DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To Reclassify the Utah Prairie Dog From Threatened to Endangered and Initiation of a 5-Year Review

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding and initiation of a 5-year review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to reclassify the Utah prairie dog (*Cynomys parvidens*) from threatened to endangered under the Endangered Species Act of 1973, as amended (Act). We find that the petition does not provide substantial scientific or commercial information indicating that reclassification of the Utah prairie dog from threatened to endangered may be warranted. Therefore, we are not initiating a further status review in response to this petition. We are, however, initiating a 5-year review under section 4(c)(2)(A) of the Act for this species because such a review has not been conducted in the last 5 years. We ask the public to submit to us any new information that becomes available concerning the status of the Utah prairie dog or threats to the species.

DATES: The 90-day finding announced in this document was made on February 21, 2007. Comments and information for the 5-year review must be submitted on or before April 23, 2007.

ADDRESSES: The petition, administrative finding, supporting data, and comments will be available for public inspection, by appointment, during normal business hours at the Utah Ecological Services Field Office, 2369 West Orton Circle, Suite 50, West Valley City, UT 84119. The petition and finding are available on our Web site at *http://mountain-prairie.fws.gov/species/mammals/utprairiedog/.*

If you wish to comment, you may submit your comments and materials by any one of the following methods:

(1) You may mail or hand-deliver written comments and information to Field Supervisor, Utah Ecological Services Office, at the address given above.

(2) You may submit your comments by electronic mail (e-mail) to *utahprairiedog@fws.gov.* For directions on how to submit comments by e-mail, see the ''Public Comments Solicited'' section of this notice. In the event that our Internet connection is not functional, please submit your comments by mail, hand-delivery, or fax.

(3) You may fax your comments to (801) 975–3331.

FOR FURTHER INFORMATION CONTACT: Larry Crist, Field Supervisor, Utah Ecological Services Field Office (see **ADDRESSES**) (telephone 801–975–3330; facsimile 801–975–3331). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We are to base this finding on information provided in the petition and supporting information available in our files at the time of the petition review. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition, and publish our notice of this finding promptly in the **Federal Register**.

Our standard for substantial information within the Code of Federal Regulations (CFR) with regard to a 90-day petition finding is ''that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted'' (50 CFR 424.14(b)). If we find that substantial information was presented, we are required to promptly commence a review of the status of the species.

In making this finding, we relied on information provided by the petitioners and evaluated that information in accordance with 50 CFR 424.14(b). Our 90-day finding process under section 4(b)(3)(A) of the Act and § 424.14(b) of our regulations is limited to a determination of whether the information in the petition meets the ''substantial information'' threshold. A substantial finding should be made when the Service deems that adequate and reliable information has been presented that would lead a reasonable person to believe that the petitioned action may be warranted. In making our determination on the petition evaluated in this 90 day finding, which petitions us to reclassify the Utah prairie dog from threatened to endangered, we have made our determination on whether the petition presents substantial scientific and commercial information indicating the species is in danger of extinction throughout all or a significant portion of its range.

Petition

On February 3, 2003, we received a petition submitted by Forest Guardians, Center for Native Ecosystems, Escalante Wilderness Project, Boulder Regional Group, Southern Utah Wilderness Alliance, and Terry Tempest Williams (Petitioners) requesting that we reclassify the Utah prairie dog from threatened to endangered. We acknowledged receipt of the petition in a letter to Nicole Rosmarino on November 21, 2003. In that letter we also advised the Petitioners that, due to prior listing allocations in fiscal years 2003 and 2004, we would not be able to begin processing the petition in a timely manner.

On February 2, 2004, we received a Notice of Intent to sue from the Petitioners for failure to issue the 90-day finding. On February 2, 2006, the Petitioners filed a complaint for injunctive and declaratory relief in the United States District Court for the District of Columbia. On June 2, 2006, the parties reached a settlement agreement that requires the Service to make a 90-day finding on the petition on or before February 17, 2007. This finding constitutes our compliance with the settlement agreement.

Species Information

Prairie dogs belong to the Sciuridae family of rodents, which also includes squirrels, chipmunks, and marmots. There are five species of prairie dogs, all of which are native to North America, and all of which have non-overlapping geographic ranges (Hoogland 2003, p. 232). Taxonomically, prairie dogs (*Cynomys spp.*) are divided into two subgenera: The white-tail and black-tail. The Utah prairie dog (*C. parvidens*) is a member of the white-tail group, subgenus *Leucocrossuromys.* Other members of this group, which also occur in Utah, are the white-tailed prairie dog (*C. leucurus*) and the Gunnison prairie dog (*C. gunnisoni*). The Utah prairie dog is distinguished by a relatively short (30 to 70 millimeters (mm)/1.2 to 2.8 inches (in)) white- or gray-tipped tail (Pizzimenti and Collier 1975, p. 1; Hoogland 2003, p. 232). The Utah prairie dog is most closely related to the white-tailed prairie dog, and chromosomal and biochemical data suggest that these two species may once have belonged to a single interbreeding

species (Pizzimenti 1975, p. 16). The two species are now separated by ecological and physiographic barriers. Both Chesser (1984, p. 4) and Ritchie and Brown (2005, p. 11) found that genetic variance within Utah prairie dog populations is very low, less than half that commonly observed for black-tailed prairie dogs (*C. ludovicianus*). This may be the result of genetic drift on small populations (Chesser 1984, p. 5).

Life History

Detailed information on the life history of the Utah prairie dog can be found in our May 29, 1984, final rule to reclassify the species as threatened (49 FR 22330), in the recovery plan for the species (Service 1991a), and on our Web site at *http://mountain-prairie.fws.gov/species/mammals/utprairiedog/*. A brief synopsis of information on the species' life history that is relevant to this finding follows:

Utah prairie dogs are true hibernators, ceasing most surface activity during harsh winter months. Female Utah prairie dogs come into estrus (period of greatest female reproductive responsiveness usually coinciding with ovulation) and are sexually receptive for several hours for only 1 day during the breeding season (generally mid-March through early April). Consequently, only 67 percent of female prairie dogs wean a litter, and they have only one litter per year (Hoogland 2001, pp. 919, 920). Litters range between 1 to 7 pups, but average between 3.88 and 4.8 pups (Pizzimenti and Collier 1975, p. 2; Wright-Smith 1978, p. 10; Hoogland 2001, p. 923). The young attain adult size by October and reach sexual maturity at the age of 1 year (Wright-Smith 1978, p. 9). Less than 50 percent of Utah prairie dogs survive to breeding age (Hoogland 2001, p. 919). Male Utah prairie dogs frequently cannibalize juveniles, which can eliminate 20 percent up to the entire litter before the pups first appear aboveground (Hoogland 2003, p. 238).

After the first year, female survivorship is higher than male survivorship, though still low for both sexes. Only about 20 percent of females and less than 10 percent of males survive to age 4 (Hoogland 2001, Figures 1 and 2, pp. 919–920). Such low survivorship severely limits prairie dog reproduction (Hoogland 2001, p. 921). Utah prairie dogs rarely live beyond 5 years (Hoogland 2001, p. 919).

Utah prairie dogs are organized into social groups called clans, consisting of an adult male, several adult females, and their offspring (Wright-Smith 1978, p. 38). Clans maintain geographic territorial boundaries, which only the young regularly cross, although all animals use common feeding grounds.

Habitat Requirements

Available moisture and prairie dog abundance and density are positively correlated (Crocker-Bedford 1976, pp. 71–72). Prairie dogs appear to prefer swale type formations where moist herbage is available even during drought periods (Collier 1975, p. 43; Crocker-Bedford and Spillett 1981, p. 24). Soil characteristics are also an important factor in the location of Utah prairie dog colonies. A well-drained area is necessary for home burrows. The soil should be deep enough to allow burrowing to depths sufficient to provide protection from predators and insulation from environmental and temperature extremes. Prairie dogs must be able to inhabit a burrow system 1 meter (m) [3.3 feet (ft)] underground without becoming wet. Prairie dogs will avoid areas where brushy species dominate, and will eventually decline or disappear in areas invaded by brush (Collier 1975, pp. 44, 59; Player and Urness 1983, p. 522).

Food Habits

Prairie dogs are predominantly herbivores, and they prefer alfalfa and grasses during all seasons (Crocker-Bedford and Spillett 1981, p. 8). Grasses are the staple of their annual diet, with forbs being preferred in summer and fall. Although forbs, other than alfalfa, are not always highly preferred items throughout the year, they may be critical to a prairie dog colony's survival during drought. Ritchie and Brown (2005, p. 7) found that plant seeding in Utah prairie dog transplant areas increased plant diversity and prairie dogs were more likely to use or persist in seeded areas.

Current Distribution and Numbers

The Utah prairie dog is the westernmost member of the genus *Cynomys*. The species' range, which is limited to the southwestern quarter of Utah, is currently the most restricted of all prairie dog species in the United States. As could best be ascertained by Collier (1975, pp. 15–17), the species' distribution was much broader prior to control programs and at one time extended across the desert almost to the Nevada-Utah State line. Collier and Spillett (1975, p. 151) estimate a 50 percent range reduction from 1925 to 1975, with the greatest declines occurring in the western and northern parts of the range. However, due to the lack of data from the early to mid 1900s, this estimate is speculative.

Factors that resulted in the historical decline of Utah prairie dogs were poisoning, which removed Utah prairie dogs from approximately 8,094 hectares (ha) [20,000 acres (ac)] of their range in Sevier, Wayne, Garfield, and Iron Counties prior to 1963; drought; habitat alteration, primarily in the form of cultivation to agricultural crops; shooting; and disease (Collier and Spillett 1972, pp. 33–35). Major predators include coyotes (*Canis latrans*), badgers (*Taxidea taxis*), long-tailed weasels (*Mustela frenata*), various raptor species, and prairie rattlesnakes (*Crotalus viridis*) (Service 1991a, p. 9; Hoogland 2001, p. 922). In established colonies, predators probably do not exert a controlling influence on numbers of prairie dogs (Collier and Spillett 1972, p. 36). Long-term overgrazing, drought, disease (plague), and competition with Uinta ground squirrels (*Spermophilus armatus*) have contributed to larger-scale historic declines in prairie dog numbers, including loss of entire colonies (Service 1991a, pp. 11–12).

Historically, Utah prairie dog colonies were found as far west as Pine and Buckskin Valleys in Beaver and Iron Counties, and may have occurred as far north as Nephi, Utah, southeast to Bryce Canyon National Park, east to the foothills of the Aquarius Plateau, and south to the northern borders of Kane and Washington Counties (Pizzimenti and Collier 1975, p. 1). Prior to 1920, the species occurred within approximately 713 map sections (184,666 ha/456,320 ac) in 10 areas of southwestern Utah (Collier 1975, p. 15). In 1971, Collier (1975, p. 15) determined the species occurred within 96 sections (24,863 ha/61,440 ac), based on landowner questionnaires. The 1920 and 1971 habitat estimates are misleading because they assume all 640 acres within a section are occupied if the occurrence of Utah prairie dogs was reported from that section, regardless of actual numbers or distribution within the section. We believe the best information concerning actual Utah prairie dog habitat is from ongoing mapping efforts conducted by the Utah Division of Wildlife Resources (UDWR). UDWR has mapped 17,444 ha (43,106 ac) of habitat throughout the current and historic Utah prairie dog range; however, current occupancy has not been verified for this mapped habitat area, or for other areas of historic habitat. The total number of Utah prairie dogs was estimated to be 95,000 animals prior to control programs in the 1920s (McDonald 1993, p. 2). However, estimates of the size of former populations are difficult to make

because no formal censuses were conducted prior to 1976.

The Utah prairie dog currently occurs in three areas within southwestern Utah, which are designated as recovery areas: (1) The Awapa Plateau; (2) the Paunsaugunt region, along the east fork and main stem of the Sevier River; and, (3) the West Desert region of eastern Iron County, with a few isolated colonies existing in mountain and desert valleys in eastern Iron and Beaver Counties (Pizzimenti and Collier 1975, p. 1). For more information on these recovery areas, refer to our recovery plan for the species (Service 1991a). Although the abundance of the species in the three recovery areas vary considerably from year to year, the overall species' population abundance is considered stable. Below we describe each of the recovery areas. Counts are conducted in the spring prior to emergence of the pups and represent adults only. Crocker-Bedford (1975 page 6) estimate that only 40 to 60% of Utah prairie dogs are above ground at any one time. Therefore, these spring counts represent approximately 50% of the adult population.

The Awapa Plateau Recovery Area encompasses portions of Piute, Garfield, Wayne, and Sevier Counties. Spring counts conducted from 1976 through 2005 have varied from 201 to 1,145 animals; in 2005, UDWR counted 571 animals on 32 colonies (15 occupied) (UDWR 2005).

The Paunsaugunt Recovery Area includes public and private lands primarily in Garfield County, with a small area of Iron County. Spring counts conducted from 1976 through 2005 have varied from 652 to 2,205 animals; in 2005, UDWR counted a low of 652 animals on 27 colonies (14 occupied) (UDWR 2005).

The West Desert Recovery Area is primarily in Iron County, but extends into southern Beaver County and northern Washington County. Spring counts conducted from 1976 through 2005 have varied from 610 to 4,778 animals; in 2005, UDWR counted 4,158 animals on 34 colonies (27 occupied) (UDWR 2005).

Previous Federal Actions

We listed the Utah prairie dog as an endangered species on June 4, 1973 (38 FR 14678), pursuant to the Endangered Species Conservation Act of 1969. On November 5, 1979, the UDWR petitioned the Service to remove the Utah prairie dog from the List of Endangered and Threatened Wildlife. The Service found that this petition contained substantial scientific and commercial information, and the species was reclassified from endangered to threatened on May 29, 1984 (49 FR 22330). As part of that May 29, 1984, rule, we promulgated a special rule under section 4(d) of the Act to allow the regulated take of up to 5,000 animals annually. On June 14, 1991, we published a final rule amending the special rule to allow regulated take of up to 6,000 animals annually throughout the species' range (56 FR 27438).

Threats Analysis

Under section 4(a) of the Act, we may list a species on the basis of five threat factors: (A) Present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. Listing actions may be warranted based on any of the above threat factors, either singly or in combination.

Under the Act, a threatened species is defined as a species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. An endangered species is defined as a species which is in danger of extinction throughout all or a significant portion of its range. Therefore, we evaluate each of the five listing factors to determine whether the level of threat identified by information in the petition and in our files substantiates an increase in threat level to the extent that uplisting of the Utah prairie dog from threatened to endangered may be warranted.

A. Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The Petitioners state that threats to the species' habitat included the following: (1) Loss of historic range, urbanization, land conversion, and sale of State lands; (2) livestock grazing, resulting in conversion of grasslands to shrublands; depletion of forage; degradation of riparian areas; proliferation of weeds; alteration of fire ecology; and impacts to soils; (3) road construction, off-highway vehicle (OHV) use, and recreation; (4) oil, gas, and mineral development and seismic exploration; and (5) impacts of isolation and fragmentation.

Loss of Historic Range, Urbanization, Land Conversion, and Sale of State Lands

The Petitioners state that mapped (or estimated) Utah prairie dog habitat has declined from 181,299 to 2,824 ha (448,000 to 6,977 ac) as of 1975, and that at the time the petition was developed, only 31 percent of Utah prairie dog habitat was on public lands where recovery efforts are concentrated (Rosmarino 2003, p. 54). The Petitioners state that much of the historic, high-quality Utah prairie dog habitat was in valleys, where crop agriculture and urban activities and expansion have historically occurred or are ongoing (Rosmarino 2003, p. 55). The Petitioners identify habitat loss due to urbanization as a concern, particularly in Iron County in the West Desert Recovery Area (Rosmarino 2003, pp. 55–56). According to the petition, this recovery area has the highest percentage of Utah prairie dogs located on private land and also is undergoing the highest rate of municipal development when compared to any other area in Utah prairie dog range. Petitioners state that, between 1990 and 2000, the human population growth rate was 62.5 percent in Iron County, and that Garfield and Beaver County's populations increased by 19 and 26 percent respectively. The petitioners discuss various projects that resulted in translocation of Utah prairie dogs and loss of their habitat. These include legal activities performed under the Iron County Habitat Conservation Plan (HCP) section 10(a)(1)(A) permit, and 11 other actions legally authorized through section 7 consultation. They also cite UDWR records of 7 colonies illegally destroyed during 1995 and 1996. While the Petitioners are mainly concerned with increasing development on private lands, they also cite U.S. Forest Service (USFS) concerns regarding increased impacts from development on private lands adjacent to public lands, including golf course and cabin site development. The Petitioners state that there is also increased all-terrain vehicle (ATV) usage from private housing developments resulting in impacts to the species (Reference, p. 57). The Petitioners are concerned that School and Institutional Trust Lands Administration (SITLA) lands containing Utah prairie dog habitat are being sold to private landowners and, therefore, are not safe from future development (Rosmarino 2003, pp. 75–76).

We believe that the Petitioners' assessment of the extent of historic habitat loss is inaccurate. It is based on

the statement by Collier (1975, p. 15) that Utah prairie dogs at one time occurred within 713 sections of land. However, much of the area within those sections contains unsuitable habitat and was never occupied by prairie dogs. Therefore, estimating historic habitat on the total number of acres within those 713 sections (184,666 ha/456,320 ac) is misleading. The majority of Utah prairie dogs still occur on private lands. However, through implementation of the Interim Conservation Strategy (ICS) (see Factor D discussion), the Recovery Team has made a substantial effort since 1997 to restore and enhance Utah prairie dog habitat on public lands. As of 2005, 37 percent of Utah prairie dogs occurred on public lands (UDWR 2005).

We acknowledge that historic Utah prairie dog habitat has been lost due to agricultural conversion, a factor considered in our May 29, 1984, reclassification of the species from endangered to threatened (49 FR 22330). However, the Petitioners do not quantify areas lost to agriculture historically, and they do not provide any information on future losses from new agricultural developments. We do not have any information indicating that there have been any recent conversions of Utah prairie dog habitat to agricultural use. We also do not have any information indicating that development of private lands is occurring within the Utah prairie dog range, other than that legally authorized through HCP permits. The Iron County HCP permits a limited amount of development on private lands in prairie dog habitat. These losses are mitigated through restoration of habitat on Federal lands and the translocation of animals from impacted private lands to approved translocation sites on Federal lands. In addition, 97 ha (240 ac) of privately owned occupied habitat in the Parowan Valley have been protected in perpetuity through a conservation easement under the Iron County HCP and are managed for Utah prairie dogs (see further HCP discussion under Factor D).

Although we do not dispute USFS accounts of increased activities on Federal lands as a result of nearby private developments, the Petitioners only identify one specific development in the Powell Ranger District that could negatively impact Utah prairie dogs, and we have no additional information in our files that shows impacts claimed by the Petitioner. Therefore, based on the best available date (i.e. only in this case), we believe these impacts are small and localized. The Petitioners provided no information to support loss on Federal lands due to recreational impacts. We also acknowledge that SITLA does sell parcels to private landowners, who then may propose development projects on these properties. However, we do not have information that historic or occupied Utah prairie dog habitat has been lost due to development occurring on SITLA lands that have been sold, and the Petitioners did not cite any pending sales on lands containing Utah prairie dog colonies. Recent activities on SITLA lands include the issuance of a perpetual conservation easement on 304 ha (750 ac) of Utah prairie dog habitat in the Awapa Plateau Recovery Area that will serve as a conservation bank.

Livestock Grazing

The petition states that livestock grazing, particularly overgrazing, can degrade Utah prairie dog habitat by causing shrub encroachment, reducing grass cover and vegetative biomass, degrading riparian areas, facilitating noxious weed proliferation, altering fire ecology, damaging cryptobiotic crusts (communities of cyanobacteria, green algae, lichens, mosses, liverworts, and microorganisms that colonize the surface of bare soil), and degrading soil conditions (Rosmarino 2003, pp. 57–75). The Petitioners state that mechanical or chemical shrub encroachment treatments may not ultimately result in a decrease in shrub vegetative production (Rosmarino 2003, p. 60). The petition states that spring grazing regimes may be particularly harmful to cool-season grasses preferred by Utah prairie dogs (Rosmarino 2003, pp. 61–62), and the Petitioners allege that direct grazing and trampling of moist swales and riparian areas can impact prairie dog persistence in these areas (Rosmarino 2003, pp. 63–64).

The Petitioners state that grazing can result in the spread of noxious weeds through direct dispersal of weed seeds in cattle fur or dung, and that opening areas to grazing makes them more susceptible to colonization and growth of weedy species. The Petitioners also assert that grazing reduces competition from native species by preferentially foraging cattle on them (Rosmarino 2003, pp. 64–69). The petition states that noxious weeds are a problem throughout Utah prairie dog range on both Bureau of Land Management (BLM) and USFS lands (Rosmarino 2003, pp. 68–69), and the Petitioners allege that areas dominated by the exotic annual cheatgrass (*Bromus tectorum*) are 10 to 500 times more likely to experience wildfire. The petition also makes a number of claims related to grazing leading to a reduction in fire frequency, facilitating shrub encroachment (Rosmarino 2003, pp. 69–70), and destroying soil crusts, which result in increased erosion, decreased nutrient cycling, reduction in ground cover, and soil compaction (Rosmarino 2003, pp. 70–75).

We concur that livestock grazing can have an effect on various attributes of prairie dog habitat and food supply; however, these effects can be positive as well as negative. While the petitioners cite numerous general references related to the types of impacts that grazing can have on vegetation and soils, they don't provide any specific references to show that grazing is negatively impacting Utah prairie dogs, or that such effects are becoming more severe, to the extent that uplisting may be warranted. Hoogland (2003, p. 239) notes that tall vegetation is more common in Gunnison and Utah prairie dog colonies than in black-tailed prairie dog colonies, and that it benefits the species by providing hiding cover. The Utah prairie dog vegetation guidelines have recently been revised to include a higher percentage of shrubs based on vegetative measurements in Utah prairie dog occupied habitats (Utah Prairie Dog Recovery Implementation Team [UPDRIT] 2006). Other studies suggest that prairie dog density is positively correlated with heavy grazing, which simulates the shortgrass environment preferred by prairie dogs (Fagerstone and Ramey 1996, pp. 88, 92; Marsh 1994, p. 203; Slobodchikoff et al. 1988, p. 406). A recent study of impacts on Utah prairie dogs of varying grazing intensities on the Awapa Plateau found that, although heavy grazing did not appear to impact burrow density, it did significantly decrease vigilance time (watchfulness or paying close and continuous attention), which could be detrimental to Utah prairie dogs (Elmore 2006, pp. 90, 93). Furthermore, while we do not disagree that Utah prairie dogs prefer moist swale formations, the types of habitats occupied by Utah prairie dogs do not contain the structural complexity typical of riparian habitats, including defined channels and typical riparian vegetation consisting of trees and shrubs. The swales occupied by Utah prairie dogs tend to be dominated by grasses. The Petitioners provided no information regarding the impacts of grazing to swales, and we have no additional information in our files describing potential impacts of this activity to the species.

McDonald (1993) recommended that studies be undertaken to evaluate livestock impacts and grazing regimes. He also recommended that species-specific vegetation objectives for transplant locations should be

developed, and that grazing management should be implemented appropriately to meet these vegetation objectives (McDonald 1993, p. 60). Interim vegetation guidelines were identified in the Utah Prairie Dog ICS (UPDRIT 1997, Appendix 1, pp. 19–21) and were updated in January 2006, based on additional information from occupied colonies within various habitat types (UPDRIT 2006). Monitoring is occurring on Federal lands managed by the BLM Cedar City Field Office to determine if Utah prairie dog sites meet the guidelines. Habitat management actions are being undertaken at sites that do not meet vegetation objectives (for an example, see BLM 2004).

The UPDRIT further developed recommendations specifically aimed at habitat improvement and research to determine more precise habitat suitability criteria (UPDRIT 1997, pp. 1, 5–12). Research was initiated in 2002 to identify appropriate grazing and vegetation management practices and to evaluate the effects of increasing plant diversity on survival of transplanted Utah prairie dogs. Preliminary results from the drought years of 2002 and 2003 showed that, under extreme drought conditions, forage utilization by livestock (cattle and sheep) of more than 33 percent of available forage led to dramatic declines of Utah prairie dog weight gains, overwinter survivorship, and reproduction. Conversely, seeding of rangeland to increase total plant and forb diversity by 33 to 40 percent almost doubled the density of transplanted prairie dogs in 2004 (Ritchie and Brown 2005, p. 2). Ritchie and Brown (2005) believe the results suggest that, at least under drought conditions, Utah prairie dogs are limited by available food, and that livestock grazing and range vegetation management practices may need to be adjusted to minimize impacts on Utah prairie dogs. Ritchie and Brown (2005, p. 15) also note that livestock grazing in early spring, fall, and winter is generally beneficial to Utah prairie dogs because it reduces horizontal cover, which allows animals to spend less time looking for predators. When this research is finalized, results will be used to develop final vegetation guidelines and other grazing and habitat management recommendations for the Utah Prairie Dog Recovery Plan.

While we agree that habitat conditions are compromised in many areas, particularly on public lands, Utah prairie dog numbers continue to be within the range of historic fluctuations (UDWR 2005), and we have not seen large-scale population decreases. When the species was downlisted in 1984, the rangewide population estimate was 2,522 prairie dogs. The last spring range-wide count before the petition was 4,944 adult animals, which represents 50% of the adult population (Crocker-Bedford 1975, p. 6.). This represented a slight decrease from counts made between 1998 and 2000. As of 2005, 5,381 prairie dogs were counted. We have determined that the process set in place with the ICS, including research, habitat monitoring and manipulation, development of vegetation guidelines, and ultimately incorporation of realistic management recommendations into the Recovery Plan, will meet the goal of improving the persistence of Utah prairie dog colonies.

In conclusion, we have determined that the petition did not present substantial scientific or commercial information indicating that livestock grazing that results in conversion of grasslands to shrublands, depletion of forage, degradation of riparian areas, proliferation of weeds, alteration of fire ecology, and impacts to soils may be a threat to the Utah prairie dog to the extent that uplisting from threatened to endangered under the Act may be warranted.

Roads, Off-Highway Vehicles (OHVs), and Recreation

The Petitioners state that roads have a negative impact on Utah prairie dogs by facilitating direct mortalities through motor vehicle strikes, and through loss of habitat due to new road construction, paving and reconstruction of existing roads, and OHV use, which can cause direct disturbance to the animals as well as degradation of vegetation (Rosmarino 2003, pp. 76–78). The Petitioners assert that recreational use in Utah prairie dog habitat, including camping, hunting and fishing, OHV use, and hiking can lead to population declines or extirpation of colonies through direct disturbance or habitat loss. The Petitioners cite increased recreational activities, including actual and potential infrastructure development, such as parking lots, campgrounds, and road and trail improvements, on three USFS Ranger Districts (Rosmarino 2003, pp. 78–79).

We acknowledge that direct mortality of prairie dogs occurs on roads, and higher mortalities occur in areas where paved highways intersect or pass near Utah prairie dog colonies. We also acknowledge that OHV use and other types of recreational use, including recreational infrastructure development, has occurred in Utah prairie dog habitat, resulting in habitat loss and possibly, in the instance of the Three Peaks colony, total extirpation of the colony (Service 2005d). However, the Petitioners provided no information to quantify impacts from recreational activities, including roads, and we have no such information in our files. Direct mortality from roads was not identified as a threat in the May 29, 1984, reclassification of the species (49 FR 22330) or the recovery plan (Service 1991a). We believe that impacts of roads are limited to localized areas and do not result in population-level effects.

Oil, Gas, and Mineral Development and Seismic Exploration

The Petitioners state that oil and gas exploration and extraction results in the degradation and loss of Utah prairie dog habitat through crushing of habitat, introduction of weeds, and increased soil erosion or soil compaction (Rosmarino 2003, p. 80). They also state that noise associated with seismic exploration, particularly in the low frequency sound range, could directly impact Utah prairie dogs (Rosmarino 2003, pp. 80–82). They cite a study on the effects of seismic exploration on Utah prairie dogs (Young and Sawyer 1981, p. 2), which expressed concerns about crushed vegetation, compacted soil, and the potential for disruption of hibernating prairie dogs (Rosmarino 2003, p. 87). The petition states that oil and gas leases are being offered in Millard and Sevier Counties within the Utah prairie dog's range (Rosmarino 2003, p. 88). Mineral development, including shalestone and flagstone extraction, and geothermal leasing are cited as occurring within the range of the Utah prairie dog (Rosmarino 2003, pp. 88–89).

We are aware that oil and gas leasing, seismic exploration, and other mineral development activities are occurring within the range of the Utah prairie dog. However, there is no scientific or commercial information either in the petition or in our files that quantifies the extent of these activities, or provides information on the actual infrastructure related to oil and gas development in occupied Utah prairie dog habitat. Although Young and Sawyer (1981, p. 2) expressed concerns (as identified in the petition) about seismic exploration, they concluded that any impact from seismic testing on Utah prairie dogs is negligible. In a similar study of white-tailed prairie dogs, Menkens and Anderson (1985, p. 13) concluded that there were negligible impacts from seismic exploration. To further minimize potential impacts of oil and gas activities on Utah prairie dogs, the Service and BLM have developed a set of avoidance and minimization

measures for Federal oil and gas leases within the range of the Utah prairie dog. These include no surface disturbance within 0.8 kilometer (km) [0.5 mile (mi)] of active Utah prairie dog colonies, and no permanent disturbance within 0.8 km (0.5 mi) of potentially suitable, unoccupied Utah prairie dog habitat (Service 2003). These measures currently apply to all BLM leasing activities within the Utah prairie dog's range, and lessees who follow these guidelines will be provided a streamlined section 7 consultation process. We believe that the incidences of mineral development cited in the petition are isolated activities and only affect small acreages of Utah prairie dog habitat. The petition therefore does not present substantial scientific information that these activities may be impacting the Utah prairie dog to the extent that uplisting from threatened to endangered under the Act may be warranted.

Impacts of Isolation and Fragmentation

The petition states that due to loss and degradation of Utah prairie dog habitat, and the effects of extermination campaigns and plague, remaining prairie dog colonies tend to be isolated and fragmented. These small, isolated colonies are then more susceptible to local extirpation from factors such as sylvatic plague (Rosmarino 2003, p. 90). Factors such as low reproductive rate, genetic drift, and inbreeding may increase the potential for local extinctions (Rosmarino 2003, pp. 91–93). The petition also states that individuals in larger colonies benefit from less time being devoted to predator detection.

We concur that the majority of existing Utah prairie dog colonies are small, numbering fewer than 200 individuals (UDWR 2005). Plague is active across the landscape and results in colonies tending to increase in numbers for a period of years, decline to very small numbers following a plague event, and then increasing again (see further plague discussion under Factor C). However, the current number of active colonies, and the number of Utah prairie dogs counted in the spring of 2005 (5,381 animals) (UDWR 2005), continues to be within the range of variation seen since counts began in 1976; therefore, we do not concur that small colony size is endangering the species. In summary, we have determined that the petition does not provide scientific or commercial information to support the assertion that small colony size and fragmentation may be a threat to the Utah prairie dog to the extent that uplisting from threatened to endangered under the Act may be warranted.

Summary of Factor A

We have determined that the information in the petition and available in our files does not constitute substantial scientific or commercial information that present or threatened destruction, modification, or curtailment of habitat is a threat to the Utah prairie dog to the extent that uplisting from threatened to endangered under the Act may be warranted. Many of the claims cited by the Petitioners constitute small, localized impacts on specific Utah prairie dog colonies. We recognize the potential for future private land development due to the large percentage of private lands within the West Desert Recovery Area, and will continue to monitor the status of Utah prairie dog colonies in that area closely. We also will continue our efforts to conserve prairie dog habitat on private lands and to develop new colonies on public lands. We acknowledge that it is likely that some livestock grazing regimes, particularly under drought conditions, may adversely affect Utah prairie dogs. We will continue the process of research and monitoring of Utah prairie dog habitat suitability and grazing management practices, and ultimately we will revise the Recovery Plan to incorporate vegetation guidelines and grazing management recommendations to benefit the species.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The petition states that illegal shooting of Utah prairie dogs still occurs and that shooting can negatively affect prairie dogs through population reduction, decreased colony expansion rates, and changes in behavior (Rosmarino 2003, pp. 94–98).

Because the Utah prairie dog is already a listed species, shooting, except as provided for by the 4(d) special rule, which is codified at 50 CFR 17.40(g), is prohibited by the Act. However, we acknowledge that isolated instances of shooting likely occur, and that it is not feasible for UDWR and Federal land management agencies to patrol all colony locations on a routine basis. No information is available in the petition or in our files to indicate that more than isolated incidences of shooting occur within Utah prairie dog colonies, or that shooting may pose a significant threat to the species on a range-wide basis.

Summary of Factor B

Neither the petition nor information readily available in our files constitute substantial scientific or commercial information that overutilization is a threat to the Utah prairie dog to the extent that uplisting from threatened to endangered under the Act may be warranted.

C. Disease or Predation

The Petitioners did not state that predation is a threat to the Utah prairie dog. The Petitioners did state that sylvatic plague (*Yersinia pestis*), an exotic bacterial disease, is a significant threat to the extent that it might prevent recovery of Utah prairie dogs, even if all other threat factors were removed. The petition states that plague is a threat to prairie dogs, given their lack of natural immunity to the bacterium. The cyclical nature of plague means that it can return to affect the same colony; therefore recovery from a plague event can be a slow process (Rosmarino 2003, p. 98). The Petitioners cite numerous instances of documented and suspected plague events occurring throughout Utah prairie dog range (Rosmarino 2003, p. 99). They also cite ongoing research in Utah prairie dog habitat on plague mitigation through the use of insecticides to kill the fleas that carry the plague bacterium (Rosmarino 2003, p. 100). The Petitioners take the view that as long as plague is present in the ecosystem, the Utah prairie dog may not reach recovery goals even if all other threat factors are removed (Rosmarino 2003, p. 100).

We acknowledge that plague exists throughout the Utah prairie dog's range, that individual Utah prairie dog colonies are known to have been affected by the disease, and that there is currently no mechanism available to prevent periodic plague events from reoccurring. Plague is an Old World (European origin) disease that was first recorded in North America in humans in 1899, and in Utah prairie dogs in Garfield County in 1936 (Fitzgerald 1993, p. 50). However, plague antibody titers have been found in a few Utah prairie dogs (Biggins 2003a, p. 1) and white-tailed prairie dogs (Biggins 2003a, p. 1; Cully and Williams 2001, p. 896), indicating that some individuals survive after exposure to plague.

Information in our files indicates that the literature is inconclusive regarding whether isolation of a colony or a colony's density affects the number and frequency of plague outbreaks. Lomolino et al. (2003, p. 118) and others (Cully and Williams 2001, p. 901; Miller et al. 1993, pp. 89–90) suggest that isolation and fragmentation may provide some protection to prairie dogs from sylvatic plague by lessening the likelihood of disease transmission.

White-tailed and Utah prairie dog colonies are less dense and more widely dispersed than black-tailed or Gunnison prairie dog colonies, which may slow plague transmission rates (Cully 1993, p. 40; Cully and Williams 2001, p. 901). Biggins' (2003b, p. 5) data are consistent with the hypothesis that white-tailed prairie dogs are predisposed to regroup when their numbers become depleted, improving stability in density (at the cost of stability in area occupied). Biggins (2003b, p. 6) states that if transmission rates for *Yersinia pestis* are at least partly dependent on host density, prairie dog populations on good quality sites may undergo both larger declines and more rapid recoveries than those on poor sites. Partial or complete recovery following population reductions due to plague have been reported for both white-tailed and black-tailed prairie dogs (Biggins and Kosoy 2001, p. 23). Hibernation by Utah and white-tailed prairie dogs may reduce or delay plague transmission among individual animals (Barnes 1993, p. 34).

The Petitioners cite ongoing research into the efficacy of insecticides to protect Utah prairie dog colonies from plague. Results of this study to date have been equivocal (Biggins 2003b, p. 8). The study was not able to determine a difference in the number of arthropod species on plots dusted with deltamethrin verses non-dusted plots. However, Biggins (2003b, p. 8) concludes that dusting Utah prairie dog burrows once a year with 4 grams (0.14 ounce) of Delta Dust (brand name of deltamethrin) does reduce the number of fleas species that are potential plague hosts. The recovery team has begun initial efforts to dust what are considered large priority colonies, including Johnson Bench, East Creek Canyon, and Tom Best Spring, in an effort to prevent plague outbreaks. These efforts successfully stopped an outbreak on the conservation bank property in the Awapa Plateau Recovery Area known as The Tanks.

Given the dynamics of the Utah prairie dog's behavior (such as hibernation), migration patterns, and geographical patterns of colony distribution, we are currently unable to determine whether there is an optimum size, density, and distribution of colonies that would make them less susceptible to periodic plague events. We also cannot determine whether small colony size and isolation provide some measure of protection from plague. Climatic factors may feed into plague cycling. Parmenter et al. (1999, p. 816) suggest a general linkage between cases of human plague (generally contracted by association with wild animals carrying fleas with the plague bacterium) and precipitation, particularly in the winter-spring period. They hypothesize that increased winter-spring precipitation results in an increase in food resources for animal species, which subsequently have greater reproductive success, leading to increased numbers of potential plague hosts (Parmenter et al. 1999, p. 818).

Summary of Factor C

We recognize that plague has been, and will continue to be, a major mortality factor in specific colonies, and across the range of Utah prairie dogs. The impact that plague has had on the overall status of the species, or its potential for recovery, is unclear. It is impossible to separate the impacts of plague from other factors that affect Utah prairie dogs across their range, including drought, habitat conditions, and disturbance by various human activities. We will continue to support research on the impacts of plague on Utah prairie dog persistence, and on ways to reduce these impacts. There was no information provided in the petition, or available in our files, that shows that the effects of disease are becoming more severe or widespread, to the extent that uplisting from threatened to endangered under the Act may be warranted.

D. Inadequacy of Existing Regulatory Mechanisms

The Petitioners state that Federal regulatory mechanisms, including efforts undertaken by the Service under the Act, and the Bureau of Land Management, USFS, and National Park Service in their land management plans, are inadequate to protect the Utah prairie dog.

The Petitioners state that even though the Utah prairie dog is currently listed as threatened under the Act, adequate regulatory mechanisms do not exist to ensure its survival or recovery. Specifically, they cite the downlisting of the species in 1984 (Rosmarino 2003, pp. 100–103); implementation of the 4(d) rule and faulty assumptions about the number of prairie dogs that could be taken annually (Rosmarino 2003, pp. 104–108); a flawed Recovery Plan (Rosmarino 2003, pp. 108–114), and lack of adequate personnel and resources from the affected agencies to fully implement it (Rosmarino 2003, p. 147); failure of the ICS to adequately consider effects to the species from threats such as plague and livestock grazing (Rosmarino 2003, pp. 115–119); and Federal land management agency (USFS and BLM) policies that facilitate habitat loss and degradation as described under Factor A (Rosmarino 2003, pp. 119–139). They also cite U.S. Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS)—Wildlife Services' lethal Utah prairie dog control, and grasshopper and Mormon cricket control within Utah prairie dog range, as harmful to the species (Rosmarino 2003, pp. 140–145), and state that the Environmental Protection Agency's labeling for toxicants and fumigants is not fully protective of Utah prairie dogs (Rosmarino 2003, p. 144). The petition further discusses the lack of recovery efforts on private lands, including implementation of HCPs pursuant to section 10 of the Act. The Petitioners particularly cite failure to adequately address cumulative impacts of incidental take on prairie dogs in the West Desert Recovery Area, and failure to provide adequate mitigation, which has resulted in considerable take of Utah prairie dogs (Rosmarino 2003, pp. 147–161).

Although overall numbers of Utah prairie dogs have not increased substantially since downlisting in 1984, the species' population is considered to be stable on a range-wide basis. In 2005, the count was 5,381 animals range-wide, and in 1984 it was 2,522 animals; counts ranged from 2,522 to 7,527 during that 22-year period (UDWR 2005). We acknowledge that the translocation program to move animals defined as ''surplus'' under the 4(d) special rule (50 CFR 17.40(g)) and the recovery goal of developing new Utah prairie dog colonies on public lands, have not been as successful as predicted. The 4(d) special rule allows a maximum of 6,000 Utah prairie dogs to be taken annually; however, the actual number that are permitted to be taken varies on an annual basis and depends on the population surveys for that year. During their annual surveys, UDWR makes counts of Utah prairie dogs on individual colonies throughout the range of the species. When a private landowner requests a control permit for a particular colony, UDWR issues a permit for take of no more than 10 percent of the number of animals counted in that colony that year. During the period of 1985–2004, the permitted level of take was never higher than 3,781, and the actual reported take did not exceed 1,760 (UDWR 2003). We are taking steps to improve the success of the translocation program through development of vegetation guidelines (discussed under Factor A) and new guidelines for Utah prairie dog translocation (see discussion under Factor E). Utah prairie dogs have not

experienced significant progress toward recovery since the 1984 downlisting, but current numbers are within the range of historical population fluctuations, which indicates that extinction is not imminent.

Efforts to revise the Recovery Plan are currently underway and will incorporate the best available information. The revised Recovery Plan is expected to be completed in 2007. For now, the goal of the interim strategy that was developed in 1994 is to advance information and strategies necessary to effectively modify recovery goals. Research on habitat needs and successful translocation is ongoing. Based on this research, we updated the vegetation and translocation guidelines. Cooperators in the ICS and Recovery Plan revision include all of the affected Federal land management agencies, Natural Resources Conservation Service (NRCS), State and Federal wildlife management agencies, Utah State University, Utah Farm Bureau, and Environmental Defense.

All BLM land use plans incorporate the existing Recovery Plan ''and other pertinent documents pertaining to recovery.'' BLM's Cedar City Field Office is monitoring vegetation on Utah prairie dog sites to determine compliance with the vegetation guidelines. The National Park Service has implemented habitat restoration projects through burning and seeding and has hosted Utah prairie dog research efforts on its property for the last 10 years. USFS is revising the Dixie National Forest Plan to incorporate the Utah prairie dog Recovery Plan. USFS also has identified and prepared two translocation sites, dusted several key colonies at risk of plague exposure in the Paunsaugant Recovery Area, and is initiating habitat improvement projects to benefit Utah prairie dogs in the Awapa Plateau Recovery Area.

All agencies are making a concerted effort to implement the ICS and use new research data to improve the conservation and recovery of Utah prairie dogs throughout their range. Species recovery is often a difficult and long-term process, particularly for a species such as the Utah prairie dog that had been in decline for nearly a century prior to its listing (Pizzimenti and Collier 1975, p. 1) and that is adversely affected by numerous interacting factors. We believe we are moving in a positive direction with implementation of the ICS and revision of the Recovery Plan, but we need to continue to evaluate the status of the species and factors affecting its recovery over the long-term.

APHIS–Wildlife Services received one permit to control Utah prairie dogs on private agricultural land adjacent to a parcel of land protected under a conservation easement. However, the need for control never materialized, and control was never carried out. We have completed a programmatic consultation with APHIS for grasshopper and Mormon cricket control under section 7 of the Act, to ensure that control actions will not have adverse effects on listed species, including Utah prairie dogs. The consultation contains required conservation measures to benefit the species, including a 1.6-km (1.0-mi) buffer zone around occupied Utah prairie dog habitat (USDA 2005, p. 12).

The State of Utah, through an agreement with the Service, manages Utah prairie dogs by conducting annual surveys, issuing permits to private landowners under the 4(d) special rule, and trapping and translocation of animals from private to public lands. However, the State of Utah does not control the lands occupied by Utah prairie dogs and has no authority to implement land management changes. The State is working cooperatively with the Service and Federal land management agencies to determine ways to improve habitat conditions on public lands and to revise the Recovery Plan.

We have taken steps to conserve prairie dogs on private lands, including issuance of three Safe Harbor Agreements (SHAs) covering 97 ha (240 ac) of occupied and unoccupied habitat within the Paunsaugunt and Awapa Plateau Recovery Areas (Service 2005a, 2005b, 2006b). These SHAs improve Utah prairie dog habitat by increasing plant diversity and providing protection for Utah prairie dogs for up to 15 years. We are currently processing three more SHAs (cite) and one umbrella safe harbor agreement to be held by NRCS (cite), with an unlimited potential to enroll private lands within all three recovery areas. In 2004, we approved a 304-ha (750-ac) conservation bank on private land that is protected in perpetuity within the Awapa Plateau Recovery Area (Service 2005c). A conservation bank in the West Desert Recovery Area has been initiated and will protect private land within Iron County. The petition discusses several small and large-scale (county-wide) HCPs, most of which were issued in the 1990s. Currently, the Iron County HCP (the only county-wide HCP) (Service 1998) is in the process of being revised and will include the protection of private lands with Utah prairie dogs to offset impacts from development elsewhere. A recently finalized HCP protects 123 ha (303 ac) of habitat (occupied and unoccupied) in exchange for 7 ha (18 ac) of low-quality occupied habitat (Service 2007)). The Garfield County HCP was never finalized.

Summary of Factor D

We agree that Utah prairie dog recovery has been slow, but we conclude that actions taken since 1994, including research, development of new guidance documents, implementation of the ICS on Federal lands occupied by prairie dogs, and the revision of the Recovery Plan to include the conservation of prairie dog habitat on private lands, will improve the species' status over the long-term. Neither the petition nor the available information in our files indicates that lack of adequate regulatory mechanisms may be a threat to Utah prairie dogs to the extent that uplisting from threatened to endangered under the Act may be warranted.

E. Other Natural or Manmade Factors Affecting the Continued Existence of the Species

The Petitioners state that rodent control efforts, the Utah prairie dog translocation program, and drought present significant threats to Utah prairie dogs. The petition cites legal take under the 4(d) special rule (50 CFR 17.40(g)), and ongoing illegal poisoning and shooting as endangering the species (Rosmarino 2003, pp. 161–162). In particular, the Petitioners point out that legal take of Utah prairie dogs under the 4(d) special rule has resulted in control of 14,002 prairie dogs (to the date of the petition) and suggest that take levels and population fluctuations from year to year may be contributing to population declines (Rosmarino 2003, pp. 162–163). The petition alleges that any illegal poisoning that occurs increases the magnitude of permitted take (Rosmarino 2003, p. 165). The petition calls the translocation program a failure, stating that translocations have not resulted in an increase of Utah prairie dog populations on public lands, and have resulted in a loss of animals on private lands (Rosmarino 2003, p. 166). The petition points out that many translocation sites do not meet ICS vegetation guidelines, and that Utah prairie dogs translocated to the Adams Well site have lost weight, thus making them less likely to survive through winter (Rosmarino 2003, pp. 170–184). The petition states that, although drought is a naturally occurring phenomenon, continuing livestock grazing during drought conditions exacerbates the effects of drought on Utah prairie dogs (Rosmarino 2003, p. 185).

Legal take occurring in compliance with the 4(d) special rule (50 CFR 17.40(g)) was discussed under Factor D. As stated under Factor B, we do not have any information to indicate that illegal shooting occurs in other than isolated instances. We believe the same to be true of illegal poisoning, and no information exists in our files or in the petition indicating otherwise. The relationship of drought and livestock grazing regimes on Utah prairie dog habitat is discussed under Factor A.

We agree that past translocation efforts have not always been successful. We have adapted our techniques and vegetation guidelines to address the likely causes preventing success of past efforts. Thirteen new complexes have been established on Federal lands within the West Desert Recovery Area through translocation efforts. We are improving translocation success through development and use of the ICS vegetation guidelines, habitat research (as discussed under Factor A), monitoring survival of translocated animals, and incorporating better methods to improve survival. We will continue to monitor these efforts and update our methods as necessary. Even under optimum circumstances, survival of translocated prairie dogs of various species is low (less than 40 percent) (Truett et al. 2001, p. 864). We have developed new recommended translocation procedures (Procedures) for the Utah Prairie Dog (Service 2006, 18 pp.). The Procedures emphasize actions to increase success rates and to provide consistency across recovery areas and land management agencies. The Procedures discuss site selection and preparation, translocation site preparation, trapping, handling, transport, release, and monitoring and management of translocated populations. Consistent use of these Procedures should increase future survival of translocated animals.

Summary of Factor E

We have determined that information in the petition and available in our files does not indicate that legal and illegal take, including the translocation program implemented under the existing Recovery Plan, is a threat to Utah prairie dogs to the extent that uplisting from threatened to endangered under the Act may be warranted. We will continue to work with all landowners to implement the Procedures and to monitor their effectiveness. The Procedures will become part of any future revisions to the Recovery Plan.

Finding

We have reviewed the petition and the literature cited in the petition, and evaluated it in relation to other pertinent information in our files. We find that substantial scientific or commercial information has not been presented by the Petitioners indicating that reclassification of Utah prairie dog (*Cynomys parvidens*) from threatened to endangered may be warranted. Because the species is already listed as threatened under the Act, it is already subject to, and receives protection from, the regulatory mechanisms of the Act. The petition did not identify or present substantial new information indicating that the level of threats to the species has changed significantly since its reclassification to threatened in 1984.

The current number of active colonies, and the number of Utah prairie dogs counted in the spring of 2005 (5,381) (UDWR 2005), continues to be within the range of variation seen since counts were implemented in 1976, which further supports the assertion that threats have not increased significantly.

Since implementation of the ICS in 1997, the Service and its Federal and State recovery team partners have taken substantial steps to improve the survival of translocated Utah prairie dogs through new vegetation guidelines, habitat improvements at translocation sites on Federal lands, and new translocation guidelines. New conservation tools, including SHAs, mitigation banks, and HCPs with provisions for protection of private lands, are being implemented. Research is being carried out on the efficacy of dusting Utah prairie dog colonies with dimethrin to control plague. Critical colonies have been identified and successfully protected through this methodology. New information gained since the implementation of the ICS, including ongoing research and monitoring results from occupied colonies on Federal lands, will be used in the revision of the Recovery Plan. This may include revision of the recovery goals for the species if the new information supports it.

Although we will not be commencing a status review in response to this petition, we encourage interested parties to continue to gather data that will assist with the conservation of the species. If you wish to provide information regarding the Utah prairie dog, you may submit your information or materials to the Utah Field Supervisor, U.S. Fish and Wildlife Service (see **ADDRESSES**).

5–Year Review

Although we will not conduct a status review in response to the petition, we are initiating a 5-year review of the Utah prairie dog to comply with section 4(c)(2)(A) of the Act. Based on this 5-year review, we will determine whether or not the Utah prairie dog should be removed from the list (*i.e.*, delisted) or otherwise reclassified. Delisting or reclassifying a species must be supported by the best scientific and commercial information available, and we will only consider delisting a species if such information substantiates that the species is neither endangered nor threatened for one or more of the following reasons: (1) The species is considered extinct; (2) the species is considered to be recovered; or (3) the original data available when the species was listed, or the interpretation of such data, were in error. Any change in Federal classification would require a separate rulemaking process.

Our regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species currently under review. This notice announces our intention to prepare a 5-year review of the Utah prairie dog and opens a 60-day comment period (see **DATES**). We encourage interested parties to provide information concerning the Utah prairie dog to the Field Supervisor, Utah Ecological Services Office (see **ADDRESSES**).

Public Comments Solicited

At this time, we are opening a 60-day comment period (see **DATES**) to allow all interested parties an opportunity to provide information on the status of the Utah prairie dog for our 5-year review. We will base our 5-year review on a review of the best scientific and commercial information available, including the studies cited in this notice and information received during the public comment period. Information regarding the following topics would be particularly useful: (1) Species biology, including but not limited to, population trends, distribution, abundance, demographics, genetics, and taxonomy, including any evaluations or reviews of the studies cited in this notice; (2) habitat conditions, including but not limited to, amount, distribution, and suitability; (3) conservation measures that have been implemented that benefit the species; (4) threat status and trends; and (5) other new information or data.

When we complete our 5-year review, our practice is to make comments, including names and home addresses of respondents, available for public review

during regular business hours. Individual respondents may request that we withhold their names and home addresses, etc., but if you wish us to consider withholding this information, you must state this prominently at the beginning of your comments. In addition, you must present rationale for withholding this information. This rationale must demonstrate that disclosure would constitute a clearly unwarranted invasion of privacy. Unsupported assertions will not meet this burden. In the absence of exceptional, documentable circumstances, this information will be released. We will always make submissions from organizations or businesses, and from individuals identifying themselves as representatives of organizations or businesses, available for public inspection in their entirety.

Please submit electronic comments in an ASCII or Microsoft Word file. Also, please include ''Attn: Utah prairie dog'' along with your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, please submit your comments in writing using one of the alternate methods provided in the **ADDRESSES** section.

References Cited

A complete list of all references cited herein is available upon request from the Utah Ecological Services Field Office.

Author

The authors of this document are Susan Linner, U.S. Fish and Wildlife Service, Colorado Ecological Services Field Office, and Elise Boeke, U.S. Fish and Wildlife Service, Utah Ecological Services Field Office (see **ADDRESSES**).

Authority

The authority for this action is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: February 9, 2007.

H. Dale Hall,

Director, U.S. Fish and Wildlife Service.

[FR Doc. E7–2834 Filed 2–20–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AT37

Endangered and Threatened Wildlife and Plants; Proposed Rule to Remove the Virginia Northern Flying Squirrel (*Glaucomys sabrinus fuscus*) From the Federal List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; extension of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are extending the public comment period on the proposed rule to remove the Virginia northern flying squirrel (*Glaucomys sabrinus fuscus*), more commonly known as the West Virginia northern flying squirrel, from the Federal List of Endangered and Threatened Wildlife, due to recovery. Comments previously submitted need not be resubmitted as they have been incorporated into the public record and will be fully considered in the final determination.

DATES: The public comment period for the proposed rule published at 71 FR 75924, December 19, 2006, is extended from February 20, 2007, to April 23, 2007. Any comments received after the closing date may not be considered in the final decision on the proposal.

ADDRESSES: You may submit comments on the proposed delisting by any one of several methods:

1. You may submit written comments and information to the Assistant Chief, Division of Endangered and Threatened Species, U.S. Fish and Wildlife Service, Northeast Regional Office, 300 Westgate Center Drive, Hadley, MA 01035.

2. You may hand-deliver written comments to our Northeast Regional Office, at the above address.

3. You may fax your comments to 413–253–8482.

4. You may use the Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.

Comments and materials received will be available for public inspection, by appointment, during normal business hours at our Northeast Regional Office.

FOR FURTHER INFORMATION CONTACT: Diane Lynch at our Northeast Regional Office (*telephone:* 413–253–8628) or the Field Office Supervisor, West Virginia Field Office, 694 Beverly Pike, Elkins, WV 26241 (*telephone:* 304–636–6586).

SUPPLEMENTARY INFORMATION:

Background

On December 19, 2006, the Service published a proposed rule (71 FR 75924), under the authority of the Act, to remove the WVNFS from the Federal List of Endangered and Threatened Wildlife, due to recovery. The proposed rule opened a 60-day comment period, which was to end on February 20, 2007, on that action. We have received requests to extend the comment period in order to allow additional time for the public to review the data and provide comments. To ensure that the public has sufficient opportunity to review the available scientific and commercial data, we are extending the comment period for an additional 60 days. Comments on the proposed delisting rule will be accepted through April 23, 2007.

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Public Comments Solicited

We intend for any final action resulting from the proposal to be as accurate as possible. Therefore, we solicit data, comments, or suggestions from the public, other concerned government agencies, the scientific community, industry, Tribes, or any other interested party concerning the proposed rule. We particularly seek comments concerning: (1) Biological, commercial, trade, or other relevant data concerning any threat (or lack thereof) to the WVNFS; (2) additional information on the range, distribution, and population size of the WVNFS and its habitat; (3) the location of any additional populations of the WVNFS; and (4) data on population trends. Please note that comments merely stating support or opposition to the actions under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 et seq.), directs that determinations as to whether any species is a threatened or endangered species shall be made ''solely on the basis of the best scientific and commercial data available.''

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their name and/or home address, etc., but if you wish us to consider withholding this information, you must state this prominently at the