

December 18, 2002

Mr. Richard Burdine  
Asst. City Manager  
City of Lubbock  
P.O. Box 2000  
Lubbock, TX 79413

Dear Mr. Burdine,

We understand that the City of Lubbock is once again poised to approve a management plan for the Lubbock Land Application Site (LLAS), an area which has been the source of ongoing controversy for many months.

We are in receipt of your draft plan dated December 12. We are disheartened to note that the current draft continues to rely on the assumption that prairie dog burrows contribute to groundwater pollution beneath the LLAS. Though city officials have admitted that this assumption is not supported by a single scientific study, the draft plan includes no provision to scientifically determine which factors affect groundwater pollution and how best to remedy the problem. Worse, the management plan continues to call for actions that violate federal law by destroying burrowing owl habitat in the middle of winter. We continue to be concerned that this plan will result in the unnecessary deaths of prairie dogs, burrowing owls and other wildlife, and still may not adequately address the groundwater pollution problem.

Moreover, the fact that this draft plan calls for implementation during this holiday season is distressing. This will not allow for adequate time for interested parties to review and comment on its merits. These are the kinds of situations that we had hoped to avoid when we requested that all interested parties be invited to participate in the planning and bring their expertise to the table.

We strongly oppose the following aspects of the draft management plan:

**Absence of Any Scientific Basis:** When it abandoned its original plan to eradicate the LLAS black-tailed prairie dog colony, the City requested additional time to conduct more research. Despite that claim, it appears that the City knows no more about the causes of soil contamination than it did previously.

As with the now-discarded plan to eradicate prairie dogs from the entire site, the city has provided no evidence that planting row crops will in any way decrease nitrate buildup in the aquifer. Further, the notion that prairie dogs must be removed underneath the pivots has never been justified. This project will likely be costly and have extreme impacts on wildlife, yet the City has not produced any study to support the plan. Indeed, the interment of hundreds of prairie dogs alive (or dead) in their burrows may result in a new solid waste violation. According to Texas Agriculture Code, the disposal of animal carcasses on site will require either the deed-recording of the site as a hazardous waste disposal site or the preparation of a Water Quality Management Plan.

**Continuing Pollution Violations:** Under this latest draft plan, the city appears to remain in violation of its state permit. Permit condition #14 provides that irrigation rates are not to exceed 4.8 ac-ft/yr/acre. Our conversations with the Texas Commission on Environmental Quality (TCEQ) indicate that they had not been made aware of this plan, and that they will view the changes in irrigation practices to violate the city's permit.

**Migratory Bird Treaty Act Violations:** Any action to plug prairie dog burrows must not take place during the winter months or during any other highly-sensitive parts of the year, such as breeding season. Such action will result in the deaths of countless burrowing owls, a species protected under the Migratory Bird Treaty Act, and will make the City subject to criminal enforcement action by the U.S. Fish and Wildlife Service.

**Wholesale Prairie Dog Eradication:** Small-scale voluntary prairie dog relocation efforts are simply not an acceptable way to protect prairie dog populations from the impacts of this project. A handful of unpaid prairie dog wranglers cannot prevent the unnecessary destruction of the hundreds of prairie dogs living near the pivots.

This draft plan is not at all responsive to the outcry of citizens concerned about the well-being of the declining populations of prairie dogs and burrowing owls, and this action will engender further litigation from our organizations as well as the federal government.

From the beginning the organizations below have been willing to work with the City to arrive at a common solution. We believe that such a solution can be reached if we take the time to look at all relevant information so that a scientifically sound decision can be made.

To avoid further litigation, we recommend that the City of Lubbock take no action through the holidays, and convene a meeting with us in early January.

Thank you for your attention to this important matter and we look forward to your prompt response.

Sincerely,

Scott Royder  
Texas Public Employees for Environmental Responsibility

Susan George  
Defenders of Wildlife

Nicole Rosemarino  
Forest Guardians

Jarid Manos  
Great Plains Restoration Council

Elizabeth Stallman, Ph.D.  
The Humane Society of the United States

Stephanie Nichols Young

Animal Legal Defense Fund

Stephanie Boyles  
People for the Ethical Treatment of Animals

CC:

Mayor Marc McDougal

Lubbock City Councilman Tom Martin

Lubbock City Councilman Victor Hernandez

Lubbock City Councilman TJ Patterson

Lubbock City Councilman Frank Morrison

Lubbock City Councilman Alex Cooke

Lubbock City Councilman Gary Boren

Heather Whitlaw, TPWD

Duane Lucia, TPWD

John Hughes, USFWS

Rick Gilliland, USDA

Raymond Cragar, West Texas Nursery

Dick Davis, NFWF

Jennifer Murphy, NFWF

Ellen Roots McBride, Llano Estacado Audubon Society

Jill Haukos, Llano Estacado Audubon Society

Donna Dees, City of Fort Collins