

To Levalley

We are now prepared to schedule a coordination meeting with you to discuss issues of MAJOR concern to our citizens. We ask that you meet with us on either \_\_\_\_\_ or \_\_\_\_\_ at \_\_\_\_\_ in our meeting room in the Courthouse. Please advise us by \_\_\_\_\_ as to which date meets your schedule demands, or to suggest a date which is mutually convenient.

It is critical that you meet with us to discuss the results of the recent attempts by our County to comply with our duties pursuant to state law and to our duties to our citizens to protect their health, safety, economic stability and property rights. Under the Tenth Amendment to the United States Constitution, and the emphasis put on that amendment's importance by our state legislature, we have performed our duty, and our continuing to do that by offering coordination to you rather than litigation.

But, please do understand, that we expect you to fulfill your statutory orders from Congress to coordinate with this County. For example, you are specifically required to consult with us prior to any decision which you may be contemplating regarding the ferret or any other specially considered species.

We believe that it is very unfortunate from the standpoint of our citizens and you and your department that you chose not to meet with us as scheduled in February so that the entire control situation could be discussed in person, and in coordination status. We performed our duties by offering to meet, and then by advising you fully as to what we intended to do. That advice was contained in a letter of February 13, 2009. Had you attended the scheduled coordination meeting, or re-arranged to a more convenient time---in other words had you not refused to coordinate---we would not have been reduced to a series of countering letters which do not allow the eye to eye contact which coordination calls for.

Letters do not allow for immediate discussion of elements where there may be miscommunication. For example, in your letter of February 19, 2009, you say that we "agreed with and accepted that APHIS-Wildlife Services would be responsible for treating the 90 foot vegetative border". You seem to be saying that we agreed that we would do nothing in that border, no matter what the results of the APHIS efforts were. That certainly was never the position of this Board---such a position would be withdrawal from our duties which cannot be delegated. What we said in the December letter to which you refer was "we agree and certainly will accept APHIS's control application in those areas" and that we "thank you and Tom Johnson with APHIS for your full cooperation with the county in the performance of duties" imposed on the county. That statement accepted assistance, but did not delegate full performance of our duties.

Even though what we say is a clear statement based on the simple reading of the letter itself, a face to face meeting with you as scheduled would have allowed you to clear up any misunderstanding you had.

Your letter of February 19, 2009, made a recommendation that we suspend performance of our duties, and requested that you be allowed “to continue to work with our partners to address this property.” You could have made that recommendation on the date of the scheduled meeting and we would have discussed it and you would have had the opportunity to contribute to our decision. But, you chose not to meet, and to make some veiled threat that what we think is important you may not, so you will meet when the issues are important to you. **THAT IS NOT COORDINATION, AND THE STATEMENT AND THE FAILURE TO MEET AS SCHEDULED CONSTITUTE A VIOLATION OF YOUR STATUTORY DUTY WHICH WILL BE ADDRESSED HEREINAFTER.**

As to the final statement in your letter as to continuing to work with your “partners”, we have several issues: who are your partners, and what have you done to “address this property”. We see no results and no attempts to solve the problem which have any hope of success. So, that will be an issue at our next meeting. We have been asked to report to our delegation the progress you have made toward accomplishing control as you committed to our member of Congress when you introduced the ferrets.

Now, to the meeting: we intend to address the following issues:

1. The full report on the control activities of recent months prior to the cut-off dates;
2. A report on the results of the control activities, including reports from property owners adversely affected by prairie dogs and the failure of your “partners” and you to adequately control;
3. A report by you on any damage you may have encountered with ferrets, and on your efforts to remove the ferrets from any danger given the fact that you had advance notice of our control efforts;
4. A discussion of future control efforts by you, working with your partners, and by this County in order to comply with our responsibilities;
5. A report by you on monitoring of the ferrets and control efforts as to prairie dogs;
6. We will invite APHIS to attend and report on their monitoring efforts and plans for future control activities.
7. Any plans you may have regarding the current population of ferrets, and or any other efforts to increase their presence in our county;
8. Any plans you have made with your “partners” as to control of prairie dogs;
9. Your plans for reporting to our Congressional member as to the commitments you made to him when you introduced the ferrets.

Of course, as always, we will add to the agenda any items you want discussed. But, bear in mind that we insist on our next meeting being held. If you decline, we must act to bring action against your new supervisors in Washington, including Secretary Salazar, and to advise the Department of Justice of our intent to sue to require coordination. We had moved beyond the letter writing stage, and we do not intend to allow you to drop back into letter writing and veiled accusations and threats as a substitute for full and complete, honest eye to eye discussions.

During the week beginning March 30, our planning consultant was invited by the White House to attend the bill signing which made into law the coordination-collaborative bill he had worked on for 8 years. During his time in D.C. he was able to discuss our situation with key White House staff people and with several Senators, Representatives and Interior staff people. He made it clear that as the nation struggles with economic crisis, we face that crisis in a day to day real manner right here in Logan County, Kansas. Our citizens face economic crisis in their farming and ranching activities as a result of damage caused by an ever increasing population of prairie dogs. He made it clear that this Board, and the people of this County, have undertaken the responsibility of coordination and were now waiting to see whether you would resume your responsibility or continue to resort to letter writing.

He discussed with staff people the importance of the \$200 MILLION Conservation Easement provisions in the Farm Act, and how the hope of the sponsor and the Finance Committee was that the provisions would help in easing adverse impacts from compliance with the Endangered Species Act. He pointed out that such program could be seriously impacted if it becomes clear that the Service will ignore the harm being done to farmers and ranchers by species actions such as introducing the ferrets into a county where there is no proof that the species ever existed. He explained that the evidence relied on by the Service as to prior presence was a skull seen in a town in the County, with no evidence as to how it got there and evidence that it was in the possession of a man who cannot even be linked with having lived in the County. He discussed with them how the Data Quality Act may have to be used by the County, if coordination is not resumed. We can tell you that he got no opposition to the County's intent to push forward with coordination, including litigation to require coordination if that becomes necessary.

We are preparing a report that we will submit to each of the White House, cabinet, and congressional level officials who expressed interest in whether the Fish and Wildlife Service coordinated with us. In spite of past performance, we sincerely do hope that the report can say that we are back on track on coordination. But, understand that our duties to our constituents do not allow us to ignore any failure to coordinate.

So, let's please get back to the table, and begin anew the discussions of the above agenda items with the hope of reaching a level of coordination which benefits our citizens and your agency performance.

By \_\_\_\_\_ please advise us of the most convenient meeting date, and any items you would like added to our coordination agenda.