

**DRAFT**  
**LOW-EFFECT HABITAT CONSERVATION PLAN**  
**FOR THE**  
**UTAH PRAIRIE DOG**  
**IN**  
**RESIDENTIAL AND COMMERCIAL DEVELOPMENT AREAS**  
**OF**  
**GARFIELD COUNTY, UTAH**

**Submitted by:**

**Garfield County Commission**

**To:**

**U.S. Fish and Wildlife Service  
Utah Ecological Services Field Office**

**September 24, 2013**

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# 1.0 INTRODUCTION

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The Garfield County Commission (County) has applied for a permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (ESA) as amended (16 United States Code 1531-1544), from the U.S. Fish and Wildlife Service (USFWS) for the incidental take of the Utah prairie dog (*Cynomys parvidens*), a federally-listed threatened species. Incidental take could occur as a result of 1) translocations of prairie dogs away from the town of Panguitch, Utah, or 2) ongoing and future residential and commercial development in occupied Utah prairie dog habitat in Panguitch, Utah. The permit area includes areas of occupied Utah prairie dog habitat that are within a 0.25 mile (0.4 kilometer) buffered area around the city limits of Panguitch, Utah (see section 2.4, Permit Area). Translocations of prairie dogs and future residential and commercial development could result in incidental take in the form of harm or harassment of Utah prairie dogs, including injury or mortality and the loss of Utah prairie dog colonies or occupied habitats. Therefore, the County is applying for a section 10(a)(1)(B) permit and proposes to implement the habitat conservation plan (HCP) described herein, which provides measures for minimizing and mitigating impacts of the take to the Utah prairie dog. The HCP is intended to provide the basis for issuance of a section 10(a)(1)(B) permit to the Garfield County Commission, the permit applicant, to authorize incidental take of the Utah prairie dog.

This HCP provides an assessment of the existing habitat for the Utah prairie dog in the permit area (see section 2.4, Permit Area), evaluates the effects of the proposed action, and presents a mitigation plan to offset habitat losses and harm to the Utah prairie dog that could result from residential and commercial development activities. The biological goal of this HCP is to utilize translocations of prairie dogs from developed areas around Panguitch, Utah to assist with recovery efforts on federal or otherwise protected lands in Garfield County, and to adequately mitigate the permanent loss of prairie dog habitats to development. The County will reduce the potential effects to the Utah prairie dog by identifying limited areas and acreages in which the take may occur; moving prairie dogs to established translocation sites on federal or other protected lands, or providing a \$1,000/acre compensatory mitigation fee to a conservation fund for recovery activities to offset the permanent loss of prairie dog habitats.

## 1.1 Purpose and Need

The USFWS and Iron County began work on a Rangewide HCP (to include Iron, Garfield, and Wayne Counties) in 2006, however efforts to complete the Rangewide HCP have stalled due largely to concerns regarding funding mechanisms. Garfield County has committed to proceed with completing a new long-term Garfield County HCP. However it is likely that completion of a new HCP will require 2-3 years. Therefore, this low effect HCP will provide a bridge, authorizing incidental take of the Utah prairie dog until a new long-term HCP can be completed.

As a bridge to a new long-term HCP, the County requests a permit for a period of no more than 3 years commencing on the date of permit approval. The ability to authorize take would extend for a period of 2 years, with an option to extend the ability to authorize take to a third year if the new long-term HCP has not been completed, but progress is being made (see section 2.3, Permit Duration). Progress on a new long-term HCP would be evidenced by a Notice of Availability of

a draft HCP to the Federal Register or other similar milestones. The permit for this low-effect HCP would limit translocation of prairie dogs from occupied habitat within the permit area (see section 2.4, Permit Area) and limit permanent take (i.e., residential and commercial development) on no more than 220 acres (89 hectares) of occupied Utah prairie dog habitat.

## 1.2 Overall Goals and Objectives

The HCP intends to meet the following goals and objectives:

1. Assist with the conservation and recovery of Utah prairie dogs (see section 4.0, Conservation Strategy) in accordance with the goals and objectives of the USFWS Final Revised Utah Prairie Dog Recovery Plan (USFWS 2012).
  - a. Contribute to recovery of the Utah prairie dog by establishing or augmenting Utah prairie dog colonies on federal or otherwise protected lands through translocation efforts (see section 5.1, Translocation).
2. Allow Garfield County to proceed with residential and commercial development projects while minimizing impacts to Utah prairie dogs.
  - a. Receipt of a section 10(a)(1)(B) permit will allow Garfield County to proceed with residential and commercial development projects on occupied Utah prairie dog colonies, where such projects may result in the incidental take of prairie dogs
  - b. Contribute to recovery of the Utah prairie dog by contributing to the National Fish and Wildlife Foundation (NFWF) Utah Prairie Dog Conservation Fund when permanent development is proposed, but the translocation of prairie dogs is not feasible (see section 9.1, Mitigation Selection)
3. Reduce negative impacts from prairie dog interactions with humans.

## 1.3 Legal and Regulatory Framework

This HCP was prepared to meet the legal requirements contained in 50 Code of Federal Regulations (CFR) §17.22(b)(1)(iii), which sets forth the application requirements for the ESA section 10(a)(1)(B) permit for incidental take of threatened or endangered species, in this case the Utah prairie dog. The development of habitat conservation plans and the issuance of incidental take permits are governed by the provisions of the ESA and related USFWS policy. The ESA specifies the required content of a habitat conservation plan and the criteria for issuance of an incidental take permit. An Implementation Agreement and Application Form will also be prepared. These documents constitute the permit application.

Section 9 of the ESA prohibits “take” of any federally endangered wildlife species (16 United States Code (USC) § 1538(a)). As defined by the ESA, “take” means “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct” (16 USC § 1532(19)). “Harm” is further defined by as “an act which actually kills or injures

wildlife and may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns including breeding, feeding or sheltering.” “Harass” is further defined as “an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding or sheltering” (50 CFR § 17.3).

Section 10(a)(1)(B) of the ESA (16 USC § 1539(a)(1)(B)), authorizes the USFWS to issue a permit allowing take of species providing that the taking is “incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.” Section 10(a)(2)(A) of the ESA provides that the USFWS must issue an incidental take permit provided that the applicant meets several substantive criteria, including that the applicant submit a conservation plan that: (1) describes the impact that will likely result from the taking; (2) identifies the steps the applicant will take to minimize and mitigate the impacts and the funding available to implement those steps; (3) describes what alternative actions to taking were considered and the reasons the alternatives were not chosen; and (4) includes other measures that the USFWS may require as necessary or appropriate for purposes of the conservation plan (16 USC § 1539(a)(2)(A)). The USFWS Habitat Conservation Planning and Incidental Take Permit Processing Handbook (“HCP Handbook”) provides guidance on the elements of a habitat conservation plan. ESA implementing regulations also give permittees (i.e., the County) “no surprises” assurances, which provide certainty as to their future obligations under a habitat conservation plan (50 CFR §§ 17.22, 17.32, 222.2; 63 Federal Register (FR) 8859).

Section 7(a)(2) of the ESA requires that each federal agency must consult with the USFWS to ensure that agency actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat (16 USC § 1536(a)(2)). “Jeopardize” is defined by the regulations as “to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, number, or distribution of that species” (50 CFR § 402.02). As described in the HCP Handbook, issuance of an incidental take permit is considered an action for which Section 7(a)(2) applies (USFWS and NMFS 1996). With respect to the issuance of incidental take permits, the USFWS functions as both the “action” agency and the “resource” agency, so that the USFWS is actually consulting with itself. According to the HCP Handbook, the consultation must include consideration of the direct and indirect effects on the species, as well as the impacts of the proposed project on listed plants and critical habitat, if any (USFWS and NMFS 1996).

The issuance of an incidental take permit is a federal action subject to the requirements of the National Environmental Policy Act (NEPA) (42 USC §§ 4321-4327). The NEPA requires federal agencies to (1) study proposed projects to determine if they will result in significant impacts to the human environment; and (2) review the alternatives available for the project and consider the impact of the alternatives on the human environment (42 USC § 4332(c)). The scope of NEPA is broader than the ESA in that it requires the agency to consider the impacts of the action on the “human environment,” including a variety of resources such as water, air quality, cultural and historic resources, and socioeconomic resources. In the context of a habitat conservation plan and incidental take permit, the scope of the NEPA analysis covers the direct,

indirect, and cumulative effects of the proposed incidental take and the beneficial effects of the proposed mitigation and minimization measures described in the habitat conservation plan (USFWS and NMFS 1996). The HCP Handbook (USFWS 1996) describes the USFWS procedures for complying with NEPA with respect to habitat conservation plans.

Depending on the scope and impact of the HCP, NEPA compliance is obtained through one of three actions:

- 1) Preparation of an Environmental Impact Statement (EIS), generally prepared for HCPs that might result in significant impacts to the human environment,
- 2) Preparation of an Environmental Assessment (EA), generally prepared for HCPs that are not likely to result in significant effects to the human environment, or
- 3) Preparation of a categorical exclusion, generally prepared for HCPs that meet the qualifications for a low-effect determination.

A NEPA analysis will be completed by the USFWS to evaluate the impacts of this HCP on the human environment. The NEPA process helps federal agencies make informed decisions with respect to the environmental consequences of their actions and ensures that measures to protect, restore, and enhance the environment are included, as necessary, as a component of their actions. If an HCP meets the requirements for a categorical exclusion under NEPA, it may be processed as a low-effect HCP as outlined in the USFWS Habitat Conservation Planning Handbook (USFWS 1996) and as defined by the Department of Interior Manual 516 DM2, Appendix 1 and Manual 516 DM6, Appendix 1.

## 2.0 SCOPE OF THE HCP

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### 2.1 Geographic Location

Garfield County lies in southcentral Utah, and is bordered by Kane County on the south, Iron County on the west, Piute and Wayne counties on the north, and San Juan County on the east. Panguitch City is the County seat and the largest town in Garfield County. The geographic location of the permit area includes the developing community of Panguitch (see section 2.4, Permit Area). The permit area lies within the Paunsaugunt Recovery Unit for the Utah Prairie Dog (USFWS 2012).

Garfield County includes 5,175 sq mi (13,403 sq km), or 6.3 percent of the total land mass of Utah. The population density is 1.0 persons per sq mi, well below the 33.6 persons per sq mi statewide density. Garfield County had a total estimated population of 5,172 in 2010, which was 0.18 percent of the estimated population of the State of Utah. Garfield County's population increased 9.2 percent from 2000 to 2010. Approximately 93% of Garfield County is in federal ownership, and private land makes up less than 4% of the land base.

## 2.2 Covered Species

The covered species under this HCP is the threatened Utah prairie dog. Species proposed for coverage are those for which the plan provides conservation and management actions, and for which incidental take authorization under a section 10(a)(1)(B) permit may be required. Covered species are based on our assessment of the effect of the proposed activities and conservation measures on listed species or species that could become listed during the term of the HCP. We do not anticipate the listing of any other species occurring in the permit area during the term of this HCP.

## 2.3 Permit Duration

The County is seeking a section 10(a)(1)(B) permit from the USFWS with a term of no more than 3 years. The actual use of take during the of the permit's term is requested as follows:

- 1) The incidental take permit (ITP) will be issued to the County.
- 2) The County would be authorized to translocate from or develop occupied Utah prairie dog habitats for the first 2 years of the ITP, as follows:
  - a. translocate any prairie dogs occurring on occupied habitat within the permit area to established translocation sites on federal or other protected lands in Garfield County (see section 3.1, Translocations); and
  - b. convey take authorization to developers through building permits on no more than 220 ac (89 ha) of occupied prairie dog habitat.

The restriction of authorizing take in only the first two years is because this low-effect HCP is considered only as a bridge to completing a long-term HCP (see section 1.1, Purpose and Need).

- 3) The County may translocate prairie dogs from the permit area (in accordance with (2)(a) above) and convey take authorization to developers on the 220 ac (89 ha) of occupied prairie dog habitat for a third year if sufficient progress toward completing a long-term HCP is occurring. Sufficient progress toward completion of a long-range HCP would be evidenced by a Notice of Availability of a Draft HCP to the Federal Register or other similar milestones as determined in writing by the USFWS to the County.

## 2.4 Permit Area

The permit area under this HCP includes the area where the covered activities will occur (see section 2.5, Covered Activities). The permit area includes the town of Panguitch and a 0.25 mi (0.4 km) buffer around the city limits and associated developed area. The permit area is the specific area for which the County is requesting authorization for incidental take of the Utah prairie dog under a section 10(a)(1)(B) permit, and totals 2,783 ac (1,126 ha) (Figure 1). There are 220 ac (89 ha) of mapped (suitable) Utah prairie dog habitat within the permit area (Table 1).

Mapped Utah prairie dog habitat is defined as all areas within the species' range that were identified and delineated as being occupied by Utah prairie dogs in any year since 1976. These areas may or may not be occupied by prairie dogs in any given year. The database of all mapped habitat is maintained by the UDWR and updated annually.

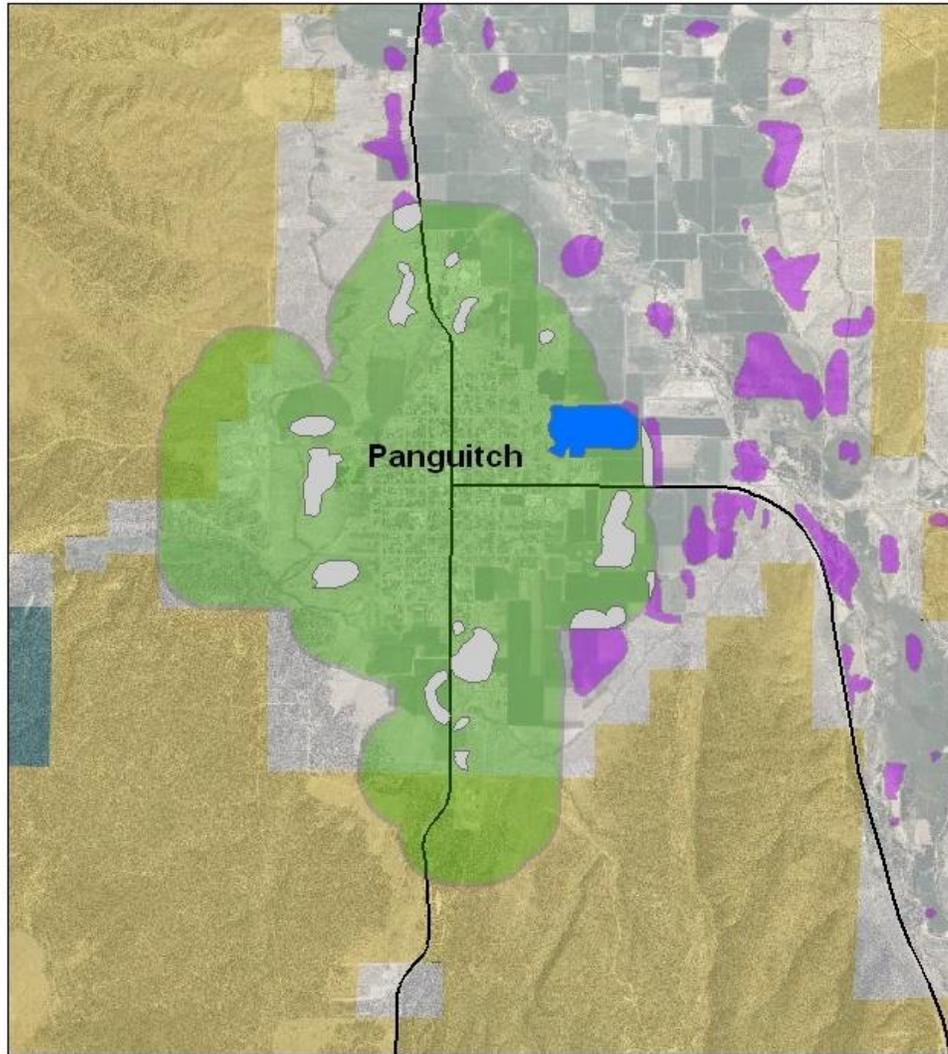
The mapped Utah prairie dog habitat in Figure 1 is delineated by color (gray, blue) based on the 10-year mean spring count (see section 8.1, Utah Prairie Dog Distribution, for a description of spring counts):

- Gray = 1-19 prairie dogs
- Blue = 20-49 prairie dogs

Only gray and blue colonies occur in the permit area. However we note for the reader that other colony size categories exist for prairie dogs and are often delineated as yellow (50-99 prairie dogs) or red (100+ prairie dogs). Through this, we can conclude that the colonies within the permit area, on which take will be authorized, are relatively small colonies (see section 9.2, Specific Impacts to Utah Prairie Dogs and their Conservation), and no large colonies occur.

Occupied habitats are defined as areas that support Utah prairie dogs (i.e., where prairie dogs are seen or heard or where active burrows or other sign are found). The basis for determining take in this HCP will be "occupied habitat." Mapped habitat is used throughout this document to provide a scope of analysis of impacts. Occupancy may occur within or outside mapped habitats because Utah prairie dog colonies move across the landscape over time. However, because mapped habitat has been tracked for over 30 years (since 1976), it provides us with a reasonable assessment of the overall distribution and numbers of prairie dogs within our permit area for purposes of analysis.

Figure 1. Take Zone (Permit Area) and Utah Prairie Dog Colonies

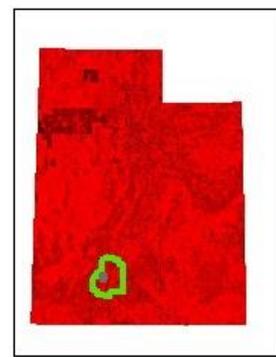
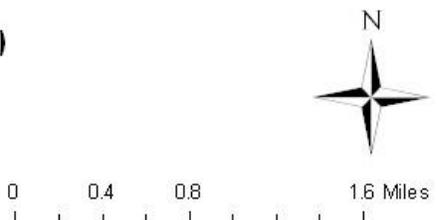


**Legend**

**Colony Size (# of prairie dogs)**

**Category**

-  0-19
-  20-49
-  50-99
-  100+
-  Garfield County HCP Take Zone
-  Mapped Habitat outside of Take Zone



**Table 1. Acres of Mapped Utah Prairie Dog Habitat in Permit Area**

	<b>Acres Gray Colonies</b>	<b>Acres Blue Colonies</b>	<b>Acres Yellow Colonies</b>	<b>Acres Red Colonies</b>	<b>TOTAL</b>
<b>Permit Area</b>	168	52	0	0	220

Under this HCP and associated permit, any prairie dogs may be translocated from within the permit area. In addition, up to 220 ac (89 ha) of occupied habitat may be disturbed or lost to residential and commercial development activities within the permit area. As stated previously, occupied habitat may include mapped habitat as well as areas that are not yet mapped, but which prairie dogs occupy at the time of development.

## **2.5 Covered Activities**

This HCP authorizes 1) translocations of Utah prairie dogs from all occupied habitats within the permit area to established translocation sites on federal or other protected lands in Garfield County, and 2) incidental take of Utah prairie dogs and the permanent loss of occupied Utah prairie dog habitat from residential and commercial development activities on no more than 220 ac (89 ha) of occupied habitat within the permit area (see Figure 1; section 2.4, Permit Area).

Incidental take may occur from injury or mortality of prairie dogs during translocation efforts. Incidental take will also occur where habitat is permanently disturbed or destroyed, resulting in the loss or reduction of Utah prairie dog individuals or colonies. Take of Utah prairie dogs in the form of injury or mortality can also occur from construction and development activities such as residential or commercial construction, road construction and maintenance, parking lot construction, and installation of utilities.

The exact locations of all covered activities are not known at this time. However, all covered activities will occur within the 2,783 ac (1,126 ha) permit area (see section 2.4, Permit Area). The covered activities may not exceed the permanent loss of 220 ac (89 ha) of occupied Utah prairie dog habitats, and translocations from occupied habitats are limited to the boundaries of the permit area (see Figure 1).

# **3.0 HCP PROVISIONS**

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## **3.1 Overall Take**

- Take in the form of 1) translocations and 2) residential and commercial development of occupied Utah prairie dog habitat can be authorized by the County for only the first two years of the permit term, with a possible extension to a third year (see section 2.3, Permit Duration).
- Utah prairie dogs can be translocated from any occupied habitats in the permit area using USFWS approved translocation protocol (see Appendix D *in* USFWS 2012), and conducted by properly trained and permitted individuals (see section 3.2, Translocations).

- Permanent take of occupied Utah prairie dog habitat in the amount of 220 ac (89 ha) can be authorized by the County to the developers.

### 3.2 Translocations

- Utah prairie dogs can be translocated from any occupied habitats in the permit area (see section 2.4, Permit Area) under the following conditions:
  - Translocations must use established translocation protocols as found in *Appendix D* of the Final Revised Recovery Plan for the Utah Prairie Dog (USFWS 2012).
  - Translocated prairie dogs must be taken to approved translocation sites on federal or otherwise protected lands in Garfield County (translocation sites are approved annually by the Utah Prairie Dog Recovery Implementation Team). If no translocation sites are available, prairie dogs will not be moved until additional sites are developed.
  - Prairie dogs may only be moved during the translocation season (July 1-August 31).
  - Only properly trained and permitted individuals may trap and translocate prairie dogs—i.e., completed UDWR translocation training course, and have appropriate state and federal authorization.

### 3.3 Residential and Commercial Development

- The take authorization in this HCP can be used by the developers during the 3-year term of the permit, once it is allocated to them through the building permit process (see section 3.4.1, Building Permit Process) and all minimization and mitigation measures have been implemented. The HCP and associated permit will authorize take through residential and commercial development of no more than 220 ac (89 ha) of occupied Utah prairie dog habitat (and the prairie dogs that occur on those acres) within the permit area (Figure 1).
  - For residential and commercial development, surveys will be conducted to determine presence or absence of Utah prairie dogs on a proposed project site and delineate “occupied habitat,” consistent with the methods used in the 1998 Iron County HCP.
  - The take acreages will be calculated for each project area based on the outer boundary of the proposed development. For example, if a developer proposes a subdivision on 50 ac (20 ha), the entire subdivision including roads, houses, and associated landscaping will be part of the overall impact calculation. As another example, if a single homeowner has 5 ac (2 ha) of property and intends to leave most of the property in its existing condition, but plans to landscape and maintain a yard on 0.5 ac (0.2 ha), then the 0.5 ac (0.2 ha) will count toward the overall impact calculation.

### 3.4 Building Permit Process

It is anticipated that take will result from the destruction of occupied Utah prairie dog habitat by residential and commercial development. Before land can be developed, the owner/developer must first obtain a building permit from the local government jurisdiction in which the development will occur. Therefore, applying for a building permit will be the action that triggers whether take will occur, and issuance of a building permit will allow for quantification of take and implementation of the minimization and mitigation measures associated with this HCP (see sections 5.0 and 6.0).

Once a building permit is issued, and all required minimization and mitigation measures have been completed (see sections 5.0 and 6.0), the developer can begin construction at any time during the 3-year term of the permit associated with this HCP. The actual take will be quantified and subtracted from the annual allotted 220 ac (89 ha) of Utah prairie dog occupied habitat in the first 2 years of the term of the permit. If actual take is not known prior to the end of the year in which it is authorized, than anticipated take will be accounted toward the 220 ac (89 ha) limit.

This HCP recognizes that not all activities resulting in the loss of Utah prairie dog occupied habitat require a building permit. Any ground disturbing activities that require specific approval must go through the following process if the landowner/developer wishes to be protected by the incidental take permit. In these instances, the local government granting approval (e.g., planning and zoning commission) will notify the applicant in writing of whether the area in consideration is Utah prairie dog habitat, and that person will be required to follow the same procedures as those applying for a building permit. A landowner who does not require a building permit may receive special approval in writing from the County to be protected under this HCP if they choose.

### 3.5 Summary

This HCP covers impacts to Utah prairie dogs from translocations and residential and commercial development activities. The exact locations of all future translocations or proposed developments are not known at this time. To ensure that effects to Utah prairie dogs are adequately analyzed, this HCP evaluates a general permit area (see Figure 1; sections 2.4, Permit Area) where potential translocations and future residential and commercial development activities may occur for the duration of the permit. The HCP also limits development impacts to 220 ac (81 ha) (and the prairie dogs that occur on these habitats) for a maximum 3 year permit term.

## 4.0 CONSERVATION STRATEGY

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## 4.1 Biological Goals and Objective

Biological goals provide the broad guiding principles for developing the HCP's operating conservation program, while the objectives identify measurable actions for achieving those goals. They clarify the purpose and direction of the HCP's conservation strategy and define what is to be accomplished by the end of the permit duration. Clearly articulated biological goals and objectives serve as the rationale for determining appropriate minimization and mitigation strategies. Biological objectives are also essential for providing benchmarks for the monitoring program to measure the effectiveness of the HCP's conservation program. Biological goals and objectives for this HCP are specific to the permit area the HCP strategy (see sections 2.4, Permit Area and 3.0, HCP Provisions).

Biological goals and objectives apply to all prairie dog colonies in the permit area.

### Goal 1

*Contribute to recovery of the Utah prairie dog by establishing or augmenting Utah prairie dog colonies on federal lands across the species range.*

#### Objectives to Achieve Goal 1

- a. Translocate prairie dogs from the permit area to established translocation sites on federal lands. Translocations may occur whether or not surface disturbances (e.g., residential and commercial development) are planned within the occupied Utah prairie dog habitat, as long as there are suitable translocation sites (see section 3.2, Translocations) whereby the movement of prairie dogs will assist with recovery efforts.
- b. Prior to any permanent surface disturbing actions in occupied habitat, the developer may choose to wait for the Utah prairie dog translocation season (July 1-August 31) to have prairie dogs from the project site translocated to approved translocation sites (see section 5.1, Translocations).

### Goal 2

*Off-set unavoidable impacts to Utah prairie dogs from the covered activities by assisting with habitat and plague management of Utah prairie dog habitat on federal lands across the species range.*

#### Objective to Achieve Goal 2

- a. If the schedule for development does not allow translocations to occur (the translocation season is July 1-August 31), or there are no approved translocation sites available to receive prairie dogs, then mitigate impacts by helping to fund ongoing habitat and population conservation efforts for the Utah prairie dog (according to section 6.1, Mitigation Selection).

### Goal 3

*Eliminate or reduce conflicts in human developed areas within the permit area.*

#### Objective to Achieve Goal 3

- a. Translocate prairie dogs from human developed lands in the permit area to established translocation sites on federal or other protected lands in Garfield County. The movement of prairie dogs from developed areas to more desirable habitats will assist with recovery efforts.

## 5.0 AVOIDANCE AND MINIMIZATION MEASURES

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There are no avoidance measures associated with this low-effect HCP. This HCP authorizes the translocation or development of all occupied Utah prairie dog habitat (up to 220 ac (89 ha) within the permit area as shown on Figure 1.

### 5.1 Translocations

Translocations of Utah prairie dogs are used to increase the numbers of prairie dog colonies on federal or otherwise protected lands and in new desirable locations across the species' range while, in this case, removing the prairie dogs from developing lands and areas associated with human conflicts within the permit area. Translocation efforts have improved across the years and the methodology plays an important role in Utah prairie dog recovery, including establishment of new colonies and facilitating gene flow (USFWS 2012). Thus, translocations are considered part of the conservation strategy of this HCP—to minimize potential development impacts (see section 4.1, Biological Goals and Objectives, above), and contribute to recovery of the species.

Translocations under this HCP may occur:

- 1) On all occupied Utah prairie dog habitats within the permit area to reduce numbers of prairie dogs occurring in and adjacent to the town of Panguitch,
  - a. Translocations must use established translocation protocols as found in Appendix D of the Final Revised Recovery Plan for the Utah Prairie Dog (USFWS 2012) (see section 3.2, Translocations).
- 2) Prior to the development of permanent structures in occupied prairie dog colonies,

- a. If the developer chooses to allow translocation of animals from the site prior to construction (see section 6.1, Mitigation Selections), he/she must wait until the translocation season (July 1-August 31). After translocations are completed, development must begin prior to the next Utah prairie dog breeding season (prior to the following February 1) to minimize the potential for a large number of Utah prairie dogs to reoccupy the site. This gives the developer six months to begin construction.
  - i. If development has not proceeded, the developer will need to either 1) wait for the next translocation season, or 2) pay the \$1,000/acre mitigation fee (see section 6.1, Mitigation Selection).

If the developer does not want to wait for the translocation season, or if translocation sites are not available, then mitigation will be required (see section 6.1, Mitigation Selection).

The translocations help to minimize the loss of prairie dogs and their habitats from developed areas by establishing new colonies on other, protected habitats, while also contributing to long-term recovery of the species. In this case, translocations will also help manage conflicts between the residents of Panguitch and Utah prairie dogs. The County has expressed concerns regarding the presence of prairie dogs in downtown Panguitch, in buildings, and in residential backyards. Ultimately, to achieve recovery, we will need to create incentives for private landowners and local communities to participate in prairie dog habitat improvement and protection measures. We can achieve this only if we demonstrate that the benefits of prairie dog conservation outweigh the costs to the landowner and communities, and if solutions that address landowner concerns and opposition are available when needed (Elmore and Messmer 2006; 77 FR 46173-46174). Our recent experiences show that if we are mindful of landowner, community, and safety needs, and if we provide solutions where Utah prairie dogs conflict with certain human land uses or create serious safety hazards, we can improve landowner and local community support for the species' conservation (Elmore and Messmer 2006; 77 FR 46173-46174, August 2, 2012). The resolution of such conflicts will reduce community resistance and help gain support for efforts to recover the species.

## 6.0 MITIGATION PLAN

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The USFWS Final Revised Utah Prairie Dog Recovery Plan (USFWS 2012) recommends a two-tier approach for recovery—1) continued habitat restoration and management of prairie dogs on federal lands, and 2) protection of some of the existing Utah prairie dog colonies on non-federal lands through fee title purchases, conservation easements, and conservation banks. Thus, the primary mitigation strategy of this HCP helps to meet the first tier of the Recovery Plan approach by providing funding to conduct habitat restoration, translocations, and population management of Utah prairie dogs on federal lands in Garfield County (Paunsaugunt Recovery Unit).

## 6.1 Mitigation Selection

The payment of mitigation fees to the NFWF Utah Prairie Dog Conservation Fund (Garfield County subaccount) will be completed when translocations are not feasible prior to development:

- 1) Translocations are the primary minimization strategy for occupied prairie dog habitats in the permit area. However, if the developer chooses to develop outside of the translocation window, then a mitigation fee will be paid to NFWF as follows:
  - a. A mitigation payment of \$1,000/acre will be paid to the NFWF Utah Prairie Dog Conservation Fund, Garfield County subaccount.
  - b. The County, USFWS, and NFWF will enter into an MOA stating the process for selecting Utah prairie dog conservation projects for which the Garfield County subaccount funds will be used. The MOA will be completed prior to completion of the HCP. Conservation projects may include habitat restoration, establishment of translocation sites, and plague dusting/vaccine application, primarily on federal lands. The type of selected projects will be consistent with recovery actions by the March 2012 Utah Prairie Dog Revised Recovery Plan for the Utah Prairie Dog (USFWS 2012).

## 6.2 Mitigation Benefits

The majority of prairie dog habitats within the permit area associated with this HCP are in already developed landscapes that support a variety of residential and commercial developments and associated infrastructure. The remaining prairie dog populations are remnants of larger colonies that used to occupy more natural habitats, but are now somewhat isolated and do not serve to support current or future metapopulations and recovery objectives for the species. As such, the primary strategy of this HCP is to minimize impacts by translocating these prairie dogs to federal or other protected habitats where they can contribute to recovery.

If translocations cannot be scheduled to occur prior to development of occupied habitats, then a payment of \$1,000 per acre will be made to the NFWF Utah Prairie Dog Conservation Fund. These funds will be used to assist with recovery actions on federal lands, through projects such as habitat restoration and plague management. Translocations of prairie dogs to federal lands or the use of funds for conservation projects benefits the Utah prairie dog by helping to establish and expand colonies on protected habitats for the long-term, thus meeting recovery objectives and actions (USFWS 2012).

# 7.0 BIOLOGICAL INFORMATION AND SPECIES STATUS

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Updated biological information and status of the Utah prairie dog is presented in the USFWS March 2012 Revised Utah Prairie Dog Recovery Plan, and referenced here in its entirety (USFWS 2012).

## 8.0 STATUS OF THE SPECIES IN THE PERMIT AREA

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### 8.1 Utah Prairie Dog Distribution

Utah prairie dogs have been counted and mapped in the permit area since 1976. As previously described (see section 2.4, Permit Area), mapped Utah prairie dog habitat is defined as all areas within the species’ range that were identified and delineated as being occupied by Utah prairie dogs in any year since 1976. These areas may or may not be occupied by prairie dogs in any given year.

The permit area has 220 ac (89 ha) of mapped Utah prairie dog habitat (see Table 1). By comparison, there are 15,620 ac (6,321 ha) of mapped Utah prairie dog habitat in the Paunsaugunt Recovery Unit and 59,656 ac (24,142 ha) of mapped Utah prairie dog habitat rangewide.

The UDWR has conducted spring counts of all accessible Utah prairie dog colonies in Garfield County (including the permit area) since 1976. Counts are conducted in the spring between April 1 and June 1, before the young are above ground, by following the Survey Protocol for Annual Counts (USFWS 2012). Spring counts are multiplied by two to estimate the adult population. Spring counts provide information on long-term population trends, but are not accurate enough to provide actual population numbers. Spring counts for the last 5 years in the Paunsaugunt Recovery Unit average 1,138 prairie dogs (Table 2), or 2,276 adult prairie dogs. Spring counts for the last 5 years in the permit area average 74 prairie dogs (Table 4), or 148 adult prairie dogs. The average density of prairie dogs in the permit area is 0.5 prairie dogs per acre.

**Table 2. Numbers of Utah Prairie Dogs in the Paunsaugunt Recovery Unit**

2008	2009	2010	2011	2012	5-YEAR AVERAGE
1014	979	835	1165	1696	1138

**Table 3 . Numbers of Utah Prairie Dogs in Permit Area**

	2008	2009	2010	2011	2012	5-YEAR AVERAGE
<b>Permit Area</b>	23	49	64	107	127	74

## 8.2 Vegetation

The permit area includes areas that are already either built out or zoned as residential and commercial development. Mixed agriculture and rangeland habitats are also part of the landscape. These vegetation communities include sagebrush, grasslands, and agricultural fields. The entire permit area is anticipated by the County to be converted to residential and commercial development in the future.

## 8.3 Soils

A variety of soil types and complexes exist within the permit area. Primarily the soil types and complexes include loam, sandy loam, clay loam, and silty clay loam with underlying gravels, cobbles, and sands. (<http://websoilsurvey.sc.egov.usda.gov>).

## 8.4 Wildlife

There are a multitude of species that may on occasion occupy the properties within the permit area. However most of the area is directly or indirectly impacted by human development. Some of the more common species include: American badger (*Taxidea taxus*), American kestrel (*Falco sparverius*), black-tailed jackrabbit (*Lepus californicus*), Botta's pocket gopher (*Thomomys bottae*), coyote (*Canis latrans*), mule deer (*Odocoileus hemionus*), horned lark (*Eremophila alpestris*), long-tailed weasel (*Mustela frenata*), mourning dove, northern goshawk (*Accipiter gentiles*), red-tailed hawk (*Buteo jamaicensis*), rock squirrel (*Spermophilus variegatus*), sage thrasher (*Oreoscoptes montanus*), sage sparrow (*Amphispiza belli*), (*Zenaida macroura*), striped skunk (*Mephitis mephitis*), western meadowlark (*Sturnella neglecta*), burrowing owl (*Speotyto cunicularia*), and gopher snake (*Pituophis melanoleucus*).

# 9.0 EFFECTS TO UTAH PRAIRIE DOGS

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The impacts and effects to Utah prairie dogs are described here first, without consideration for the mitigation measures that would be implemented under this HCP. This is to ensure that we fully analyze the impacts to the species and ensure that the species will not be jeopardized by our actions. Following our impact analysis, we then consider how other minimization and mitigation measures provide additional conservation and support our conclusion that the HCP will provide a net conservation benefit and contribute to the recovery of the Utah prairie dog.

## 9.1 Overall Impacts to Utah Prairie Dogs

Impacts to Utah prairie dogs and their habitats can be described as permanent or temporary. Permanent impacts include those that result in the complete loss of habitat from activities such as the development of buildings, roads, and infrastructure. These developments result in the complete loss of habitat such that prairie dogs can no longer utilize the site. For purposes of this HCP, we assume that covered activities will result in a complete loss of up to 600 acres of occupied Utah prairie dog habitats within the permit area (see Figure 1).

The distance at which disturbance affects a prairie dog's normal behavior is estimated to be 350 feet (106.7 meters) (Ashdown, 1995). Thus, we can assume that human activities including the construction and use of facilities within 350 feet (106.76 m) of prairie dog colonies may cause prairie dogs to leave an area or may result in behavioral changes such as reduced aboveground foraging time. However, Utah prairie dogs are somewhat acclimated to human disturbances in much of Garfield County as evidenced by their occupation adjacent to existing structures. Thus, it is unlikely that human presence will result in the complete loss of prairie dogs from the permit area.

In general, the presence of construction operations also has the potential to increase the spread of invasive weeds following ground disturbance in and around the project area, and increase the amount of trash left in the area. Invasive weeds may result in a lower overall quality of forage for the Utah prairie dog in some areas. Some trash materials may contain toxic substances to Utah prairie dogs, and ingestion of plastics can cause injury or mortality. Increased human use of areas may increase the potential for illegal shooting of prairie dogs, or an increased presence of domestic dogs and cats that can injure or kill prairie dogs.

In addition, Utah prairie dogs may be translocated from the affected occupied habitats as part of the conservation measures associated with this HCP. These prairie dogs will be moved to translocation sites on federal or other protected lands. Some of these prairie dogs may be injured or killed during translocation efforts or may die shortly after release at the translocation site. Despite translocation-induced mortalities, translocations of prairie dogs to federal or other protected lands is an important component of the recovery strategy for the Utah prairie dog (USFWS 2012), with the goal of establishing new, persistent Utah prairie colonies in areas where they can be conserved.

## **9.2 Specific Impacts to Utah Prairie Dogs and their Conservation**

As previously described (see sections 2.4, Permit Area; 8.1 Utah Prairie Dog Distribution), this HCP proposes to authorize incidental take of Utah prairie dogs from residential and commercial development within a 2,783 ac (1,126 ha) permit area. There are 220 ac (89 ha) of mapped Utah prairie dog habitat within the permit area, an average annual spring count of 74 animals (or an estimated 148 adult prairie dogs) over the last 5 years (see Table 4), and an average prairie dog density of 0.5 prairie dogs per acre. The highest spring count of prairie dogs in the last 5 years was 127 animals in 2012 for an estimated adult population of 254. There was an average annual spring count of 1,138 prairie dogs in the Paunsaugunt Recovery Unit (5-year average), equating to an estimated average of 2,276 adult prairie dogs.

We can anticipate that the maximum loss of 220 ac (89 ha) of occupied habitat and translocations of all prairie dogs within the permit area could result in the loss up to 254 adult prairie dogs (the highest adult count in the last 5 years) — 11 percent of the overall adult population (5-year average) in Paunsaugunt Recovery Unit (see Table 3). This is considered a minor impact to the overall Utah prairie dog population primarily because the prairie dogs that will be affected are those that are in or immediately adjacent to already developed areas. In addition, despite the loss

of these colonies and occupied habitat, the overall effects to the species are not considered significant based on the following factors:

### *Permit Area*

- a. The take in this HCP is limited to 220 ac (89 ha) of occupied Utah prairie dog habitat or 1.4 percent of the total mapped habitat in the Paunsaugunt Recovery Unit.
- b. Many of the Utah prairie dog colonies within the permit area (see Figures 1 and 2) already exist in an area of high residential and commercial development or on the outskirts of developing communities. Thus, they do not serve to support current or future metapopulations and objectives for recovery of the species in the wild.
- c. All but one of the Utah prairie dog colonies within the permit area are small colonies, with 10-year mean spring counts of less than 19 animals compared to only 1 colony with  $\geq 20$ . Most of the colonies would be considered low quality habitats because they are surrounded or immediately adjacent to development and thus have lost some or all of their connectivity to other prairie dog colonies in the Paunsaugunt Recovery Unit.

In summary, the effects of this HCP on the Utah prairie dog are expected to be minor and negligible because 1) the size and scope of the take is relatively small, and limited to an annual maximum of 220 ac (89 ha), 2) most of the take is limited to already developed areas or those areas projected for development in the near future—these areas do not serve to support current or future metapopulations and objectives for recovery of the species in the wild, and 3) the take is primarily limited to small colonies in low quality habitats.

## 10.0 IMPLEMENTATION AND MONITORING

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Upon issuance of the permit, the County will initiate establishment of an HCP Implementation Committee. This committee will be comprised of a representative from, at a minimum, the USFWS and Garfield County. The HCP Implementation Committee will develop a process, whether consensus-based or majority vote, for making decisions and providing a conflict resolution process.

The Implementation Committee will meet annually to review progress and ensure all provisions of the HCP are being met. The Implementation Committee can also help guide translocation efforts and continually evaluate the effectiveness of other avoidance and minimization measures. The Implementation Committee may recommend improvements to avoidance and minimization measures, based on currently available science. Any additional conservation measures would be based upon mutual agreement with the County (see section 9.4.1, Changed Circumstances).

## 10.1 Biological Monitoring

Biological monitoring will not be required of the County under this short-term, low-effect HCP. Prairie dog translocations, habitat treatments, and plague management efforts will all be coordinated through the Utah Prairie Dog Recovery Implementation Program (UPDRIP) and Utah Prairie Dog Recovery Implementation Team (UPDRIT). The UPDRIP and UPDRIT partner members are comprised of federal, state, and local agencies with responsibilities to implement recovery actions on land ownerships. For example, prairie dogs moved to sites on BLM or USFS lands will be monitored and managed by those land management agencies. Similarly, the actual establishment of translocation sites and any habitat restoration projects will be accomplished by those agencies. In addition, the federal land management agencies already monitor Utah prairie dog translocation sites and habitat restoration projects to ensure success.

## 10.2 Compliance Monitoring

To ensure compliance with the avoidance and minimization measures outlined in Section 8.0, an annual report will be submitted to the USFWS by Garfield County (by February 15) with the following information:

- a. Identification of the numbers of prairie dogs translocated, who conducted the translocation, and the translocation sites to which the animals were moved.
- b. Identification of each individual project where take occurred.
  - i. Location of project.
  - ii. Total area of project cleared.
  - iii. Acreage of mapped habitat taken.
- c. Occupied habitat taken
  - i. Acreage of occupied habitat taken.
  - ii. Habitat quality of occupied habitat taken.
- d. Minimization measures used for each project where take occurred.
  - i. Number of prairie dogs translocated.
  - ii. Translocation site to which the prairie dogs were moved.
- e. Mitigation measures used for each project where take occurred.
  - i. Amount of credits purchased from conservation banks (and name of conservation bank) or funding provided to NFWF for each project.

As the Implementation Committee is established, and projects are initially tracked, there may be a need to add or subtract some of the above described components of the compliance monitoring information. The Implementation Committee will work together to develop an appropriate database which will be housed and managed with Garfield County.

## 10.3 Adaptive Management

The goals of this low-effect HCP are to allow Garfield County to proceed with residential and commercial development projects in the permit area and reduce conflicts between prairie dogs and humans, while minimizing and mitigating the associated impacts to the Utah prairie dog, and

to serve as a bridge for take authorization until a rangewide or County-specific long-term HCP is completed. Avoidance, minimization, and mitigation measures are detailed in this HCP (sections 8.0 and 9.0, above) as prescriptions to ensure the continued conservation of the Utah prairie dog.

Adaptive management is a conservation planning strategy that, when implemented, is continuously updated with monitoring information to ensure that the biological goals and objectives of the HCP are being achieved. Because this is a low-effect HCP, and at most extends for no more than three years, we do not anticipate the need for adaptive management; however adaptive management strategies may be employed if they increase the opportunity of meeting biological goals.

In addition, as described in section 10.2, above any adaptive management associated with translocations and habitat restoration on federal lands would be the responsibility of the respective federal land management agencies, working as partners under the UPDRIP and UPDRIT teams.

## **10.4 Changed and Unforeseen Circumstances**

Section 10 regulations (50 CFR 17.22(b)(2)(iii)) require that an HCP specify the procedures to be used for dealing with unforeseen circumstances that may arise during the implementation of the HCP. In addition, the HCP Assurances (“No Surprises”) Rule (50 CFR 17.21(b)(5-6) and 17.22 (b)(5-6); 63 FR 8859) defines “unforeseen” circumstances and “changed circumstances” and describes the obligations of the Permittee (i.e., County) and USFWS. The purpose of the No Surprises Rule is to provide assurance to the County, under the ESA, that no additional land restrictions or financial compensation will be required for species in the permit area, as adequately covered by a properly implemented HCP, in light of unforeseen circumstances, without the consent of the County.

### **10.4.1 Changed Circumstances**

The ESA’s implementing regulations define “changed circumstances” as “changes in circumstances affecting a species or geographical area covered by a conservation plan or agreement that can reasonably be anticipated by plan or agreement developers and the Service and that can be planned for” (50 CFR § 17.3).

In developing this HCP, the County and USFWS identified the potential “changed circumstances” that can reasonably be anticipated to affect the covered species and plan area, and have agreed upon the County’s responsibility under this HCP to implement conservation and mitigation measures to address such changed circumstances should they occur during the term of this HCP. The reasonably anticipated changed circumstances, and the County’s obligations connected thereto, are as follows:

#### 1) Epizootic plague outbreaks

Plague is one of the primary threats to the Utah prairie dog (USFWS 2012). Plague outbreaks may make some or all of the translocation sites unusable for a portion or all of the HCP planning

period. If plague makes translocation sites unavailable, then the HCP Implementation Committee will work together and with the partner land management agencies to develop new translocation sites. If translocation sites are unavailable, then that minimization measure will no longer be implemented, and the mitigation strategy requiring a \$1,000/acre fee will be implemented for all residential and commercial development. However, there has not been a complete lack of translocation sites for over 30 years of implementation of the 1998 Iron County HCP (and often prairie dogs were translocated to Garfield County sites on U.S. Forest Service land), so we do not anticipate a high probability for this changed circumstance to occur during the 2-3 year timeframe of this HCP.

## 2) Fire or drought

Fire or drought could render some or all available translocation sites unusable. If this occurs, the HCP Implementation Committee will work together and with the partner land management agencies to develop new translocation sites. If translocation sites are unavailable, then that minimization measure will no longer be implemented, and the mitigation strategy requiring a \$1,000/acre fee will be implemented for all residential and commercial development. However, there has not been a complete lack of translocation sites for over 30 years of implementation of the 1998 Iron County HCP (and often prairie dogs were translocated to Garfield County sites on U.S. Forest Service land), so we do not anticipate a high probability for this changed circumstance to occur during the 2-3 year timeframe of this HCP.

## 3) Change to endangered status (Utah prairie dog), or listing of a new species in the permit area

Administrative changed circumstances include a change in the status of the Utah prairie dog or the listing of a new species or critical habitat. If the Utah prairie dog's status is changed to endangered, or if critical habitat is designated, the incidental take permit will be reevaluated by the USFWS and the HCP covered activities may be modified, as necessary, to ensure that activities covered under the HCP are not likely to jeopardize or result in take of the species or adverse modification of any designated critical habitat. Similarly, this evaluation would occur if a new species within the permit area is listed during the term of this HCP. If such a listing occurs during the term of this HCP, the need to cover it under the incidental take permit would be evaluated, and the HCP would be amended to incorporate appropriate avoidance, minimization, and mitigation measures, if necessary.

Garfield County will implement the modifications to the HCP covered activities, as identified in coordination with the USFWS, as necessary to avoid the likelihood of jeopardy or adverse modification of critical habitat of an up-listed (i.e., endangered) Utah prairie dog, or a newly listed species. Garfield County will continue to implement such modifications until such time as the County applies for and the USFWS approves an amendment of the incidental take permit associated with this HCP, in accordance with applicable statutory and regulatory requirements to cover the newly listed species; or until the USFWS notifies Garfield County in writing that the modifications to the HCP covered activities are no longer required to avoid the likelihood of jeopardy or adverse modification of critical habitat of the newly listed species

So long as the terms of this HCP, Implementing Agreement, and Incidental Take Permit (ITP) are being properly implemented, the USFWS will not require any mitigation, conservation measures, or funding in addition to the measures and funding specified in sections 5.0 and 6.0 of this HCP to address changed circumstances. Other than the “changed circumstances” specifically identified in this section, all other changes in circumstances affecting covered species shall be deemed “unforeseen circumstances,” as described below.

#### *10.4.2 Unforeseen Circumstances*

The HCP policy defines unforeseen circumstances as changes in circumstances that affect a species or geographic area covered by the HCP that could not reasonably be anticipated by plan developers and the USFWS at the time of the plan’s negotiations and development, and that result in a substantial and adverse change in status of a covered species. The purpose of the “No Surprises” rule is to provide assurances to non-federal landowners participating in the HCP that no additional land restrictions or financial compensation will be required for species (in the HCP permit area) adequately covered by a properly implemented HCP, in light of unforeseen circumstances, without the consent of the County.

In case of an unforeseen event, the USFWS shall have the burden of demonstrating that an unforeseen circumstance has occurred and that such circumstance is having or is likely to have a significant adverse impact on the covered species or its habitat. The findings of the USFWS must be clearly documented and be based upon the best scientific and commercial data available regarding the status and habitat requirements of the species. Based on the results of the analysis of the changed or unforeseen circumstances, the USFWS shall provide the justification and approval of any reallocation of funds or resources necessary to respond to the circumstance within the existing commitments of the County under the HCP.

The USFWS will determine that an unforeseen circumstance has occurred by evaluating factors such as, 1) the size of the current range of the Utah prairie dog, 2) percentage of range conserved by the HCP, 3) percentage of range adversely affected by the unforeseen circumstance, 4) the ecological significance of the portion of the range covered by the HCP, 5) the level of knowledge of the affected species or habitat, and 6) whether failure to adopt additional conservation measures would significantly reduce the likelihood of survival and recovery of the species in the wild. Any party to the HCP Implementation Agreement may request the Implementation Committee to meet to discuss appropriate amendments to the HCP, if needed to address any unforeseen circumstances.

In implementing the “No Surprises” rule, Congress intended that additional mitigation requirements should not be imposed on a section 10(a)(1)(B) County in the event of unforeseen circumstances. If the USFWS determines that an unforeseen circumstance has occurred and additional conservation measures are deemed necessary to ensure the species’ conservation, the obligation for such measures shall not rest with the County, as long as the HCP is properly functioning. The USFWS agrees that it will consider all practical measures and alternatives, and adopt only those that will have the least effect and impact on the lifestyle and economy of Garfield County, while at the same time addressing the unforeseen circumstance and the survival and recovery of the Utah prairie dog and its habitat.

# 11.0 Modifications and Amendment Procedures

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Modifications to this HCP may occur during the life of the plan. Proposed modifications must be supported by sufficient and sound reasoning. “Minor” modifications to the HCP may be proposed at the discretion of, and by unanimous vote of, the Implementation committee (as described in Section 8). Minor modifications are defined as routine administrative revisions or changes to the operation and management program that do not diminish the level or means of mitigation. Minor modifications may not cause a net loss of mitigation area, alter the effectiveness of the HCP, alter the terms of the ITP, or alter or add impacts that were not previously analyzed in the NEPA analysis or Section 7 consultation. Upon written request of the County, the USFWS will review and approve proposed minor modifications to the HCP as long as they meet the requirements described above.

“Major” modifications to this HCP can be proposed to the USFWS by any signatory to the HCP and may require an amendment to the permit, such as adding a covered species, changing covered activities or covered area. A major modification and/or amendment to the permit may also require additional analyses and public review. Proposed “major” modifications will be reviewed by the Implementation Committee and comments regarding these will be provided to the USFWS, which will have final approval authority. The USFWS will determine whether the proposed amendment is considered “minor” or “major,” based on the need for public review and compliance with applicable laws.

## 12.0 Permit Revocation

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### 12.1 Enforcement

The provisions of this HCP are enforceable through the terms and conditions of the permits issued by the USFWS.

### 12.2 Suspension

The USFWS may suspend all or part of the privileges authorized by an ITP, pursuant to the provisions of 50 CFR § 13.27, if the County does not comply with the conditions of the ITP or with any applicable Federal laws or regulations governing the conduct of the permitted/covered activity. Prior to proposing any suspension of a permit implementing this HCP, the USFWS will meet and confer informally with the County in an effort to resolve any grounds for concern. If these attempts at informal resolution are unsuccessful, the USFWS will then follow the provisions of 50 CFR § 13.27 prior to making a final decision to suspend the permit(s). A suspension shall remain in effect until the USFWS determines the County has corrected the deficiencies.

A partial suspension of an ITP may apply to only a portion of the permit coverage area or permitted/covered activities. In the event of a partial suspension, the portion of the ITP not subject to the suspension shall remain in full force and effect. The ITP for the portion of the area not subject to suspension shall remain in full force and effect, and shall be unaffected by any such permit suspension procedures.

### **12.3 Revocation**

The USFWS shall not revoke the ITPs for any reason except those listed in 50 CFR § 13.28(a)(1)- (4), or unless the permitted/covered activities would be inconsistent with the criteria set forth in 16 USC § 1539(a)(2)(B)(iv), and the inconsistency has not been remedied in a timely fashion. Prior to proposing any ITP revocation, the USFWS will meet and confer informally with the County in an effort to resolve any grounds for concern. If these attempts at informal resolution are unsuccessful, the USFWS will then follow the provisions of 50 CFR § 13.28 prior to making a final decision to revoke. An ITP will only be revoked if the USFWS and the County have not been successful in remedying the causes for revocation through other means.

A partial revocation of an ITP may apply to only a portion of the permit coverage area or permitted/covered activities. In the event of a partial revocation, the portion of the ITP not subject to the revocation shall remain in full force and effect. The ITP of the remaining areas shall remain in full force and effect and be unaffected by any such revocation.

Incidental take coverage and ESA compliance for covered activities that have been conducted pursuant to the implementation and mitigation measures in this HCP shall continue and be unaffected in the event of any subsequent revocation of an ITP. In the event of any such revocation, no additional commitments shall be required by the County unless it is necessary to mitigate for the take of covered species that occurred pursuant to the terms of the ITP before its revocation, as determined by the USFWS in collaboration with the County.

### **12.4 Withdrawal of Participation**

At any time during the term of this HCP and ITPs, the County may choose to discontinue its participation in this HCP as to: a) the covered species; b) a portion of the permit coverage area; and/or c) one or more of the permitted/covered activities. ESA compliance for covered activities that have been implemented pursuant to the mitigation measures in this HCP shall continue and be unaffected by any subsequent termination of the HCP provided there are no outstanding mitigation requirements associated with those activities.

## **13.0 ASSURED FUNDING**

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Costs associated with this HCP include costs of technicians or County employees to conduct translocations of prairie dogs. There will also be administrative costs associated with maintaining a compliance tracking database. The County is responsible for the full costs of these

activities, which can be accommodated through the use of existing staff resources or partnering with State and Federal agencies to assist with translocation efforts. Garfield County has already received \$35,000 from the State Legislature to conduct translocations in 2013-2014, and has previously utilized UDWR and U.S. Forest Service assistance to help with translocations. Therefore, we have a high degree of assurance that the County will be able to either provide technicians or partner with State and Federal agencies to implement the translocation portion of this HCP. Therefore, no additional funding specific to this low-effect HCP is needed.

Any mitigation requirements will be paid for by the individual developers who request a building permit or coverage under this HCP. County issuance of a building permit will be contingent on the payment of the mitigation fees by the developer before development is initiated. For building permits that have been issued prior to issuance of the ITP, the County will work with the developer to ensure payment of relevant mitigation fees. Failure of payment by the developer before initiation of development would result in the County suspending or revoking the building permit. Therefore, no additional funding for mitigation is required under this HCP.

## 14.0 ALTERNATIVES CONSIDERED

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### 14.1 Alternative #1: No Action

Under the No Action alternative, no take would be authorized translocations or for developers in Garfield County. Take authorization is needed to meet the ongoing development needs of the County.

### 14.2 Alternative #2: Long-Term, Rangewide HCP

Under this alternative, any take authorization would be addressed in a long-term, rangewide HCP. The long-term rangewide HCP would authorize a much greater acreage of take of occupied Utah prairie dog habitat because it would include development projections for the next 20-30 years across at least three counties. As previously described (see section 1.1, Purpose and Need), the USFWS and Iron County began work on a Rangewide HCP (to include Iron, Garfield, and Wayne Counties) in 2006, however efforts to complete the Rangewide HCP have stalled due largely to concerns regarding funding mechanisms. Garfield County has committed to proceed with completing either the Rangewide or a new long-term Garfield County HCP. However it is likely that completion of a new HCP will require 2-3 years. In the interim, additional take authorization is needed to meet the ongoing development needs of the county.

### 14.3 Alternative #3 Proposed Action

Under the Proposed Action alternative, the County would receive the ability translocate prairie dogs out of the community of Panguitch and authorize 220 ac (81 ha) take of occupied Utah prairie dog habitat to residential and commercial developers with the permit area prescribed by this HCP (see Figures 1 and 2), for a period of no more than three years. This low-effect HCP can be completed in a relatively short amount of time, alleviating development pressures in the

interim, as a bridge to a longer term HCP. Garfield County has also committed to proceed with completing either the Rangewide or a new long-term Iron County HCP. The take of 220 ac (89 ha) and translocations from these colonies is considered a minor and negligible impact to the Utah prairie dog based on the amount and habitat quality associated with the take (see section 9.2, Specific Impacts to Utah Prairie Dogs and their Conservation). Minimization, and mitigation measures in the HCP are intended to assist with the long-term recovery of the Utah prairie dog (see section 5.0, Avoidance and Minimization Measures and 6.0, Mitigation Plan). Therefore, the Proposed Action is the preferred alternative.

# 15.0 LIST OF REFERENCES

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