

**SOUND AGRICULTURAL PRACTICE**  
**Opinion Number 11-1**

**SUBJECT:** Request for an Opinion Pursuant to Section 308 of the Agriculture and Markets Law as to the soundness of a certain agricultural practice conducted by Mark Owens

**REQUESTOR:** Mr. Mark Owens  
3743 Oxford Road  
New Hartford, NY 13413

**Preliminary Statement**

On June 21, 2010, Mark Owens called the Department and requested an Opinion concerning the soundness of an agricultural practice conducted on his property. He requested that the Commissioner issue an Opinion as to the soundness of the use of livestock guardian dogs to protect sheep from predation. This sound agricultural practice request stems from a neighbor complaint about the barking of Mr. Owens's guardian livestock dogs.

The Department conducted a sound agricultural practice review of the use of livestock guardian dogs on Mr. Owens's property to protect sheep from predation. The following information and findings have been considered in reaching this Opinion.

**Information Considered in Support of the Opinion**

1. Mr. Owens raises and sells sheep, hay, bees/honey and goats in the Town of New Hartford, Oneida County, New York. Mr. Owens's farm is located within Oneida County Agricultural District No. 5 and is subject to an agricultural assessment. Mr. Owens raises approximately 200 adult sheep on 56 acres of pasture and uses two Great Pyrenees livestock guardian dogs to protect his livestock from predation. He stated that there is a severe coyote problem in the area. He indicated that he uses a low impedance high voltage fence to help protect the livestock, but the coyotes tend to find a way through the fence. Mr. Owens stated that he used donkeys for five years, but the coyotes found that donkeys would not hurt them and were not intimidated by them.
2. On July 5, 2010, Dr. Robert Somers, Manager of the Department's Agricultural Protection Unit, conducted an on-site review of the practice. Mr. Owens uses rotational grazing with movable low impedance, three strand high voltage fence to define the boundary of the pasture in use. Mr. Owens stated that he keeps the sheep in the barn during the day and lets them out at night to graze since the sheep

gain weight better and graze more effectively under this method of management. Mr. Owens indicated that he uses two Great Pyrenees livestock guardian dogs, purchased as puppies, to protect his livestock. As of June 20, 2011, the dogs were two years old. When Dr. Somers visited the farm, the sheep were locked in the barn and the two guardian livestock dogs were in the structure with their wards.

3. Mr. Owens stated that in 2009 he lost 10 lambs because the coyotes became accustomed to the donkeys and the Great Pyrenees dogs were too small to let out of the barn. He indicated that coyotes select lambs because they are much easier to hunt down and kill. In 2010, Mr. Owens stated that the dogs were mature enough to stay with the grazing sheep at night and that he had not lost any sheep to predation from that time until Dr. Somers' field visit on July 5, 2010.
4. About a week prior to the Department's July 5<sup>th</sup>, 2010 visit to the farm, Mr. Owens stated that a bear was spotted on his property at 7 a.m. Mr. Owens was alerted by his dogs that a predator was nearby. On August 2, 2010, Mr. Owens called the Department to report that two sheep had been recently killed, one on July 25, 2010 and another on July 26, 2010. He stated that the kill looked more like a bear than a coyote. More than half of one of the mature ewes had been consumed. Mr. Owens stated that coyotes usually only go after lambs. He reported the losses to the Town's Animal Control Officer. On July 31, 2010, a neighbor's dog (a pit bull/lab mix) came into the pasture and killed one of his ewes. Mr. Owens witnessed the attack. On March 2, 2011, Mr. Owens stated that he has lost a few additional sheep to predation, but it is noticeably less since the livestock guardian dogs have been deployed. He indicated that his operation has not changed since Dr. Somers's visit in July, 2010. Mr. Owens stated that he has not been cited by the Animal Control Officer for violating any local laws, rules or regulations.
5. On August 6, 2010 the Department mailed letters to twenty-two property owners adjoining Mark Owens's farm operation notifying them of the agricultural practice review and inviting them to comment on the keeping of guardian sheepdogs by Mr. Owens to protect his livestock from predation. The Department received three letters concerning the use of guardian livestock dogs by the Owens farm operation. One of the neighboring property owners stated that she has no objections to the use of guardian dogs to protect livestock on the Owens property. She indicated that she has seen coyotes in his fields and the dogs will help protect the sheep.
6. Another adjacent property owner (Mr. Owens's brother) stated that during the past five years, he has witnessed losses incurred by Mark Owens due to an increasing population of predators in the area, mainly coyotes. His primary defense has been the use of a well-maintained three strand wire electric fence. However, at night, the

fence does not offer enough protection. He stated that his brother did extensive research to examine other methods used by sheep farmers to deter predators. He stated that most sheep farmers use guard dogs to protect their livestock. He stated that the use of guard dogs is an essential component to the protection of livestock from predation. He indicated that the use of guard dogs by his brother has not negatively impacted the quality of life for his family and neighbors.

7. A neighboring couple stated in a letter that they are aware there have been questions concerning the two livestock guardian dogs used by Mr. Owens to protect his sheep from predation by coyotes. They understand that there have been complaints about the dogs barking. They stated that they are seeing and hearing more coyote activity this year and they are aware that Mr. Owens has lost multiple sheep this summer. They understand that the use of guardian dogs is necessary. On a rare occasion, they have heard the dogs barking at night, but their barking has not been loud enough to affect their ability to sleep or perform routine activities. The dogs have not been loud enough to trigger a reaction from their dogs who usually bark in response to the barking of other dogs. They stated that when they purchased their home, they knew that they were moving into a farming area. They indicated that Mr. Owens discussed using livestock guardian dogs on the farm before he acquired them and asked if they had any concerns. They stated that Mr. Owens has quickly informed them of any activities that might have an effect on them and he frequently checks in with them to ensure that they do not have any concerns with the farm. They indicated that Mr. Owens has been a very courteous neighbor.
8. On June 29, 2011, Dr. Somers called Officer Nicholas Morosco, the Town of New Hartford's Animal Control Officer. Dr. Somers left a voice message with Officer Morosco, informed him of the SAP review on the Owens farm operation and asked him to return his call. As of October 11, 2011, Officer Morosco has not returned Dr. Somers's phone call. Mr. Owens indicated that he has not received or been issued any citation from the Town relating to his keeping of livestock guardian dogs.
9. The Maremma Sheepdog Club of America published a guide entitled *Maremma Livestock Guarding Dogs the Northern Way* (McClellan, 1988) on the use of Maremma dogs for guarding livestock. The Guide states: "... [t]he way of guarding that projects farthest into the area surrounding its territory is barking. Guardian dogs do not usually bark at nothing, but may seem to because their senses reach out farther than men. Sensing something improper or out of place in the distance, the guardian will bark. If the suspected threat moves no closer, the barking will remain rather relaxed and contain only a message of presence. If the threat moves closer, the message of the barking will change to one of increased agitation and aggressive intent. And, if the threat moves closer still, the barking will give way to snarls and

growls that tell the adversary it is only a few steps away from physical attack.” (McClellan, pg. 11) Further, “[p]redators, hearing a dog’s barking and/or detecting its scent marking, will usually go elsewhere. The advertised presence of a dog is enough to deter the predators and send it to easier picking. Usually following the path of least resistance, it is easier to go where a meal will not be so much work. Also, predators try very hard to avoid injury because injury in the wild, even though relatively minor, can be fatal by preventing its acquiring food.” (McClellan, at 13).

10. In *Livestock Guarding Dogs: Their Current Use World Wide*, Ms. Robin Rigg states that livestock guarding dogs protect animals from external threats. They are social animals, stay in a group and protect the flock as if they were part of its group. They are attentive to their wards, drive away intruders and livestock guardian dogs are “...the most cost effective method of non-lethal predator control.” Benefits of their use on the farm include: not needing to corral animals at night, they alert the owners if they perceive a danger, they protect the owner’s property, they reduce predation, and they allow for a more efficient use of pastures. A review of literature on Maremmas state that the dog is strong, agile, intelligent and courageous, but not aggressive. (Robin Rigg, 2001, [www.canids.org/occasionalpapers/](http://www.canids.org/occasionalpapers/)).
11. The USDA Information Bulletin Number 588 (as revised 1999) states that the use of livestock guardian dogs has made a resurgence due to federal restrictions on the elimination of predator species, the inability to provide protection from certain predators using conventional methods of livestock protection, and the desire by some individuals to use nonlethal methods to control predation. The dogs, when acquired at a young age, assimilate and become part of the flock they are protecting. They stay with the flock day and night and act independently; they are not pets. The authors state that both coyotes and foxes avoid confrontation and stay a reasonable distance from the livestock when they know that a guardian dog is present. They suggest that the sole use of guarding dogs to protect livestock from predation does not eliminate the need to use other control methods. Other methods mentioned include the use of electric fences and mechanical scare devices; corralling animals at night; keeping the barn or corral illuminated at night; keeping the animals near human habitation; or trapping and shooting predators. (USDA Information Bulletin Number 588, 1999, *Livestock Guarding Dogs Protecting Sheep from Predators*)  
<http://www.nal.usda.gov/awic/companimals/guarddogs/guarddogs.htm>
12. On March 13, 2006 Matt Brower, Department Associate Environmental Analyst, contacted Jeffery S. Green, Regional Director for the United States Department of Agriculture Animal and Plant Health Inspection Service (APHIS), to gather information on the protection of livestock against predators. Mr. Green stated that

he has worked extensively with Great Pyrenees guard dogs and that their behavior is based on instinct. He indicated that this breed does not typically bark constantly but it could happen. He also stated that property located on the border of a residential area and a large area of open land would be a favorable environment for coyotes.

13. According to a publication from the Great Pyrenees Club of America (*Great Pyrenees Club of America: Livestock Guard Dogs*. Rev. 1991) this breed of dog is "...a territorial guard by nature, which means that he works to keep his territory free from predatory danger." The publication states that if the dog is performing properly, "...the stockman may never see a predator, and the flock will never be disturbed."
14. According to a publication from Colorado State University (*Livestock Guard Dogs, Llamas and Donkeys*. Andelt, W.F. No. 1.218. Rev. 10/04) "[g]uard dogs significantly reduce coyote predation on domestic sheep in Colorado." The publication also states that "[p]roducers using guard dogs reported a lower percent sheep loss than producers using llamas."
15. On June 30, 2011, Mark Owens wrote Dr. Somers an e-mail stating that he began farming the land in 1992, but the Owens family has been farming the property since 1924. He stated the he has not received any complaints on his dogs since Dr. Somers's visit in July of 2010. He indicated that the complainant has moved from the neighborhood.
16. On July 14, 2011, Dr. Somers contacted Steve Heerkens, Biologist, NYS Department of Environmental Conservation, Utica Office to discuss the presence of coyotes in the Town of New Hartford, Oneida County. Mr. Heerkens stated that the Department is conducting a survey to estimate the coyote populations in New York. He stated that preliminary estimates suggest that 35 to 40 thousand coyotes live within the State. Mr. Heerkens suggested that this is probably a low number. He stated that coyotes are present and common throughout the State. He estimated that approximately one-third of the reported sightings of coyote and fox within the county comes from residents living within the Town of New Hartford. Mr. Heerkens stated that he has received calls and is aware of coyote predation as well as the indiscriminant killing of sheep by domestic and feral dogs in the Town of New Hartford. He said that he has heard that the use of dogs to deter predation on smaller livestock has proven to be very effective. He further stated that he has observed some farmers using dogs within orchards to reduce crop damage by deer.

## Findings

Based upon the facts, information and circumstances described above, and in consultation with the Advisory Council on Agriculture; the New York State Department of Environmental Conservation; and the New York State College of Agriculture and Life Sciences at Cornell; and the Sound Agricultural Practice Guidelines<sup>1</sup> by which agricultural practices are evaluated, I find the following:

1. The Department has found no evidence or received other information indicating that Mr. Owens is in violation of federal, state or local law resulting from the use of livestock guardian dogs to protect his animals from predation.
2. The Department has found no evidence that the use of guard dogs has resulted in bodily harm or property damage off the site.
3. The use of Great Pyrenees livestock guardian dogs for the protection of livestock from predation has achieved the intended result in a reasonable and supportable way. The use of the Great Pyrenees dogs is very efficacious in this case since they have lost fewer livestock since the guardian dogs were put into service. Mr. Owens has also moved the flock closer to his residence so they may be supervised more carefully during the night. Protection during the night would not be possible without the use of the guardian dogs. Mr. Owens attempted to use donkeys but this was not an effective deterrent for coyotes.
4. Information received by the Department indicates that coyotes are in the area of the Owens property. Since the sheep have no way of protecting themselves, some form of protection from predation is necessary. It does not appear that the high voltage three strand wire fence and the use of donkeys are sufficient to keep domestic dogs, coyotes and bears at bay. Livestock guardian dogs have been utilized for centuries to protect livestock because the dogs instinctively bark to ward off potential predators and aggressively defend their wards from dangerous situations.

## Conclusion

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<sup>1</sup> On November 1, 1993 the NYS Advisory Council on Agriculture published its report entitled *Protecting the Right of New York Farmers to Engage in Sound Agricultural Practices*. The Council developed guidelines to assist the Commissioner of the Department of Agriculture and Markets in determining what is sound pursuant to Section 308 of the Agriculture and Markets Law. The Guidelines state that the practice 1) should be legal; 2) should not cause bodily harm or property damage off the farm; 3) should achieve the results intended in a reasonable and supportable way; and 4) should be necessary. The sound agricultural practices guidelines recommended by the Advisory Council on Agriculture are given significant weight in assessing agricultural practices.

Based on the information and findings set forth above and in accordance with section 308 of the Agriculture and Markets Law, I conclude that, from a noise perspective, the use of Great Pyrenees livestock guardian dogs to protect sheep on the Owens property, as described above, is sound.

11-22-11

Date



DARREL J. AUBERTINE  
Commissioner of Agriculture and  
Markets

