

Presentation by Ron Klataske,
Executive Director, Audubon of Kansas
to the Kansas House of Representatives, Committee on Agriculture
and Natural Resources
Regarding Black-footed Ferret Conservation Programs
January 22, 2013

Madam Chairwoman and members of the Committee, I thank you for the opportunity to share my perspective and that of Audubon of Kansas and other conservation partners who have been actively involved in the reintroduction of Black-footed Ferrets and conservation of other wildlife associated with Black-tailed Prairie Dog in Kansas.

Although I have been professionally involved in wildlife management and conservation since I enrolled in KSU exactly 50 years ago, I grew up on a family farm/ranch and have been involved in agriculture since childhood. I continue to manage 1,173 acres of family ranch land for livestock and wildlife in three counties.

I am providing a copy of the Fall/Winter 2011 edition of Prairie Wings magazine with a detailed article (pages 14-18) on the issues surrounding the reintroduction of Black-footed Ferrets, and a copy of the Winter 2012/Spring 2013 edition with an update on the Appeals Court Decision and the recent ferret surveys (pages 42-43).

Unfortunately, I have to acknowledge that I believe that much of the presentation to this committee earlier was grossly exaggerated, misleading and/or totally incorrect in a number of ways. Unfortunately, there is no formal written record. On other subjects, there is some common ground and some overlap of interpretation. Differing perspectives and opinions are certainly appropriate in this arena.

First on the common ground, we share the perspective that landowners who do not want to accommodate prairie dogs on their land should not be required to.

However, we do not agree that this native wildlife species—and all the other associated species that depend on the habitat they create or on prairie dogs as prey—should be exterminated from the Kansas landscape; and that landowners who want to accommodate, manage and/or conserve prairie dogs should be required to poison and exterminate them against their wishes and at their own expense. The Black-tailed Prairie Dog is a keystone species, an ecologically important part of the wildlife heritage of Kansas, and as with other wildlife (including White-tailed Deer, Wild Turkeys, Canada Geese, Pheasants, Coyotes, Red-winged Blackbirds and Meadowlarks) they technically belong to the State of Kansas as part of our “Public Trust” of natural resources.

Hopefully there will be enough landowners in Kansas and in other states that voluntarily maintain colonies of Black-tailed Prairie Dogs so they won't become federally threatened or endangered. A decade ago there was a real prospect that this species would be classified as warranted for classification as federally threatened. In an effort to diminish the prospect of that, ten states developed "Black-tailed Prairie Dog Conservation & Management Plans." I am providing you with copies of several pages from the 24-page (plus Appendix III) Kansas document. You will note on pages 20-21 that twenty-seven individuals representing the full range of stakeholders from wildlife conservation groups and university biologists to representatives of the Kansas Farm Bureau and the Kansas Livestock Association participated in the development of the plan over a period of several months.

It can be viewed on line at: <http://www.kdwpt.state.ks.us/news/Services/Research-Publications/Conservation-Plans/The-Kansas-Black-Tailed-Prairie-Dog-Conservation-and-Management-Plan>

You will also note that the report correctly stated that the 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."

In terms of on-the-ground conservation objectives, the Kansas Conservation Strategy articulated five population and colony complex objectives. One was to "**Maintain one complex greater than 5000 acres.**" The three ranch landowners who have property included in what we refer to as the Haverfield/Barnhardt/Blank Complex are meeting that objective. For the benefit of the Kansas plan, and for the public interest in the plan, this property is the only property that comes close to achieving this state conservation objective. **We all owe them a debt of gratitude for their commitment to their conservation initiatives.**

Unfortunately, of the five objectives under the Kansas Conservation Strategy, this may be the ONLY objective that has been achieved within, or by, the State of Kansas. A lot of thought went into the plan, but once the bullet of federal listing of the species was dodged, it has largely been relegated to collecting dust on agency shelves. Another key objective was to repeal or appropriately revise the antiquated eradication statutes of 1901. That has not been accomplished in the legislature—but it should be.

With this in mind, and with continuous eradication mandates by some counties, it will be difficult to make a future case for the State of Kansas' commitment to conservation of the species if it is petitioned again for listing. And it will be understandable if this approach diminishes our ability to make a case for not listing the Lesser Prairie-chicken with new promises of conservation plans.

Landowners like Larry and Bette Haverfield, Gordon Barnhardt and Maxine Blank should be thanked for their willingness to accommodate this complex of prairie dogs, and the reintroduction of the endangered Black-footed Ferret. Their property

has also become possibly the most valuable site for conservation of other at-risk species that are substantially dependent on prairie dogs—including Burrowing Owls, Ferruginous Hawks, Golden Eagles and Swift Foxes. These landowners are doing more to conserve these species on their land than any other public or private land entity in the state.

I also call your attention to the “**Kansas Comprehensive Wildlife Conservation Plan.**”

This 170-page document can be found on line at:

<http://www.kdwpt.state.ks.us/news/Services/Kansas-CWCP/Kansas-CWCP>

I have provided a copy of the cover, entitled **A Future For Kansas Wildlife**, because it reflects the diversity of Kansas’s stakeholders/organizations and agencies involved in developing this plan. “The Species of Greatest Conservation Need for the Shortgrass Prairie” include all of the above-mentioned species—plus others, including the Mountain Plover and Lesser Earless Lizard, that are often dependent on habitat provided by prairie dog colonies.

We all owe a debt of gratitude to the landowners who are providing a place for these imperiled wildlife species. When landowners such as these three prevent various species from being listed as threatened or endangered, that directly benefits landowners who do not want to accommodate wildlife on their land--they won’t have to.

I also think that all of us, especially if we are farm and ranch landowners, owe a debt of gratitude for their leadership in trying to protect private property rights, even though their position on that—along with their choice of private land management/stewardship—has been under litigation assault by the Logan County Commission and the Kansas Farm Bureau for several years. They have had to spend tens of thousands of dollars trying to defend private property rights, when those rights should be honored.

They have also been willing to go the extra mile, many miles, to manage their land in ways that diminish the outward movement of prairie dogs from their land to surrounding areas. It would be wonderful if you could come out and take a tour of the property to see in person many of the management techniques that have been successfully employed.

I am providing four photographs. The first is simply a view of the Haverfield family ranchstead. The other three show the 90-foot vegetative buffer that is used to discourage expansion of prairie dog colonies into the property with adjacent grasslands owned by others, and the “prairie dog fence” that we have built to further discourage dispersal from this property. The combination of these two management practices is working very well.

In addition, whenever some prairie dogs become established on surrounding lands, those landowners can call on the APHIS-WS agent assigned to the Logan County Black-footed Ferret reintroduction sites to control the prairie dogs with poisons and/or shooting. The funding for that program is made possible by a combination of funds from the U.S. Fish & Wildlife Service, APHIS, a federal grant obtained by the KDWP&T, and The Nature Conservancy. Prairie dog colonies are treated for at least 3 ½ miles beyond the boundaries of the two reintroduction sites. This is done at NO COST to those

neighboring landowners. Prior to the reintroduction, there were prairie dogs throughout the landscape serving as the “source population” so they didn’t all originally come from either of the sites. With these three practices, this combination reflects the intent of the landowners and agencies involved to maintain a good neighbor policy.

However, as a friend once commented, “Good deeds seldom go unpunished!” Some of the surrounding landowners are adamantly opposed to the presence of prairie dogs and mistakenly believe that with the presence of a federally endangered species their property rights may be infringed upon in some unimaginable ways in the future. I am reminded of an opponent (associated with an organization also opposed to the ferret reintroduction) of the Tallgrass Prairie National Preserve who claimed that nearby farmers would have to get approval to paint their barns from the National Park Service if the Z-Bar Ranch became a unit of the National Park System.

As members of the two committees in the legislature have heard in presentations this past week, professionals (our fellow Kansas residents and others) working for the U.S. Fish and Wildlife Service have been accused of being “very deceitful all the way along.” They have slandered with other characterizations that are reminiscent of the statements once commonplace in the early years of robust politics in this country’s democracy. In this case as previously in the controversy leading up to establishment of the Tallgrass Prairie National Preserve, an outside agitator from Idaho has been brought in to create this type of divisive atmosphere. The more divisive emotions and fear he can create, the more he can convince his benefactors to pay for his consulting services.

As a result of this approach by people who think the sky will fall if there are a couple parcels of land with prairie dogs, Black-footed Ferrets and other associated wildlife in this state of 52 million acres, people become unwilling to work together and trust one another. In this case, some neighboring landowners have been unwilling to accept the services of APHIS-WS to control prairie dogs for several years in a row while claiming that the uncontrolled prairie dogs were damaging their property. One individual indicated that he only wanted prairie dogs controlled with Rozol, and only with Rozol, because it would likely kill any Black-footed Ferrets present, and another reportedly adopted the same position. They simply want the ferret reintroduction to fail.

I have enclosed a copy of the Federal Register announcement for the “Draft Black-footed Ferret Programmatic Safe Harbor Agreement.” This is a very good development! Yet it was suggested that this was the primary reason for the opponents to engage the Kansas Legislature. The Safe Harbor Agreement is designed to protect the private property rights and operational options of landowners involved in Black-footed Ferret reintroduction efforts. We trust that the 30-day extension for comments will provide people with an opportunity to better understand the merit of the program. It is part of the envisioned EQIP incentive, similar to the incentive programs already in place or being planned for Lesser Prairie-chickens (so that species may not become biologically threatened and not have to be listed as Threatened).

It was suggested that the Fish and Wildlife Service has been secretive as this protocol and the proposed landowner incentive program was being explored and drafted. This is not correct. The Colorado Cattlemen Association and the Wyoming Stockgrowers Association have both been involved from the beginning.

Although it was suggested that the western two-thirds of Kansas was threatened by this program, nothing could be further from the truth. It will not affect a “billion acres” of the country as stated, but only make it possible for a few landowners in the Great Plains states to work with the NRCS, USFWS and APHIS-WS to better accomplish conservation goals and recovery for the Black-footed Ferret with cooperative, voluntary programs.

The previous presenter also suggested that too much money was invested in the Kansas reintroduction project, most of which has gone for prairie dog control. It was stated that \$574,000 has been spent in Logan County since 2006 (thus, for operations of various kinds in these past seven years). As a member of the USDA State Technical Committee and being well-informed about federal agricultural programs, I can say with confidence that considerably more than that amount of federal money is often provided to individual producers to improve feedlot operations for cattle and hogs. The public interest to invest in wildlife conservation is just as great as it is to invest in many kinds of other agricultural practices.

Farm bill conservation programs such as the Environmental Quality Incentive Program and the Conservation Reserve Program have evolved and been improved with the cooperative involvement of wildlife conservation interests and agricultural producers, and that is exactly the manner in which the Black-footed Ferret program is expected to become a reality. There is every opportunity to develop this program on common ground.

KANSAS BLACK-TAILED PRAIRIE DOG CONSERVATION
& MANAGEMENT PLAN



Prepared by:

Kansas Black-Tailed Prairie Dog Working Group

July, 2002

Approved: *Mike Hayden* Date: *10/02/02*
Mike Hayden,
Secretary, Kansas Dept. of Wildlife & Parks

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 meetings 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 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.

Kansas Black-tailed Prairie Dog Working Group

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A Future For Kansas Wildlife

Kansas' Comprehensive Wildlife Conservation Plan

October, 2005



KANSAS WILDLIFE FEDERATION
The voice of outdoor Kansas



PLAYA LAKES
JOINT VENTURE

NatureServe



KANSAS BIOLOGICAL SURVEY



FORT HAYS STATE UNIVERSITY



KACEE

KANSAS ASSOCIATION FOR CONSERVATION & ENVIRONMENTAL EDUCATION



EMPIORIA STATE UNIVERSITY



Kansas Natural Resource Council

FORT HAYS STATE UNIVERSITY STERNBERG MUSEUM OF NATURAL HISTORY



US Army Corps of Engineers
Kansas City District



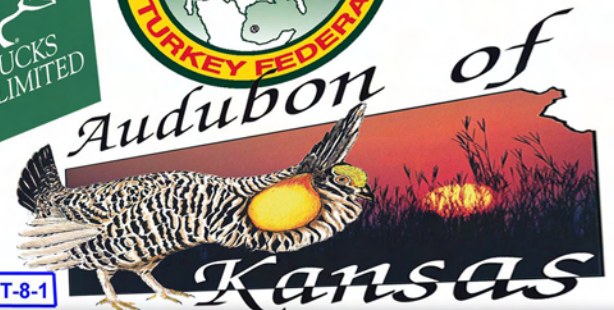
Kansas Native Plant Society



Environmental Division
Conservation & Restoration Branch



USDA NRC
United States Department of Agriculture
Natural Resources Conservation Service



1) A view of the Larry and Bette Haverfield family ranchstead and some of the surrounding ranch landscape.



2) A photo of the highly successful “prairie dog fence” erected by Audubon of Kansas and the 90-foot wide “vegetative buffer” established by Larry Haverfield along most of the boundary to allow vegetation to grow higher and further discourage prairie dogs from dispersing from the property.



3) Another view of the “prairie dog fence” and the 90-foot wide “vegetative buffer” established by Larry Haverfield along the eastern side of the ranch. Note the taller vegetation and the extensive area without grazing extending to the boundary fenceline. The prairie dog fence and the taller vegetation in combination discourage prairie dogs from dispersing from the property.



4) A third view of the vegetative barrier and the prairie dog fence. This site is on the west side of the property, adjacent to a public road.



DEPARTMENT OF THE INTERIOR
Fish and Wildlife Service
[FWS-R6-ES-2012-N190; FF06E16000-123-FXES1113060000D2]

Endangered and Threatened Wildlife and Plants; Enhancement of Survival Permit Application; Draft Black-Footed Ferret Programmatic Safe Harbor Agreement and Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received an application from the Black-footed Ferret Recovery Implementation Coordinator for an enhancement of survival permit under the Endangered Species Act of 1973, as amended (ESA). The application includes a draft programmatic Safe Harbor Agreement (Agreement) to reintroduce the federally endangered black-footed ferret on properties of voluntary participants across the species' range to further recovery of this species. Pursuant to the ESA and the National Environmental Policy Act, we announce the availability of the draft Agreement and draft environmental assessment (EA) for review and comment by the public and Federal, Tribal, State, and local governments.

DATES: Written comments must be submitted by January 18, 2013.

ADDRESSES: Send written comments by U.S. mail to Kimberly Tamkun, U.S. Fish and Wildlife Service, National Black-footed Ferret Conservation Center, P.O. Box 190, Wellington, CO 80549-0190, or via email to FerretSHA@fws.gov. You also may send comments by facsimile to (970) 897-2732. The draft Agreement and EA are available on the Black-Footed Ferret Recovery Program Web site at <http://www.blackfootedferret.org/>. You also may review copies of these documents during regular business hours at the National Black-footed Ferret Conservation Center (Ferret Center), 19180 North East Frontage Road Carr, CO 80612-9719. If you do not have access to the Web site or cannot visit our office, you may request copies by telephone at (970) 897-2730 ext. 238 or by letter to the Ferret Center.

FOR FURTHER INFORMATION CONTACT:

Pete Gober, Black-footed Ferret Recovery Coordinator, U.S. Fish and Wildlife Service, (970) 897-2730 ext. 224; pete_gober@fws.gov.

SUPPLEMENTARY INFORMATION: Under a Safe Harbor Agreement, participating landowners voluntarily undertake conservation activities on their property to benefit species listed under the ESA (16 U.S.C. 1531 et seq.). Enrolled landowners have the option to return their property to baseline conditions established at the time the Agreement was developed. If the Agreement meets all the permit issuance criteria, we issue an enhancement-of-survival permit under section 10(a)(1)(A) of the ESA. The permit authorizes incidental take of the covered species that may result from implementation of conservation actions, specific land uses, and return to baseline under the Agreement. We also provide enrollees assurances that we will not impose further land, water, or resource-use restrictions or additional commitments of land, water, or finances beyond that agreed to in the Agreement. Application requirements and issuance criteria for enhancement-of-survival permits through Safe Harbor Agreements are found in 50 CFR 17.22 and 17.32. We are providing this notice under section 10(c) of the ESA and National Environmental Policy Act (NEPA) regulations (40 CFR 1506.6; 43 CFR part 46). We are requesting comments on the proposed Agreement and issuance of enhancement-of-survival permit. We prepared a draft environmental assessment (EA) to comply with NEPA (42 U.S.C. 4321 et seq.), and will evaluate whether the proposed Agreement, issuance of permit, and other alternatives in the draft EA may cause significant impacts to the quality of the human environment. We also invite comments on the draft EA. The historic range of the black-footed ferret (*Mustela nigripes*) overlaps with suitable habitat supporting black-tailed, white-tailed, and Gunnison's prairie-dog (their primary prey) in portions of the 12 States of Arizona, Colorado, Kansas, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, and Wyoming, as well as Canada and Mexico. The black-footed ferret was twice considered extinct or nearly extinct before all known wild ferrets were captured for captive breeding in 1985. Today, due to reintroduction efforts, 20 populations exist throughout the species' range. However, the Service's 1988 Recovery Plan and 2009 Spotlight Species Action Plan for the ferret advise that

more ferret populations be established to move toward recovery. Therefore, we have developed the proposed Agreement to provide incentives for landowners to volunteer lands with adequate habitat for ferret reintroductions across the historic range of the species within the United States. Under the proposed Agreement, we would issue a permit to the Black-footed Ferret Recovery Implementation Coordinator, who would then enroll willing landowners under certificates of inclusion that would confer incidental take authorization and assurances to the enrollees. Consistent with the Safe Harbor policy (64 FR 32717) and section 7 of the ESA, we would also provide non-enrolled neighboring landowners with incidental take authorization through the section 7 biological opinion and assurances to those neighbors who sign a separate agreement. To enroll in the Agreement, an eligible landowner would voluntarily work with the Coordinator to develop a site-specific reintroduction plan. Each reintroduction plan would identify a conservation zone on the enrollee's property, consisting of either (a) at least 1,500 acres of habitat occupied by black-tailed prairie dogs (*Cynomys ludovicianus*) or (b) 3,000 acres occupied by white-tailed prairie dogs (*Cynomys leucurus*) or Gunnison's prairie dogs (*Cynomys gunnisoni*). The conservation zone would be targeted for ferret reintroductions. Depending on the needs of the enrollee, a management zone surrounding the conservation zone might also be established. Because grazing is considered compatible with ferret habitat, enrollees may graze their cattle in the both zones throughout the life of the reintroduction plan. If necessary, efforts to control diseases, such as sylvatic plague, will be carried out in both zones. Prairie dog control may also occur within the management zone, as necessary, but not in the conservation zone. Where beneficial, State wildlife agencies, tribes, the U.S. Fish and Wildlife Service, Animal Plant Health Inspection Service—Wildlife Services, the Natural Resources Conservation Service, the U.S. Geological Survey, nongovernmental organizations, and other partners may be party to the reintroduction plan to assist implementation by the enrolled landowner. Each reintroduction plan would have a term of 10 to 40 years within the duration of the Agreement, which is proposed to be 50 years.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: November 29, 2012.

Michael Thabault,

Acting Regional Director—Ecological Services, Mountain-Prairie Region, Denver, Colorado.

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