confidence limits
northeast	8,177,280	5,741	1,636	.29	(3,050; 8,431)
northwest	7,048,320	59,615	10,798	.18	(41,852; 77,378)
southeast	8,467,840	15,420	2,625	.17	(11,102; 19,738)
southwest	8,040,320	45,637	9,447	.21	(30,096; 61,178)
TOTAL	31,733,760	130,521	17,073		(102,436; 158,606)

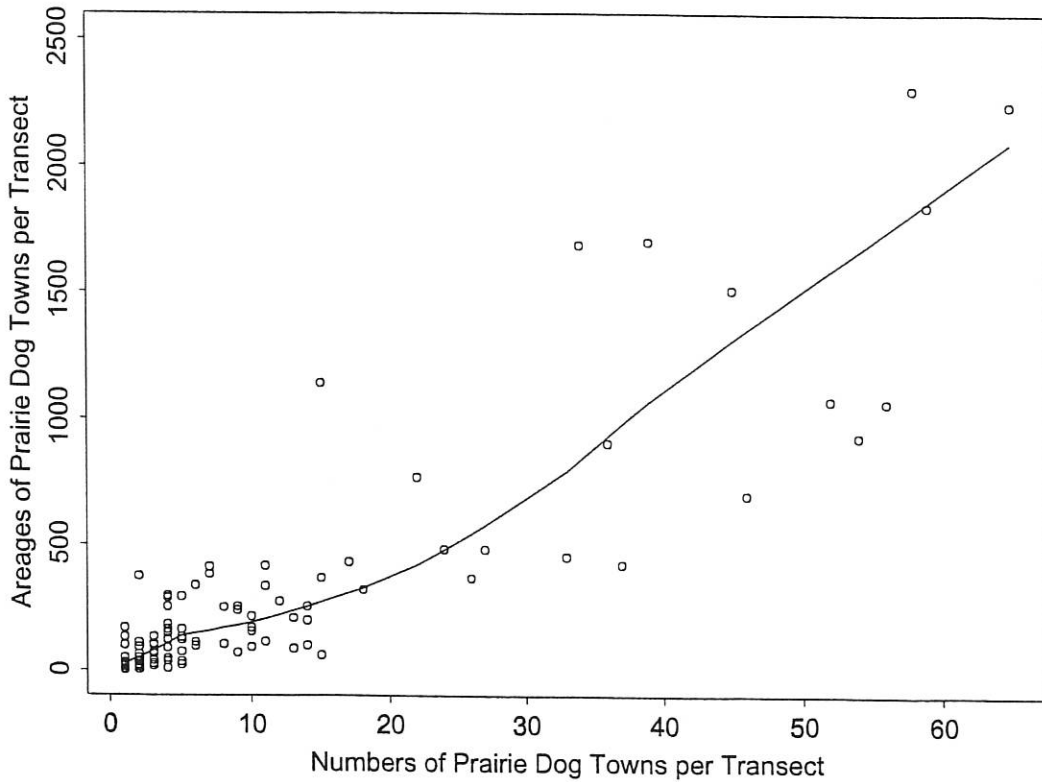
Table 3: Estimates of the number of prairie dog towns in western Kansas by quadrant.

quadrant	acreage of quadrant	estimated number of prairie dog towns	standard error of estimated number	ratio of std. error to estimated number	90% confidence limits
northeast	8,177,280	360	49	.14	(281; 440)
northwest	7,048,320	2,819	325	.12	(2,285; 3,353)
southeast	8,467,840	425	59	.14	(328; 522)
southwest	8,040,320	1,182	233	.20	(799; 1,564)
TOTAL	31,733,760	4,887	476		(4,104; 5,670)

2. ASSOCIATION BETWEEN TRANSECT ACREAGES AND NUMBERS OF PRAIRIE DOG TOWNS

Figure 1 displays the data relationship between the numbers and observed acreages of black-tailed prairie dog towns per transect. A trend line (lowess smoother) indicates an association trend between numbers and acreages. Although one would probably assume that as the numbers of towns increase so would acreages, the plot indicates that this increase can reasonably be described as approximately linear. Spearman's correlation coefficient for the association of the numbers and acreages of towns is .82, with a corresponding p-value < .001 for the null hypothesis that the actual correlation is less than or equal to zero (ie., the one-tail alternative hypothesis is that the actual correlation is greater than zero).

Figure 1: Scatterplot of acreages and numbers of prairie dog towns per transect.



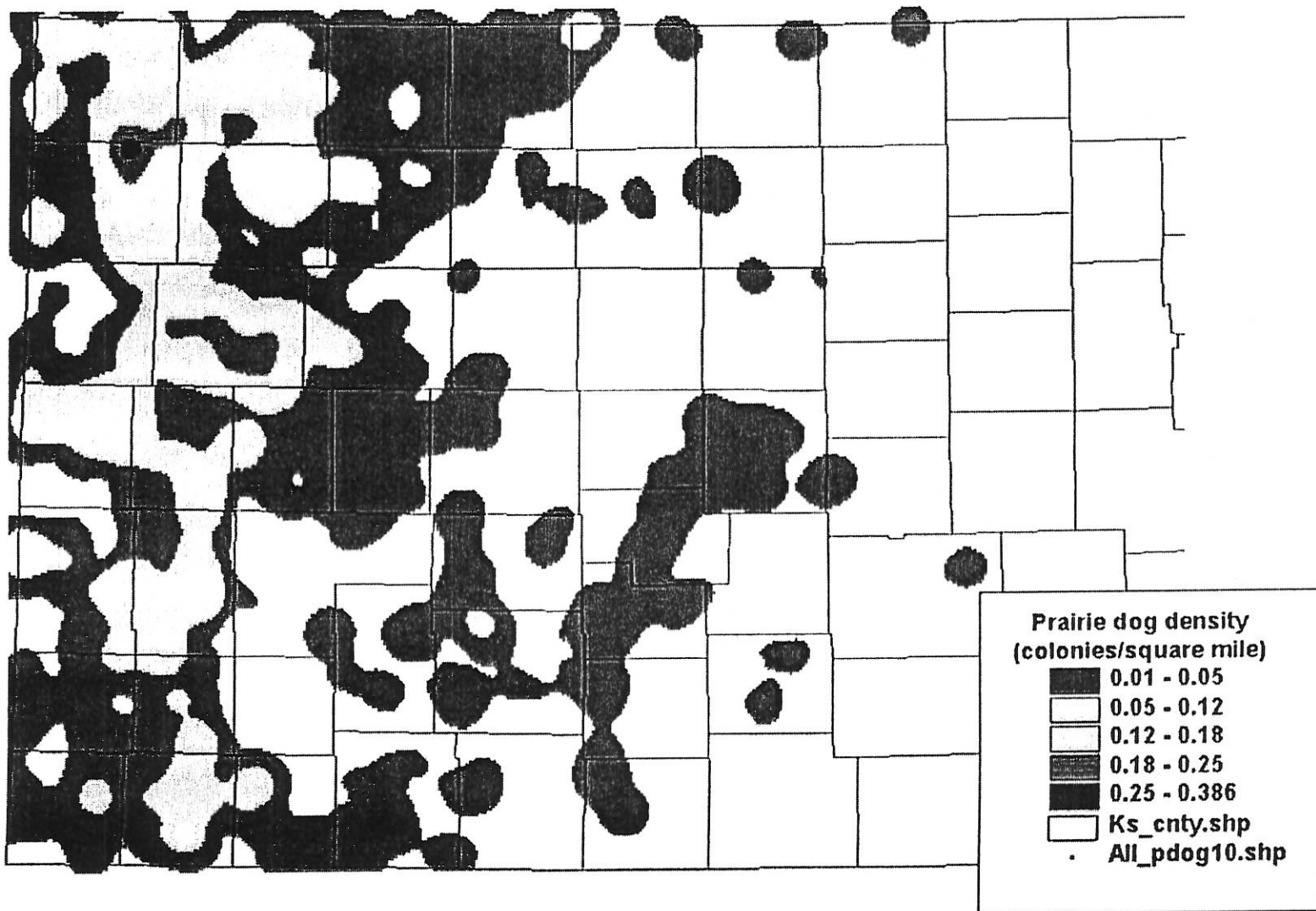
3. REFERENCES

- Shah, B. V., Barnwell, B. B., and Bieler, G. S. 1996. SUDAAN User's Manual, Release 7.0. Research Triangle Park.
- Sidle, J. G., Johnson, D. H., and Euliss, B. R. Estimated areal extent of black-tailed prairie dog colonies in the northern great plains. Draft Report.
- Thompson, S. K. 1992. Sampling. John Wiley & Sons.

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APPENDIX IV

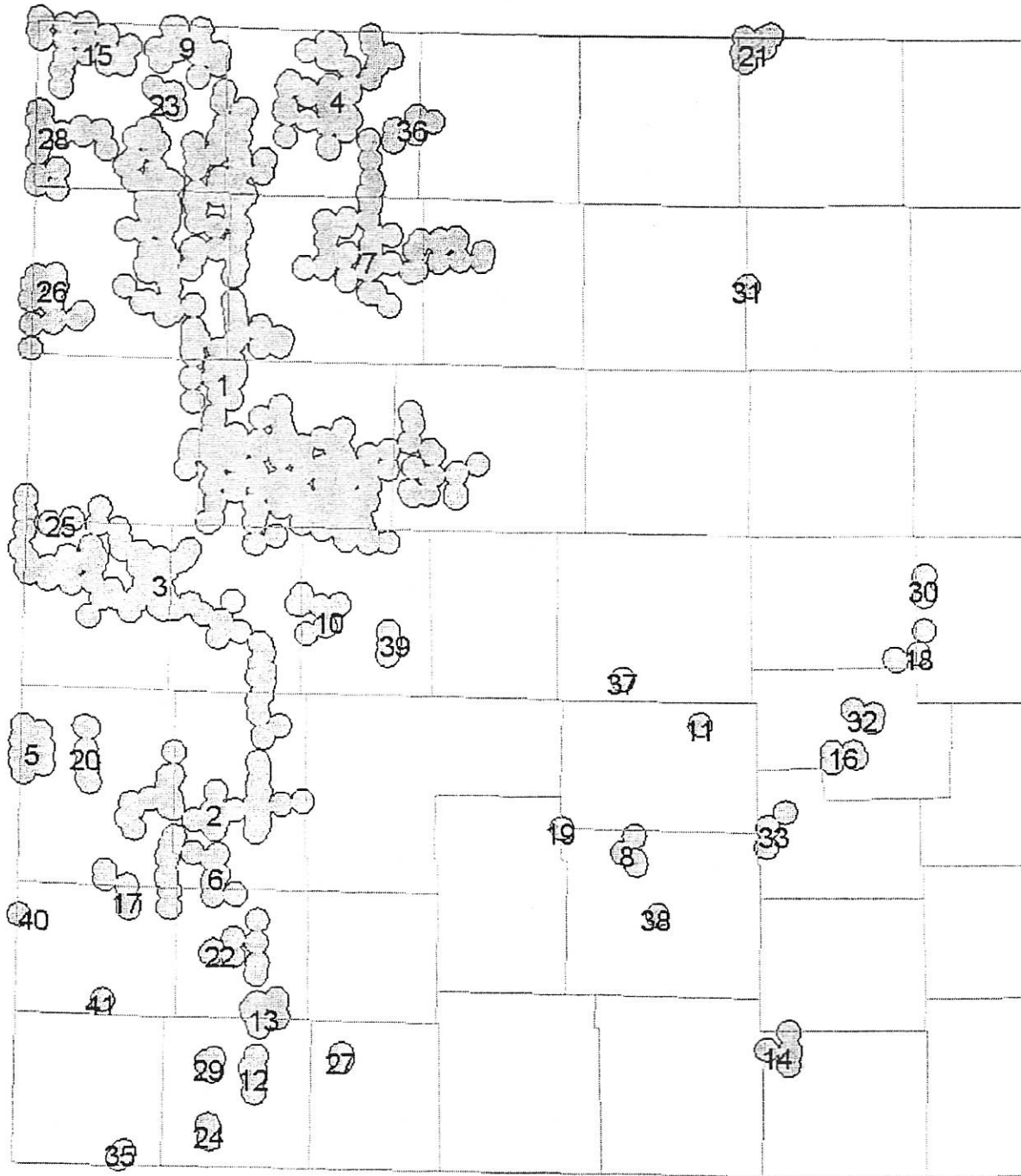
Prairie Dog Density



14-38

APPENDIX V

Prairie Dog Complexes and Associated Colony Area



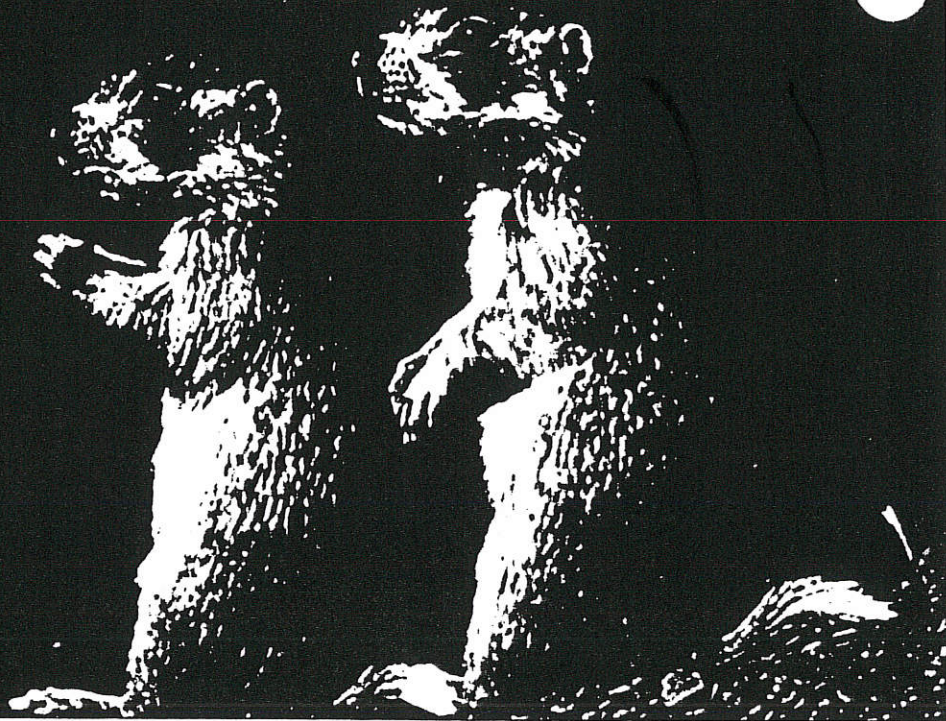
This graphic and associated table relate the total area of prairie dog colonies contained within each complex. For clarity, only the forty largest are shown in yellow. Colony areas should be regarded as a minimum area occupied because acreage estimates were obtained from transect lines four mile apart, and therefore do not represent complete coverage of the area.

KARS
Kansas Applied Remote Sensing



<u>Complex Number</u>	<u>Acres of Pdog Colonies in Complex</u>
1	8697
2	2726
3	2039
4	1106
5	1044
6	988
7	747
8	478
9	431
10	413
11	355
12	323
13	282
14	270
15	260
16	230
17	210
18	205
19	200
20	198
21	196
22	196
23	179
24	175
25	174
26	169
27	165
28	155
29	155
30	151
31	147
32	145
33	142
34	140
35	140
36	136
37	135
38	132
39	130
40	130

Saving Prairie Dogs ... to Kill Them



BY WILLIAM PERRY PENDLEY

Phillips County, in north-central Montana along the Canadian border—an area once described as “an almost mythical place, a world of savage blizzards and withering droughts in a geography too vast to comprehend”—contains miles of sparse scrub grass, low native plants, gravel, and rocks. Hostile and forbidding, bitterly cold in the winter and aridly hot in the summer, it is home to mountain lions, coyotes, rattlesnakes, antelope, deer, and black-tailed prairie dogs. The few people, 0.9 per square mile, are easily outnumbered by the prairie dogs.

Gary Marbut and Dr. Philip Barney, with fellow Montanans, formed a club to promote firearm safety and engage in an activity as old as mankind's first encounter with the land of Phillips County: hunting. That land is primarily federal land, managed by the Bureau of Land Management (BLM) of the U.S. Department of the Interior. Since its creation, the Interior Department has kept the land open to the shooting of unregulated wildlife, such as prairie dogs, one of the few recreational activities in this desolate region.

The Federal Land Policy and Management Act

assistance—but only if the corn is milled first, so that local farmers can't plant the seeds. At a cost of \$25 per ton, this is not an inexpensive requirement, and it will keep food from the mouths of the hungry. Mozambique shares this unwise policy.

Europe is a driving force behind this resistance. It hasn't imported any corn from the U.S. since 1998 because some of our farmers use forms of genetic modification that have not yet cleared all of the European Union's regulatory hurdles. By refusing our donations, Mozambique, Zambia, and Zimbabwe are looking ahead to a day when they enjoy an export market once more.

At least the Europeans aren't starving. A slow-moving bureaucracy is a luxury they can afford. It

requires the BLM to develop plans to control the manner in which these lands are managed. The Act requires the public be actively involved in the development of such management plans.

In 1994, the BLM developed such a plan, called “the Judith Valley Phillips Resource Management Plan,” or “JVP RMP,” for the 2.8 million acres under BLM control in Phillips, Fergus, Petroleum, Judith Basin, Valley, and southern Chouteau Counties. A portion of the 2.8 million acres covered by the JVP RMP lies within Phillips County, which contains 20,000 acres of land referred to as the “40 Complex.” Under the JVP RMP, approved by the BLM in 1994 after extensive public participation, Marbut, Barney, and their fellow Montanans may use the public lands of the 40 Complex for hiking, camping, hunting, and the recreational shooting of unregulated wildlife.

Meanwhile, the U.S. Fish and Wildlife Service (FWS) decided to introduce a minimum of 20 sur-

plus black-footed ferrets in 1994, and annually thereafter for two to four years, into north-central Montana, including the 40 Complex. The FWS also announced the ferrets would continue to be protected under the Endangered Species Act (ESA).

plus black-footed ferrets in 1994, and annually thereafter for two to four years, into north-central Montana, including the 40 Complex. The FWS also announced the ferrets would continue to be protected under the Endangered Species Act (ESA).

A short time later, without notice or opportunity for public comment, the BLM closed the public lands in the 40 Complex to the “discharge or use of firearms,” to “protect habitat for the reintroduction of the black-footed ferrets.” Violations of the Closure Order result in “a fine not to exceed \$1,000 and/or imprisonment not to exceed 12 months.”

Since issuance of the Closure Order, Marbut, Barney, and their fellow Montanans have been denied the right to engage in an activity allowed by the JVP RMP: the recreational shooting of unregulated wildlife.

The federal government is not seeking to protect the prairie dogs because they are listed

under the ESA; they are not. Nor is the federal government seeking to prevent the shooting of fer-

“The natural extension of this interpretation of the ESA is mind boggling: Any plant or animal could be placed off-limits under the ESA because it is used, as food or shelter, by a plant or animal protected by the ESA!”

Nobody has invented a drought-resistant form of corn—at least not yet. Incredible developments are nevertheless on their way. In Iowa, a handful of “pharmers” are experimenting with biotech corn to produce a medicine that will help treat children suffering from cystic fibrosis.

That's all in the future. Today, the people of southern Africa simply need to be fed, and biotech crops are a safe and economical way of helping out.

But Africans deserve more too: Their farmers should have access to the best farm technology available. They shouldn't just take our biotech-corn handouts—they should have the freedom to plant it themselves. Of the 54 countries in Africa, only the government of South Africa has clear rules

rets, which are protected by the ESA; there is no danger of that.

What the government is seeking is to save prairie dogs so the ferrets can invade their homes and eat them. As the FWS put it, “[t]he prairie dog colony provides prey base and habitat for the survival of the ferrets. ... Black-footed ferrets depend almost exclusively on prairie dogs and prairie dog towns for food and shelter. ...”

The natural extension of this interpretation of the ESA is mind boggling: Any plant or animal could be placed off-limits under the ESA because it is used, as food or shelter, by a plant or animal protected by the ESA!

Marbut, Barney, and their fellow Montanans understand the dangers posed by the federal government's precedent-setting and illegal actions in Phillips County. But with the lawsuit they filed against the government, they have a limited objective. They simply want the government to obey the law so that, “in a geography too vast to comprehend,” they can go hunting again.

William Perry Pendley is president and chief legal officer of the Mountain States Legal Foundation.

FOR MORE INFORMATION

visit Truth about Trade's
Web site at
<http://www.truthabouttrade.org>.

permitting and encouraging farmers to grow biotech crops.

Above all else, however, Africans deserve something other than a perverse, anti-scientific philosophy that declares, “Better dead than fed.”

John Reifsteck is a farmer in Champaign, Illinois and a board member of Truth About Trade and Technology.

Strunk

July 1998

The National Wildlife Federation petitions the federal government to list the black-tailed prairie dog as threatened under the Endangered Species Act.

November 1998

NWF and Turner original pictures airs the show *Underdogs: Prairie Dogs Under Attack*.

May 1999

Responding to a formal request from the National Wildlife Federation, the U.S. Forest Service prohibits poisoning of black-tailed prairie dogs on all public lands administered by the U.S. Forest Service, except for a few rare instances.

November 1999

In response to NWF's petition, the states in the historic range of the black-tailed prairie dog release a strategic framework voluntarily committing each state to develop a management plan for the species, and formalize the development of an interstate Black-tailed Prairie Dog Conservation Team.

November 1999 to present

NWF works with the individual states, tribal governments and the interstate Black-Tailed Prairie Dog Conservation Team on the development of state and tribal prairie dog management plans.

February 2000

U.S. Fish and Wildlife Service's (USFWS) agrees with NWF's petition and announces that the black-tailed prairie dog warrants listing as threatened under the Endangered Species Act, but is precluded from being listed at this time due to other higher priority concerns in the region and resource constraints.

February 2000

NWF sends letters to each state within the historic range of the black-tailed prairie dog spelling out critical components that must be incorporated in state prairie dog management plans.

June 2000

The Bureau of Land Management, in response to pressure from NWF, issues a directive that prohibits the poisoning of black-tailed prairie dogs on BLM managed lands.

April 2001

NWF releases its policy platform for the 2002 Farm Bill, including calling for the establishment of a Grasslands Reserve Program to help private landowners conserve habitat for prairie dogs and other grasslands species.

June 2001

NWF in conjunction with agricultural interests and tribal leaders visits policymakers in Washington, DC to promote the establishment of federal incentives to encourage landowners and tribal governments to voluntarily allow the expansion of black-tailed prairie dogs on their land.

September 2001

NWF releases the report *The American Prairie: Going, Going, Gone* detailing the decline in black-tailed prairie dog and other prairie wildlife populations.

March 2002

The Interstate Black-Tailed Prairie Dog Conservation Team releases a draft framework for prairie dog management plans. NWF responds with suggestions on improving the framework.

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Attachment 4
Stan Clark

Sen. Stan Clark

Subject: FW: s. 990

-----Original Message-----

From: Senator Stan Clark [mailto:sclark@ink.org]
Sent: Thursday, November 21, 2002 2:41 PM
To: Stones, Harold (Roberts)
Subject: s. 990

Harold- Here are the following details that were in this bill.
Stan

S. 990 - The "Son of CARA" - a version of CARA - the Condemnation and Relocation Act - is on the fast track and moving through Congress! This discredited land grab bill had not moved for eleven months, until the dark of nite in the wee hours of Friday morning.

ONCE AGAIN, selected members of Congress have moved legislation - S. 990 - in the dead of night that will

- 1) make the Endangered Species Act EVEN WORSE,
- 2) permit SEIZURE of private property, and
- 3) hand out cash to environmental extremists and animal rights outfits!!!

Oh yes, and 4) it hands out up to \$25 million to foreign countries for land acquisition. We couldn't make this up, folks!

You may recall at the end of 2001, just four days before Christmas, the Senate approved S. 990 - the "Son of CARA" land grab bill. It was 11:45pm, with only three Senators present, NO debate, NO hearings, NO vote - just "unanimous consent" on their last night in session for the year, after nearly all Senators had left the Capitol.

THEY DID IT AGAIN !!!

This time it was the House of Representatives. It was the last day the House was in session for the year, November 15, 2:35am!!!! That's right, two thirty-five in the morning!!!!!!!

Nearly all congressmen had gone home, NO debate, NO hearings, NO vote, just "unanimous consent" and a BILLION dollar enviro pork barrel land grabbing disaster - S. 990, the "Son of CARA" - was approved.

HOWEVER - the Senate last year, and the House this year, approved DIFFERENT versions of S. 990.

3/20/2003

14-44

The House is now out of session for the rest of 2002. However, the Senate is in session for one more week, from November 18 to 21.

*** The Senate must vote on what the House just passed in order to give final congressional approval to S. 990. ***

***** ACTION ITEM BELOW !!! *****

***** TELL YOUR SENATOR ***** NO on S. 990 *****

WHY?? WHY?? WHY??

WHY are REPUBLICAN Senator Bob Smith of New Hampshire and REPUBLICAN Congressman Jim Hansen of Utah joining together and attempting to push this disaster through at the last minute??

ANSWER: BOTH are leaving Congress this year, and BOTH are in "Legacy Mode." BOTH have buried provisions in S. 990 to give a name for themselves, at the expense of private property and fiscal responsibility.

HERE is the item snuck in for New Hampshire by Senator Bob Smith. Page 19, "Grants to the State of New Hampshire." A NINE million dollar payoff handed over to the Trust for Public Land, to buy property that will only cost SEVEN million dollars!!! A two million dollar profit for a "non-profit" land trust!!!!!!!

UTAH: Jim Hansen is attempting to blow a total of THIRTEEN million dollars of taxpayer funds to glorify himself! On page 49 is two million dollars for the James V. Hansen Shoshone Trail. On page 52 is eleven million dollars for the Bear River Visitor Center to be named after

-
you guessed it - James V. Hansen!!!!!!!

This self glorification is bad enough. But here are the FOUR problems for everyone in the entire country with S. 990:

FIRST: It will make the Endangered Species Act EVEN WORSE by adding a new category called "species at risk" in addition to the current "threatened species" and "endangered species." It hands out up to \$150 million per year to "environmental organizations," with no prohibition on animal rights outfits receiving funds, to enforce this new category.

SECOND: It hands out \$50 million per year to states for "cooperative conservation" plans that include "property acquisition" with no prohibition on condemnation power.

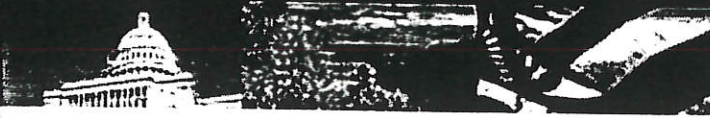
THIRD: hands out up to \$50 million per year for "shrubland and grassland" conservation, with "environmental organizations" again eligible to feed at the taxpayer trough. EVEN WORSE - grass and shrubs are defined as, well, grass and shrubs - AND - areas "historically dominated by grass and shrubs - AND - areas that "if restored to natural grassland or shrubland, would have the potential to serve as habitat for endangered species, threatened species, or species at risk." In other words, just about every inch of America outside the Mojave Desert!!!!!!!

14-45

Attachment 5 Sten Clark



LEAGUE OF CONSERVATION VOTERS



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LCV In the News

Pombo Chosen to Head Resources Committee

Mike Soraghan, *Denver Post*
January 10, 2003

WASHINGTON - House Republican leaders chose Rep. Richard Pombo, a California rancher and committed foe of the Endangered Species Act, to oversee public lands and environmental protection in the West as chairman of the House Resources Committee. The selection of Pombo, a champion of property rights and Wise Use groups, was hailed by industry leaders, off-road vehicle enthusiasts and property-rights activists. Wise Use groups advocate development rather than preservation of federal lands.

[Environmentalists] didn't expect an ally to head the committee but said they're now facing a particularly able adversary. And, they said, his selection belies Republican efforts to cast themselves as moderates on environmental issues. "He doesn't believe there is another side," said Scott Stoermer, spokesman for the League of Conservation Voters. "I don't believe he takes his positions based on political calculations. He firmly believes they're the right position."

The Resources Committee oversees hundreds of millions of acres of public lands in the West. It also oversees the Interior Department, Forest Service and environmental laws like the Endangered Species Act. Pombo has a low lifetime rating of 8 out of 100 from the League of Conservation Voters, while the League of Private Property Voters has named him a "champion." While in Congress, Pombo has traveled across the country holding hearings on what he considers the excesses of the Endangered Species Act and even advocated for continued hunting of elephants in Africa for their ivory tusks. His selection by a 28-member Republican steering committee ends a bitter intraparty feud between seven lawmakers. Duncan, who once compared an environmental campaign to Nazi propaganda, was considered a more moderate consensus candidate.

[Excerpt]

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1920 L Street, NW, Suite 800, Washington, DC 20036.
202-785-8683

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Vol. 35 No. 21
Billings, Montana
January 17, 2003

AGRI NEWS

Attachment 6 Stan Clark 14-47

THE BEST in the

AGRI-NEWS, JANUARY 17, 2003 — 2

THEN & NOW

by PATRICK K. GOGGINS

"Land piranhas and wildlife terrorists..." "Gestapo bureaucracy..."

Boy, oh boy, some new terms are showing up from folks involved with the new regime in Washington DC. Ron Gillet of Stanley, Idaho, has labeled the wolves as "land piranhas and wildlife terrorists," and he says we've got to see these wolves gone. Once you put them there, he says, they kill everything that moves. Gillet is a hunting guide from Stanley, Idaho, and he maintains that the wolves introduced into Idaho, Montana, and Wyoming are exploding in numbers. From just a few to start with, the wolf population in those three states is now well over 700 known individuals.

Meanwhile, the new chairman of the Senate Environment Committee is Oklahoma Republican James Inhofe, and it's reported that this change in the Senate Environment & Public Works Committee will give a new direction for that committee, which has been dominated by Eastern liberals for many years. The one most prominent and notable was James Jeffords (I-VT), who is the same fellow that jolted the Republican Party and the US Senate not too long ago by giving the Democrats the Senate majority when he left the Republican Party and went Independent. Senator James Inhofe is a conservative who doesn't mind telling people

that he labeled the Environmental Protection Agency a "Gestapo bureaucracy."

In the last number of years, we've been handcuffed out here in the West by a great many of the people heading up that particular environment committee that has done great harm - not only to cattlemen and sheepmen, the mining industry, and the timber industry, but also the hunters, who are alarmed by the amount of wild game that has been annihilated in some areas by these packs of wolves.

Not only has the wolf problem been a great economic handcuff on our independent industries of agriculture, timber, and mining, but also with the introduction of many of these so-called endangered species, it has raised havoc with free enterprise. In fact, it has raised havoc with our American dream - that dream being freedom.

Look what's happened to the sheep industry in the United States. Many of the sheepmen have been forced to sell because of the wolves, coyotes, and other predators. Add that to the fact they were run off the federal rangelands because of the environmentalists pulling the strings. Consider that today imported lamb from New Zealand and Australia equals 80% of domestic production here in the US. Because of the shortage, these lambs are seeing the best market they've seen in many years. These top light lambs brought up to \$120 per cwt in Billings, Mont., on January 13 with 100-pound lambs bringing right at \$1 and some over that. At least it has given those left in the sheep business a little encouragement, but the fact remains that the predator trouble and being run off federal ranges has really been costly for so many ranchers and farmers who raise sheep. For us to import as much lamb as we are and putting ranchers and farmers out of business doesn't seem to be very smart for the American scene.

Think of the fires that the West has had the last few years - disastrous and uncontrollable fires. Much of the blame can be laid right at the feet of the environmentalists who didn't want anything done to contain these same fires.

And now the US Fish & Wildlife Service is wanting to list the pygmy owl on the endangered species list. This little owl has a wingspan of six inches and, according to the environmentalists, needs an awful lot of room to spread its wings. US Fish & Wildlife is attempting to designate 12 million acres of public and private lands in Arizona to accommodate 18 of these little owls. That's how many they know is in that area. This would give each one of these little rascals about 66,000 acres to call his own.

I sure hope, as 2003 unfolds, that we'll see some common sense move back into the Washington DC bureaucracy. I hope these folks will see things different, mainly realistically.

I think that President Bush is doing a pretty good job in his appointments to some of these various committees and agencies, and now, if he can fulfill the last two big steps that need to happen, we'll be in pretty good shape. Yes, I'm talking about the US Supreme Court and the appointment of justices to that court that are more in step with the freedoms guaranteed Americans under our Constitution. And last but not least are the federal judgeship appointments in the various districts across America - oh how important they are. If that happens, we're going to see a great change in the next few years in America. We're going to get some realism; we're going to get some change and maturity. Behind that, we will note great strides forward in our total freedoms here in America. I'm encouraged that at least we could see some change to appointing people with common sense once again.



News



Donate to MSSA political efforts

February 27, 2002

Dear MSSA Members,

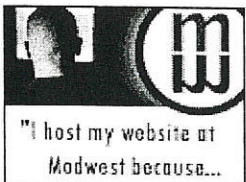
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"Modwest has done a great job for MSSA!"
-Gary Marbut, MSSA President

It's been too long since we've sent you a newsletter. But, we're still here and being quite active on your behalf. Nowadays, we're getting out most of our information via email. So, if you want to get the regular, ongoing MSSA information, send an email to mssa@mtssa.org and ask to be put on the MSSA email list. Here are the important news items.

1. Annual Meeting. The MSSA Annual Meeting is held according to the Bylaws on the first Saturday in March. As usual, we will hold the meeting in the State Capitol building in Helena, in room 152, beginning at 10 AM. We will break at noon for lunch, and will finish no later than 4 PM (although we usually finish earlier). At that meeting, the MSSA members may nominate and elect directors to the Board of Directors. There will be three, maybe four director positions open for election, and there will probably be two, maybe three incumbents willing to continue. The annual meeting will also focus on plans for the 2003 legislative session. Hope to see you there.

2. BLM lawsuit. The Mountain States Legal Foundation filed a lawsuit on September 24, 2001, against the Bureau of Land Management with MSSA, Dr. Phil Barney and myself as the plaintiffs, because of BLM's assertion of a ban on the "use and discharge" of firearms covering about 30,000 acres of public land in the south portion of Phillips County, Montana. We believe BLM lacks the authority to ban the use of firearms. The suit was filed by MSLF in Washington, D.C. We'll see what the federal court says.

3. Prairie Dog regulations. The Montana Department of Fish, Wildlife and Parks is forging ahead with plans to regulate shooting of prairie dogs. Upon request by the National Wildlife Federation, the U.S. Fish and Wildlife Service determined that Prairie Dogs were "warranted" for listing as a threatened or endangered species, despite the fact that there are about 10 million PDs in 11 U.S. states from Mexico to Canada. But, the USFWS declared that they wouldn't actually list PDs if the states would scampers to do the regulation of PDs that the USFWS would like to see done if they thought they could get away with a listing. The state fish and wildlife agencies have stampeded to do the bidding of the USFWS, arguing that if they don't do just what the FWS wants, the FWS will list PDs as endangered and the state agencies will lose the authority to manage PDs. Although the FWS designated shooting or PDs as the lowest possible threat to their populations, the Montana FWP has determined that the best way to impress the USFWS with their regulatory zeal is to ban shooting of PDs during certain parts of the year. So, there are regulations proposed by FWP staff for adoption by the FWP Commission that would impose a seasonal closure on PD shooting. This matter comes up before the Montana FWP Commission for final action on February 20th. This regulatory activity is based upon a PD conservation plan concocted by the National Wildlife Federation operating through a task force it created called the "Prairie Dog Working Group". We've asked the FWP Commission to hold off on adopting the regulations proposed by the FWP staff and the National Wildlife Federation, and to allow for conservation plans to be developed and offered in competition to that presented by the NWF. Please contact

your FWP Commission member about this.

4. Prairie Dog listing status. The Endangered Species Act requires the U.S. fish and Wildlife Service to conduct an annual review of species designated as "warranted" for listing. MSSA submitted a protest for the annual review, and asked the FWP to drop PDs from its "warranted" for listing status. This designation was made in response to a petition to list PDs as endangered submitted by the National Wildlife Federation. In response to this petition, the FWS simply accepted the claims made by the NWF without any significant fact-checking. For example, the NWF claims that PDs now occupy less than 1% of their traditional habitat, this claim despite the fact that there are no historical habitat surveys upon which to base this claim. Not only are there no historic habitat surveys, there is no reliable current habitat inventory. Despite that there is no data to support this claim, the USFWS accepted this claim as fact, and reiterated this claim in its "finding" document as sufficient reason for designating PDs as "warranted" for listing.

5. Audit of FWP. MSSA has asked the Legislative Audit Committee of the Montana Legislature to direct the Legislative Auditor to conduct two audits of the Montana Department of Fish, Wildlife and Parks: 1) an audit of whether or not FWP is using hunter license income to subsidize non-hunting programs, and the extent to which that may happen, and 2) the accuracy of FWP's game-counting processes and activities. Frankly, we think that FWP's understanding of how many game animals and large predators there are is pretty fuzzy, and that important game management decisions are being made without reliable information. When we ask them to do a better job conducting game and predator census, they say it's too expensive and they don't have enough money to do it. At the same time, it may be that they are spending as much as \$10 million per year of hunter license income on non-hunting programs - money that could be spent to get an accurate fix on numbers in game and predator populations. This audit was approved by the LAC, and is going on now.

6. Predators. MSSA shares with many Montana hunters a growing concern that large predators are consuming an excessive number of game animals, especially the from the replacement crop born each spring. There is not doubt that anti-hunting groups are on the record as asserting that their preferred strategy for ending hunting is to get enough predators into the ecosystem that they will reduce populations of huntable game to levels that won't allow hunting by humans. Some knowledgeable people believe that we are in the brink of a population crash in huntable large game (deer, elk, moose, sheep, goats, and maybe antelope) that is being created by over-predation upon young animals each spring. Knowledgeable biologists say that one of the most important warning signs of excessive predation by wild predators, in elk for example, is a declining cow/calf ratio. For a productive herd, there should be survival each spring of calves that would number about or above 30% of the numbers of cows in the herd. It is believed that some herds are having a survival rate of replacement stock of under 10%. This phenomenon typically results in an aging and non-productive heard, and eventually a population crash. Some believe we will see such a crash in all Montana ungulates within five years, because of predation by lions, wolves, Grizzly bears, black bears, and maybe coyotes. MSSA is working aggressively on this issue.

7. Montana Hunters' Council. In order to address some of these hunting issues, MSSA has formed the Montana Hunters' Council, a roundtable and networking group under the MSSA umbrella. The MHC will be made up of delegates of any sportsmen groups that want to participate. The only requirement for participation is that the sportsmen group sending a delegate must agree that the primary objective of wildlife management by the state must be for the benefit of those who pay the bills - hunters, and not primarily for the benefit of wildlife in general, not for the benefit of predators, not for the benefit of biodiversity, although these might be considered as secondary goals. The MHC will meet primarily by electronic means, since travel to statewide meetings in Montana is so difficult and time-consuming. Any sportsman group interested in assigning a delegate to the MHC should contact MSSA by phone

or email. There is no requirement that a participating group or delegate be affiliated with or a member of MSSA, but it is gently encouraged.

8. Past legislative session. In the 2001 legislative session, we got two important bills through the Legislature and signed into law. One was the bill to fix permanently in law the Shooting Range Development Program, whereby hunter license funds are made available through FWP for matching grants to local clubs wishing to establish or improve shooting ranges. The other was a bill to exempt from civil liability anyone who injures an assailant from whom they are legitimately defending themselves from criminal attack. So, if a criminal breaks into your home and attacks you, and you shoot him in self defense, you no longer need to worry about the assailant or his next of kin later suing you in civil court for vast damages for various kinds of suffering.

We failed to get enactment of our bill that would have taken SSNs off of Montana hunting and fishing licenses. This was almost entirely because Governor Judy Marts broke her campaign promise to support us on this legislation, and chose to support a competing bill that would only remove SSNs from hunting and fishing licenses if the feds gave their permission, something they had already declared that they would not do. During the legislative session, Judy went to D.C. and had lunch with Department of Health and Social Services head Tommy Thompson, asked for an exempting for Montana hunting and fishing licenses, was told no, and then came back to Montana and supported the contingent bill with the expressed intent of obtaining the twice-refused exemption. So, because of the governor's opposition to our non-contingent bill, and her support of the do-nothing contingent bill, the do-nothing bill passed and ours died.

We also took on a last minute bill to clarify that Montana school children must be allowed at least two days excused absence from school for hunting with a parent or designated adult, and that schools must be allowed their funding for these absences. The bill was opposed by the education industry, who argued both that this bill was unnecessary because such allowed absence was already the informal practice in Montana, AND that this practice should not be allowed because it degrades schools' ability to deliver the instructional program. Enough committee members bought these contradictory arguments that the bill died in the House FWP Committee on a narrow vote.

9. Flying armed on commercial aircraft. We are on the verge of getting bills introduced in both the U.S. House and U.S. Senate to clarify that off-duty law enforcement officers and people with concealed weapons permits may fly armed on commercial aircraft. In his undisputed national study, "More Guns, Less Crime", professor John Lott noted that the crime most deterred by an armed population in states enacting "shall-issue" concealed carry laws was multiple or mass murder. While interpersonal crimes of violence, such as murder, rape and robbery, fell noticeably in states enacting CWP laws, the decrease in mass murder was much more noticeable, a decrease as high as 60% or more. So, there seems to be no good reason not to extend this aura of safety and crime-deterrent to the passenger compartments of commercial aircraft.

10. National Guard indoor shooting ranges. MSSA has been working for a year with National Guard officials to attempt to establish civilian access to the system of National Guard indoor shooting ranges across Montana. These ranges are very lightly used by the Guard, are constructed and maintained with taxpayer funds, and, we believe, ought to be accessible by civilians under a reasonable set of use conditions. There are issues for the NG, such as security, maintenance costs, liability, and others that need to be discussed and resolved. While this is not too important to Montana folk spring, summer and fall, it could be important to have an indoor place to shoot in the winter. The work on this continues.

Montana gun owners and hunters have strength in numbers. Please recruit your

friends to MSSA. Some national observers say that MSSA is the most effective pro-gun organization in the U.S., maybe the World. Get your friends to be a part of MSSA. Find our "Successes" and a membership form on our Website at: <http://www.mtssa.org>.

Best wishes,

Gary Marbut, President