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February 2, 2009

Mr. Pete Gober
United States Fish and Wildlife Service
Public Comment Processing
Attn: FWS-R6-ES-2008-0111
Division of Policy and Directives Management
4401 North Fairfax Drive, Suite 222
Arlington, Virginia 22203

Dear Pete,

The Western Association of Fish and Wildlife Agencies (WAFWA) represents 23 states and Canadian provinces, spanning from Alaska to Texas and Saskatchewan to Hawaii - an area covering nearly 3.7 million square miles of some of North America's most wild and scenic country, inhabited by over 1500 premier wildlife species. WAFWA is a strong advocate of the rights of states and provinces to manage fish and wildlife within their borders. The Association has been a key organization in promoting the principles of sound resource management and the building of partnerships at the regional, national and international levels in order to enhance wildlife conservation efforts and the protection of associated habitats in the public interest.

I am writing you in response to the U.S. Fish and Wildlife Service (USFWS) December 2, 2008, *Federal Register* (FR Vol. 73, No. 232 pg. 73211) request for relevant information on the status of the black-tailed prairie dog (BTPD). To begin, I would like to formally request an extension of the comment period to at least June 1, 2009. This will allow WAFWA states to collect and analyze additional biological sensitive information on the species that would be relative to the status review. This would still allow the USFWS ample opportunity to review the information and make their court mandated November 30, 2009, publication in the *Federal Register*.

However, in case my request is denied, I will provide an update on the conservation efforts associated with the WAFWA *Memorandum of Understanding for the Conservation and Management of Species of Conservation Concern Associated with Prairie Ecosystems* (MOU), which was implemented by WAFWA in January 2006. This MOU replaces the MOU for Black-tailed prairie dog (BTPD) conservation and is the WAFWA vehicle for beginning the transition toward an ecosystem management approach (i.e. prairie) in the Western Great Plains.

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Delivering Conservation Through Information Exchange and Working Partnerships

I also want to reiterate and emphasize our recommendation from the conservation status letter sent to you on June 20, 2008, on behalf of the Prairie Dog Conservation Team (PDCT) and WAFWA. Contrary to the USFWS findings in the December 2, 2008, *Federal Register* regarding the August 6, 2007, petition, the combined information provided here and in our June 2008 letter indicates federal listing protection under the Endangered Species Act is not warranted for the black-tailed prairie dog.

POPULATION MONITORING UPDATE

In February 2003, the PDCT published an addendum to the 1998 BTPD Conservation Assessment and Strategy (CAS; Van Pelt 1999), entitled, "A Multi-state Conservation Plan for the Black-tailed Prairie Dog, *Cynomys ludovicianus*, in the United States" (MSCP; Luce 2003). The goal of the CAS, MSCP, and the associated state management plans is to remove enough threats to the BTPD that long-term conservation of the species will be assured through state management. This WAFWA approved document lists the following minimum 10-year target objectives:

- 1) Maintain at least the currently occupied acreage of BTPD in the U.S.;
- 2) Increase to at least 1,693,695 acres of occupied BTPD acreage in the U.S by 2011;
- 3) Maintain at least the current BTPD occupied acreage in the two complexes greater than 5,000 acres that now occur on and adjacent to Conata Basin-Buffalo Gap National Grassland, South Dakota and Thunder Basin National Grassland, Wyoming;
- 4) Develop and maintain a minimum of nine additional complexes greater than 5,000 acres (with each state managing or contributing to at least one complex greater than 5,000 acres) by 2011;
- 5) Maintain at least 10% of total occupied acreage in colonies or complexes greater than 1,000 acres by 2011; and
- 6) Maintain distribution over at least 75% of the counties in the historic range or at least 75% of the historic geographic distribution.

I am pleased to report the states have met, or exceeded, the first three objectives of the MSCP. The current acreage estimate for black-tailed prairie dogs stands at 2,286,492 acres. This is over three times higher than national estimate of 676,000 acres just 10 years ago.

Tremendous progress has also been made on the distributional goals identified in the plan. For example, the black-tailed prairie dog once again resides in all 11 states within its historical range. On October 7, 2008, the Arizona Game and Fish Department reintroduced the species into the Las Cienegas National Conservation Area. For objectives 4-6, 73 % of the states have met 4, 45% have met 5, and 64 % of the states have met number 6. This progress is significant in the sense of complexes over 5000 acres. In 1998, there were only two known complexes greater than 5000 acres and in 2008 we know of at least 25 in at least 8 states!

It should be noted Montana and New Mexico are still analyzing their 2008 data and Oklahoma, South Dakota, and Kansas intend to implement surveys this spring. This demonstrates the importance of granting an extension on the comment period for the species to allow for the most up to date information be available for your analysis.

Internationally, BTPD conservation continues in Canada and Mexico. In Saskatchewan, BTPD colony perimeters are mapped with GPS every two years. Colony occupation has stabilized over the last seven years and now the species occupies approximately 4485 acres. Mexico, despite having intense drought conditions over the last 10 years, still has one of the largest complexes of black-tailed prairie dog towns in North America. A total of 91 prairie dog towns ranging in size from 5 to 15,525 acres are found within the complex, covering a surface of 36,561 acres. In 2006, BTPDs in Mexico appeared to be stable and the species continues to be widespread across its range. On September 25, 2006, the announcement of the intention to create a Biosphere reserve in Janos was published in the Mexican Federal Registry and the two species of prairie dogs were selected to have a specific PACE (Conservation Species Action Plan) completed in 2008-09.

It should be noted that even though the survey methods used by the state wildlife agencies between 1999 to the present were not uniform across the species range, this is the best available estimate of occupied acreage. While PDCT recognizes that the difference in occupied acreage between 1961 and 2008 does not represent a true measurement of trend, but reflects better and more intense survey methods, the more recent trend (2002-2007) for the species appears to be upward. For example, results from Colorado's survey effort empirically documented a 29% increase since 2002 and South Dakota has seen an increase from 412,122 acres in 2003 to the current estimate of 625,410 acres. With all the states reporting within the range of the species, only Texas is reporting a decline in numbers. Please see Table 1 for the best available occupied acreage estimates as of December 2008.

PLAGUE MONITORING

It is likely that plague is the most important factor that could adversely impact prairie dog species range wide. Plague continues to be documented in various areas across the West in all prairie dog species. However, impacts appear to be local or impacting only about 50% of a complex and widespread die-off for any species was not documented in 2007. It is also important to note, wildlife and land managers are monitoring for the presence of plague, and in the case of ferret reintroduction areas, try and mitigate for the impacts of plague.

For example, to proactively manage for plague in Conata Basin, South Dakota, a prophylactic effort was conducted in September and October 2006 in association with black-footed ferret recovery efforts. Approximately 1,600 acres were dusted by applying Delta Dust (deltamethrin) to all prairie dog burrows in selected towns. Selected prairie dog towns dusted in 2006 also were treated in 2005. Agencies and organizations involved included the USFWS, U. S. Forest Service, National Park Service and Prairie Wildlife Research. In 2007, similar efforts were conducted, which may prove being very insightful.

In January of 2008, a plague outbreak in a black-tailed prairie dog colony in Dewey County, South Dakota, was confirmed. The Dewey County outbreak is approximately 30 miles from a black-footed ferret reintroduction site on the Cheyenne River Indian Reservation. Then in May 2008, a plague outbreak was confirmed in another ferret reintroduction site, Conata Basin, Pennington County, South Dakota. In a cooperative effort, approximately 11,239 acres were dusted in South Dakota to reduce the impact of plague .

It should also be noted, WAFWA's metapopulation approach for managing prairie dogs hedges against plague having a tremendous impact on BTPD across their range. By maintaining various size complexes on the landscape to allow for recolonization and treating existing complexes for outbreaks, the impact of plague does not rise to a level of a threat for the species.

WAFWA also recognizes the need for further research into the dynamics of plague in prairie dogs. One of the exciting venues for future plague research is the use of oral vaccines. Currently, most of this research is being conducted by USGS and access to the vaccines has been difficult. In addition, a field test to detect plague has recently been developed and is being tested for use. WAFWA is supportive in these efforts and will contribute to the extent possible.

PRIVATE LANDOWNER INCENTIVE EFFORTS

A significant portion of the occupied prairie dog acreage in the U.S. is on private land where the Endangered Species Act (ESA) has less ability to influence land and species management, and where voluntary private landowner agreement is necessary for successful conservation on a landscape scale. Many private landowners are reluctant to partner to conserve a species if they believe they are risking ESA restrictions in the future. However, increasing occupied acreage and the level of active conservation on private land are necessary to meet acreage goals identified by the states in their management plans. Private landowners must be part of the solution, and that depends on their successful interaction with state wildlife agencies. We believe increased trust by private landowners and the greatest conservation success will be met by keeping prairie dogs off of the Candidate Species List and retain management under state wildlife agency authority.

As part of their state management plans, numerous states (AZ, CO, KS, OK, MT, SD, NM, WY, and TX) have, or are evaluating, incentive programs for prairie dogs or grassland species emphasis using federal funds through the Landowner Incentive Program (LIP). However, in 2007, four states report 36 landowners (5 in SD, 25 in OK, 5 in TX, and 1 in WY) enrolled in some form of incentive program involving prairie dog conservation. These efforts affect a minimum of 22,448 acres of occupied and unoccupied habitat. Oklahoma has one of the strongest programs and reports having 14,031 acre enrolled in their program.

CONTROL INFORMATION

Once again, one of the more controversial elements faced by the states this past year revolved around lethal control of prairie dogs using two chemicals, chlorophacinone (Rozol) and diphacinone (Kaput). Since our 2007 letter it has been learned by WAFWA that these chemicals have been approved via FIFRA Special Local Needs permits for poisoning prairie dogs in CO, KS, NE, OK, TX, and WY. The perceived advantage being that, unlike zinc phosphide (traditionally used), these two poisons do not require prebaiting. While WAFWA recognizes and supports lethal control as one of many management tools for prairie dogs, we have concerns with these two chemicals and the potential impacts of secondary poisoning on other grassland dependant species. Mortality from secondary poisoning due to Rozol application in prairie dog towns has been documented in a badger collected in Kansas in 2006 and a bald eagle collected in Nebraska in 2007. Finding these two mortalities were by chance. Verifying impacts to non-target species, which can travel long distances between the time of ingestion of the poison and death, is

remote. It is likely many more non-targets than these two individuals documented have likely been impacted from control efforts using these two poisons. This concern was recently discussed in association with the Swift Fox Conservation Team and a briefing paper was prepared for the participating states to brief their Directors.

We bring this issue to your attention, because it is our belief when the 1993 USFWS Biological Opinion was conducted on 16 vertebrate control agents including Rozol, Kaput, and zinc phosphide, Rozol and Kaput were not registered for prairie dog control at the time, and therefore, not reviewed for potential secondary impacts. This summer WAFWA will consider putting additional pressure on EPA to reinitiate consultation regarding the new uses now allowed for Rozol and Kaput. Until these concerns are addressed, if prairie dog control is necessary, the use zinc phosphide should be supported, rather than anticoagulants.

While lethal control using poison impacts local populations, wide-spread campaigns to eliminate the species no longer exist. States use poisoning as a means for control, not elimination. For example, South Dakota reports poisoning 15-30,000 acres of private lands where BTPD were coming of adjacent public lands each year from 2004-2006. Despite this treatment of unwanted and encroaching BTPDs their overall statewide population expanded over 50% from 412,122 acres to 625,410 acres. In Colorado, the 29% increase in occupied BTPD habitat occurred despite the approval of the 24 (c) special local needs permit.

STATE REGULATIONS

Many of the states have established shooting dates for prairie dogs. However, in most cases, except Arizona, the closure only occurs on public lands. In most cases, shooting closures were put in place to allow pregnant females to whelp and raise their young to dispersal age. North Dakota did note an increase in nonresidential licenses in 2006 (subsequent data not available yet) that allow for the shooting of prairie dogs and postulated the increase was possibly due to season closures in surrounding states. In Colorado, where the regulation on shooting BTPD was changed in 2006 from a total ban to a seasonal closure protecting dependent young, any increase in shooting mortality has had no negative effect based on the increase in occupied acreage.

In closing, due to the increasing or stabilizing population trend information, management actions to reduce impacts of plague, incentive programs promoting grassland conservation, which includes prairie dogs, and the demonstration of the states ability to regulate take through shooting, a not warranted finding on the black-tailed prairie dog status review would be the most appropriate determination. As demonstrated for the past 10 years, WAFWA states within the range of the BTPD remain committed to leading the multi-state conservation effort for prairie dogs, other grassland associated species, and the habitats they depend upon to survive.

This partnership has promoted on the ground conservation efforts enhancing grassland wildlife populations. If you have any questions about information in this letter, please contact Bill Van Pelt, WAFWA Grassland Coordinator at 623-236-7573.

Sincerely,

A handwritten signature in black ink that reads "Donald Koch". The signature is written in a cursive, slightly slanted style.

Donald Koch
President

cc: WAFWA BTPD Directors
Bill Van Pelt, WAFWA Grassland Coordinator

DK/LLK:jp
Attachment (1)

Table 1. Black-tailed prairie dog population status reported by state.			
State	Occupied Habitat	Acreage Objective in MSCP	Year of Most Recent Survey
Arizona	8	4,594 (draft)	2008
Colorado	788,674	255,773	2006-07
Kansas	173,593	148,596	2006 w/ 2009 planned
Montana	90,000	240,367	2001 w/2008 pending
Nebraska	136,991	137,254	2003
North Dakota	22,396	100,551	2006
New Mexico	43,639	87,132	2004 w/2008 pending
Oklahoma	57,677	68,657	2002 w/2009 planned
South Dakota	625,410	199,472	2006
Texas	115,000	293,129	2006
Wyoming	233,104	158,170	2006
Total	2,286,492	1,693,695	