

Prairie dog battle takes legal turn in Logan Co.

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By MIKE CORN

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Even as state and federal officials begin an investigation into the improper use of poison to kill off prairie dogs, Logan County officials have delivered an ultimatum to landowners who have rebuffed earlier poisoning efforts.

On Tuesday, as Betty and Larry Haverfield made the final turn onto a road leading to their southwest Logan County residence, a pair of headlights appeared in the rearview mirror of their car.

Those lights, as it turned out, belonged to a Logan County Sheriff's Department patrol cruiser. The officer served Larry Haverfield with a letter from Logan County Attorney Andrea Wyrick; Haverfield was asked to sign for it.

The letter essentially gives Haverfield and Gordon Barnhardt until Dec. 6 to remove cattle from the almost 8,000 acres they own and lease.

If they fail to do so, the letter states, the county will "enter the land and treat the prairie dog infestation with Phostoxin, a chemical that can be used while cattle remain on the property.

"The cost of using Phostoxin is substantially more than Rozol."

What's significant about that statement is that the cost of treating only Haverfield's land with Rozol would cost almost \$200,000.

Today, Logan County Commissioner Nick Scott said Phostoxin is about twice the cost of Rozol.

Delivery of the letter, ironically, came as the Haverfields were on their way home from an open house organized by the U.S. Fish and Wildlife Service to answer questions and take comments on the proposed reintroduction of the nation's most endangered mammal, the black-footed ferret, on land owned by Haverfield and Barnhardt.

All three Logan County commissioners — Carl Uhrich, Doug Mackley and

Scott — attended the meeting but said nothing about the forthcoming letter or the ultimatum it contained.

Scott said the commission decided Monday that the letter should be sent. He said he didn't know that it was delivered Tuesday.

At the meeting, the commissioners generally defended their approach to need to exterminate prairie dogs and scoffed at suggestions from environmentalists that Logan County would be an ideal place for the ferret reintroduction.

They also defended the manner of application of Rozol, but shied from complete support for the Buffalo, Wyo., group they hired to help treat land in the county.

It was the Diamond Dot group that last week entered land owned by Barnhardt and started poisoning prairie dogs.

Since then, Barnhardt's son and daughter visited the site and reported that poison was not applied as required by the label.

Instead, Brenda Pace said, the Rozol was scattered on top of the ground.

The pesticide label — the ultimate guide in how the chemical must be applied — requires that it be placed at least 6 inches down into the prairie dog hole.

Photographs taken at the site also confirm the applicator's aim was off, missing the holes by a foot or more.

Although there apparently were problems initiating an investigation, the Kansas Department of Agriculture now has done so based on what its own investigator witnessed.

As well, Brenda Pace, a Hutchinson resident and Barnhardt's daughter, has offered to sign a complaint. She also plans to file a complaint about the field agent she contacted.

“When I talked to him, he didn't seem like he wanted to do anything to stop the prairie dog poisoning,” she said.

She said he had offered to sign a complaint, but the investigator, Jerry

Wilson, said it wasn't necessary, and that he would instead find someone closer to his location.

The Agriculture Department initially said no investigation would be conducted because no one wanted to sign a complaint.

That was the case, Barnhardt said, because he thought he had struck a deal with the applicator. The deal had three points: no complaint would be filed, the county would not be billed for the work and the company would not return to Barnhardt or

Haverfield's land.

On Tuesday morning, Barnhardt received a bill for \$567.60.

Barnhardt said he will now file a complaint.

“I don't have any reason not to because he did illegal things on my land, and he wants to charge me for it,” he said. “I'll sign the complaint now that the deal fell through.”

The application also could be subject to investigation by the U.S. Fish and Wildlife Service because of secondary poisoning effects.

A USFWS special agent at the Tuesday meeting, however, declined to say if an investigation was under way.

“As far as I know, it's properly done,” Commissioner Doug Mackley said.

His son, Denny, is the county's weed director and also is responsible for poisoning prairie dogs on behalf of the county. He also has a pesticide applicator's license and performs similar work off duty.

“Maybe someone else planted that Rozol,” suggested Commissioner Carl Uhrich, who immediately said he didn't want to be quoted. Uhrich — a strident supporter of prairie dog eradication — attended the meeting wearing a “Rozol Pocket Gopher Bait” cap.

Most of the prairie dog issue has been turned over to Uhrich, Scott said.

And while the letter said Haverfield had to remove his cattle, Scott said, “I'm sure we can work with him.”

He dismissed the idea that the county is trying to put Haverfield out of business.

“It's an effort to stop the black-footed ferret it looks to me like and to protect the neighbors,” he said.

Scott said the letter likely would have been sent by certified mail to Barnhardt and to Maxine Blank, an 80-year-old Utah woman who owns some of the land that Haverfield leases.

Without a restraining order, Scott said the county will be at the ranch Dec. 6, and said that if they need to hire cowboys to move cattle or take them elsewhere and feed them, they will.

“Everything will be at his expense,” Scott said.

Haverfield said he was surprised that the officer pulled into his yard behind him and presented the letter.

“He didn't follow us down from Russell Springs,” Haverfield said, adding that his lights came on shortly after they were a couple miles from home.

Haverfield said he isn't sure what will happen next.

“I would guess we're looking toward court,” he said.

Scott agreed.

“It's the Hatfields and the McCoys again,” he said. “I hate to see it go to court, but if it has to, it has to. I think it's just the step to a lawsuit.”

“It's like he has no property rights whatsoever,” Ron Klataske, executive director of the Audubon of Kansas, said of the county's action against Haverfield. “Why are they targeting these landowners, and why are they doing it right now?”

“They have an unfounded fear of the experimental reintroduction of black-footed ferrets. It's no more founded than monsters under one's bed. There are no monsters under a bed.”

Special-projects coordinator Mike Corn can be reached at (785) 628-1081, Ext. 129, or by e-mail at mcorn@dailynews.net.