PROGRAMMATIC SAFE HARBOR AGREEMENT FOR UTAH PRAIRIE DOGS

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Panoramaland Resource Conservation and Development Council, Inc.

and

U.S. Department of the Interior, Fish and Wildlife Service

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FOR UTAH PRAIRIE DOGS

1. INTRODUCTION

This programmatic Safe Harbor Agreement (Safe Harbor Agreement/SHA) is entered into between the Panoramaland Resource Conservation and Development Council, Inc. (Program Administrator) and the U.S. Department of Interior, Fish and Wildlife Service (Service/USFWS); hereinafter collectively called the "Parties." See Section 13 G of this Agreement for contact information for the parties. The purposes of this Agreement are (1) to promote the conservation of Utah prairie dogs (*Cynomys parvidens*) (UPD), through the voluntary restoration, enhancement, and management of farm and ranchlands in southwestern Utah, (2) to provide certain regulatory assurances to landowners participating in such restoration, enhancement, and management activities, and (3) to accomplish the foregoing without negatively affecting farming activities.

2. COVERED SPECIES AND TRACKING NUMBER

This agreement covers the following Federally listed species, which is hereafter referred to as the "covered species" as defined in the Service's final Safe Harbor Policy (64 FR 32717): UPD (*Cynomys parvidens*).

The Tracking Number for this Agreement and associated permit is TE-155376.

3. PURPOSE AND AUTHORITY

Sections 2, 7, and 10 of the Endangered Species Act (ESA) of 1973, as amended, allow the Service to enter into this Safe Harbor Agreement. Section 2 of the ESA states that encouraging interested parties, through federal financial assistance and a system of incentives, to develop and maintain conservation programs is a key to safeguarding the nation's heritage in fish, wildlife, and plants. Section 7 of the ESA requires the Service to review programs that it administers and to utilize such programs in furtherance of the purposes of the ESA. By entering into this Agreement, the Service is utilizing its endangered species and related programs to further the conservation of the nation's fish and wildlife resources.

Section 10(a)(1) of the ESA authorizes the Service's issuance of enhancement of survival permits for listed species. This Agreement is entered pursuant to the Service's Safe Harbor Agreement final policy (64 FR 32717) final regulations (64 FR 32706), and revisions to the regulations (69 FR 24084) and implements the intent of the Parties to follow the procedural and substantive requirements of section 10(a)(1)(A) of the ESA. The Permit, for which the Administrator has applied, has been applied for in good faith. If granted, it is expected to benefit the UPD by increasing and improving the habitat available to them, creating an opportunity to increase their numbers, and providing assurances against the loss of the species in the area as a result of habitat loss or other factors elsewhere. The Agreement and Permit are consistent with the purposes and policies of the ESA, because they are expected to further the conservation of the covered species

in a manner consistent with the recommendations and strategies contained in the recovery plan for this species.

The purpose of this Safe Harbor Agreement is for the Parties to collaborate in the voluntary enrollment of non-federal land Cooperators into Cooperative Agreements (Exhibit 1) that define conservation measures for UPDs on Cooperators' property. These Cooperative Agreements will enhance and manage UPDs and the habitat on non-federal lands throughout their range. This Safe Harbor Agreement supports the joint efforts outlined in the Memorandum of Agreement signed by several agencies and partners to work cooperatively to recover the Utah prairie dog.

4. DESCRIPTION OF ENROLLED LANDS

The properties subject to this SHA consist of those non-Federal lands in Beaver, Garfield, Iron, Kane, Piute, Sevier, and Wayne Counties, Utah, that are hereafter made subject to Cooperative Agreements between the owners or managers thereof (Cooperators) and the Program Administrator (Exhibit 1). Such properties are referred to herein as the "enrolled properties." The area within which properties may be enrolled is depicted on the attached map and consists generally of those lands within the aforementioned counties and within the historic range of the UPD. The enrolled properties are to be more precisely indicated on maps attached to such Cooperative Agreements. Current and recent land use practices on the enrolled properties are likely to be varied and to include grazing, crop production, and other agricultural uses, as well as recreational uses. Such Cooperative Agreements shall be effective upon the signing thereof by the Cooperator and the Program Administrator.

5. BASELINE DETERMINATION

For each enrolled property, the baseline conditions shall be based upon a survey of the enrolled property, undertaken by a qualified person satisfactory to the Service and according to Service approved protocol (Exhibit 6), not more than 12 months prior to the signing of the Cooperative Agreement, to delineate the location and acreage of all occupied UPD habitat and conduct a count of adult UPD present. In order to receive the assurances regarding take of covered species specified in Section 11 hereof, a Cooperator must maintain on the enrolled property at least as many acres of occupied habitat and adult animals as were present when the Cooperator entered into the program and in the same general locations.

6. MANAGEMENT ACTIVITIES

Each Cooperative Agreement shall specify the habitat restoration, enhancement, and management activities to be carried out on the enrolled property to which it applies and a timetable for implementing those activities. These activities shall include those listed as "standard activities" in Exhibit 2 and such "additional activities" listed in Exhibit 2 as the Cooperator agrees to implement. The object of such activities will be to increase the amount and suitability of habitat for the UPD on the enrolled properties. The Service has determined that implementation of these activities is expected to produce a net conservation benefit for the covered species. Each Cooperative Agreement shall also specify any incidental take and control that may occur through normal agricultural activities such as grazing, ranching, and farming.

Any population caps or control zones will be clearly specified according to standards defined in Exhibit 2.

The Program Administrator will ensure management activities are carried out as described in the Cooperative Agreement and that all reporting requirements are completed. Emergency situations, such as drought, wildfire, plague, or insect infestations, may require management actions not specified in the Cooperative Agreement. In these situations, the Parties acknowledge that it may be impossible to provide the 90-day notice required by section 10 of the Cooperative Agreement prior to initiation of activities that could result in take of the covered species. However, the Program Administrator will immediately notify the Service of such a situation and take actions as described in Section 10 of the Cooperative Agreement.

7. NET CONSERVATION BENEFIT

Implementation of this SHA is reasonably expected to provide a "net conservation benefit" to the covered species, because the collective management activities performed by the Cooperators pursuant to this Agreement are expected to provide an increase in the covered species' population and/or enhance, restore, maintain or expand the covered species' habitat.

Specifically, the Agreement supports recovery objective #8 listed in the current Recovery Plan for the UPD (USFWS 1991[1]) by developing and implementing site-specific management plans for colonies that improve areas of marginal habitat and manage factors limiting the growth of colonies. A revised Recovery Plan is expected in the near future that will include actions on non-federal lands that will benefit UPDs. This agreement will support recovery actions pertaining to improving and protecting habitat on non-federal lands. In addition, it is anticipated that many Cooperators will engage in practices such as grazing management or brush management that may improve habitat for other species. Although incidental take and control of UPDs may be authorized in the permit, the overall outcome will be a net conservation benefit. This Agreement will provide additional habitat for dispersing adults, potentially increasing their occupied habitat and, therefore, is expected to provide a "net benefit" to the species.

8. OTHER RESPONSIBILITIES OF THE PARTIES

The responsibilities of the parties of this agreement are described below.

A. In addition to entering into Cooperative Agreements with willing non-Federal landowners and managers, as described above, the **Program Administrator agrees to:**

1) Conduct outreach and provide information pertaining to this Utah Prairie Dog Safe Harbor program to non-federal landowners who may be interested in enrolling in the program.

2) Work with potential participants to identify appropriate management activities for the enrolled property to be included and detailed in Exhibit B of the Cooperative Agreement.

[1] U.S. Fish and Wildlife Service, 1991. Utah prairie dog recovery plan. U.S. Fish and Wildlife Service, Salt Lake City, Utah. September 1991.

3) Coordinate with the Service to conduct Baseline Determinations.

4) Provide copies of all Cooperative Agreements to the Service for review and approval.

5) Inform the Service within 30 days of any notification it receives from a Cooperator (or from a neighboring landowner who has entered into an agreement pursuant to Section 9 hereof) of the latter's intent to make a change in land use likely to reduce the acreage of occupied UPD habitat or living individuals, and to coordinate with the Service in the event that it chooses to relocate such potentially affected individuals of the covered species in response to such notification;

6) Annually, in cooperation with the Service and Utah Division of Wildlife Resources (UDWR), carry out surveys of the restored habitat on enrolled properties to assess the general condition of habitat, use of the habitat by the covered species, progress of the ongoing management activities, any incidental take or control that occurred or may have occurred, and satisfaction of the Cooperator with the project. Such surveying activities may be carried out on the Program Administrator's behalf by a qualified entity pursuant to an agreement with the Program Administrator and Cooperator;

7) Provide the Service with an annual report, due by March 1 of each year, in the form attached hereto as Exhibit 3; and

8) Furnish the Service with copies of all Cooperative Agreements hereunder within 2 weeks after they are signed.

B. In consideration of the foregoing, the Service agrees to:

1) Upon execution of the Agreement, issue to the Program Administrator a permit in accordance with ESA section 10(a)(1)(A), and valid for a period of 35 years, authorizing take of the covered species as a result of implementing management activities specified in a Cooperative Agreement, or as a result of other lawful activities on enrolled properties after the management activities specified in such Cooperative Agreement have been initiated, provided that such taking shall be consistent with maintaining baseline conditions on the enrolled property.

2) Provide to the Program Administrator and Cooperators technical assistance, to the maximum extent practicable, when requested; and provide information on Federal funding programs.

3) Review and provide comments on all Cooperative Agreements before they are signed within 30 days of receipt.

4) Approve each Cooperative Agreement that is consistent with the purposes of this Safe Harbor Agreement.

9. OTHER LANDOWNERS WHO MAY SECURE INCIDENTAL TAKE AUTHORIZATION

Landowners who own land that is immediately adjacent to enrolled land, may, without committing to undertake any management activities described in Section 5 on such adjoining land, secure the incidental take authority conferred by the permit issued by the Service to the Program Administrator pursuant to Section 8.B.1, provided: (1) such adjoining landowner enters into a written agreement with the Program Administrator in the form attached hereto as Exhibit 4; (2) such written agreement specifies the baseline conditions on such adjoining property; (3) activities resulting in such incidental take are consistent with maintaining the baseline conditions on such adjoining property and such adjoining landowners give the Program Administrator 90 days notice (except when precluded by emergency situations) prior to commencing any change in land use likely to reduce the number of prairie dogs or the amount of occupied prairie dog habitat on such adjoining property. The adjoining landowner may either accept the Program Administrator's proposed baseline conditions or have undertaken at his own expense a survey to establish the baseline conditions more precisely. Under either event, the determination of baseline conditions shall be made by a qualified person approved in writing by the Service.

10. AGREEMENT AND PERMIT DURATION

This Agreement becomes effective upon issuance by the Service of the ESA section 10(a)(1)(A) permit described in Section 8 hereof, and will be in effect for 35 years. The permit will have a term of 35 years. Cooperative Agreements developed pursuant to this SHA will be for a term of at least 15 years. Certificates of Inclusion issued under this permit will have a term of 10 years beyond the term of the Cooperative Agreement but in no event beyond 2044. This SHA and the permit described in Section 8 hereof may each be extended by mutual written consent of the parties given on or after date of expiration in compliance with all applicable laws and regulations.

11. ASSURANCES REGARDING TAKE OF COVERED SPECIES

Provided that such take is consistent with maintaining the baseline conditions identified in Section 5 hereof, the ESA section 10(a)(1)(A) permit referenced in Section 8 shall authorize the taking of the covered species incidental to otherwise lawful activities as well as control as defined in the Cooperative Agreement by Cooperators (and by neighboring landowners who have entered into agreements pursuant to Section 9 hereof), and their employees or agents, in the following circumstances:

A. Implementing the management activities identified in Section 6 hereof; or

B. Making any lawful use of the enrolled property of the Cooperator after the management activities identified in Section 6 have been initiated, including but not limited to farming, ranching, or other agricultural use, use of registered pesticides and herbicides (provided that such use is in accordance with label restrictions, "standard activities" specified in Exhibit 2 and such "additional activities" from Exhibit 2 that are included in Exhibit B of the Cooperator's Agreement), recreation, use and maintenance of access paths and of roadways, and irrigation ditch repair and maintenance.

12. MODIFICATIONS

A. Modification of the Agreement. Either party may propose amendments to this Agreement by providing written notice to, and obtaining the written concurrence of the other Party. Such notice shall include a statement of the proposed modification, the reason for it, and its expected results. The Parties will respond to proposed modifications within 60 days of receipt of such notice.

B. Teonination of the Agreement. As provided for in Part 12 of the Service's Safe Harbor Policy (64 FR 32717), a Cooperator may terminate his Cooperative Agreement with the Program Administrator for circumstances beyond his or her control by giving written notice to the Program Administrator. In such circumstances, the Cooperator may, pursuant to the permit referenced in Section 8.B.1 hereof, return the enrolled property to baseline conditions even if the management activities identified in Section 6 have not been fully implemented.

C. Permit Suspension or Revocation. The Service may suspend or revoke the permit referenced in Section 8.B.1 above for cause in accordance with the laws and regulations in force at the time of such suspension or revocation. The Program Administrator or any Cooperator has the right to appeal any suspension or revocation in accordance with 50CFR 13.27 and 13.28.

D. Inability of the Program Administrator to Continue. If the Program Administrator shall, for any reason, cease to be able to perform its obligations under this Agreement, it shall give written notice of that fact to the Service at least 60 days prior to ceasing to perform its obligations under the Agreement. Upon receiving such notice, the Service may, at its discretion after consultation with Cooperators, either amend this Agreement and the associated permit to substitute a new Program Administrator, or, if a Cooperator prefers, convert any previously approved Cooperative Agreement into an individual agreement between the Cooperator and the Service under the same substantive terms in compliance with all applicable laws and regulations.

13. OTHER MEASURES

E. Remedies. No party shall be liable in monetary damages for any breach of this SHA, any performance or failure to perform an obligation under this SHA or any other cause of action arising from this SHA.

F. Dispute Resolution. The Parties agree to work together in good faith to resolve any disputes, using dispute resolution procedures agreed upon by all Parties.

G. Succession and Transfer. As provided in Part 11 of the Service's Safe Harbor Agreement Policy, if a Cooperator transfers his or her interest in the enrolled property to another non-Federal entity, the Service will regard the new owner or manager as having the same rights and responsibilities with respect to the enrolled property as the original Cooperator, if the new owner or manager agrees to become a party to the Cooperative Agreement in place of the original Cooperator.

H. Availability of Funds. Implementation of this SHA is subject to the requirements of the Anti-Deficiency Act and the availability of appropriated funds. Nothing in this SHA will be

construed by the Parties to require the obligation, appropriation, or expenditure of any funds from the U.S. Treasury. The Parties acknowledge that the Service will not be required under this SHA to expend any Federal agency's appropriated funds unless and until an authorized official of that agency affirmatively acts to commit to such expenditures as evidenced in writing.

I. No Third-Party Beneficiaries. This SHA does not create any new right or interest in any member of the public as a third-party beneficiary, nor shall it authorize anyone not a party to this SHA to maintain a suit for personal injuries or damages pursuant to the provisions of this SHA. The duties, obligations, and responsibilities of the Parties to this SHA with respect to third parties shall remain as imposed under existing law. In the event that the permit referenced in Section 8.B.1 hereof, is rendered illegal, the Service shall, at the request of a Cooperator, remove and relocate away from the enrolled property any UPD on the enrolled property in excess of baseline conditions.

J. Other Listed Species, Candidate Species, and Species of Concern. Although the Service regards it as unlikely, the possibility exists that other listed, or candidate species, or species of concern may occur in the future on enrolled properties as a result of the management actions specified in Exhibit B of the Cooperator's Agreement. In the event that a non-covered species that may be affected by covered activities becomes listed under the ESA, the Program Administrator will notify the Cooperators to implement the no-take/no-jeopardy measures (as defined in the ESA) identified by the Service for that species until the permit is amended to include such species, or until the Service notifies the Program Administrator that such measures are no longer needed to avoid jeopardy to, take of, or adverse modification of the critical habitat of, the non-covered species.

K. Notices and Reports. Any notices and reports, including monitoring and annual reports, required by this SHA shall be delivered to the persons listed below, as appropriate:

Panoramaland Resource Conservation and Development Council, Inc. 340 North 600 East
Richfield, Utah 84701
(435) 896-8965

Utah Field Supervisor,
U.S. Fish and Wildlife Service 2369 West Orton Circle, Suite 50 West Valley City, Utah 84119 (801) 975-3330

IN WITNESS WHEREOF, THE PARTIES HERETO have executed this Safe Harbor Agreement to be in effect as of the date that the Service issues the permit referred to in Section 8.B.1 above.

Donald A. Falvey

Donald A. Falvey
Chairman
Panoramaland Resource Conservation and Development Council, Inc.

6/24/09
Date

L. Crist

Larry Crist
Utah Field Supervisor,
U.S. Fish and Wildlife Service

6/22/09
Date

EXHIBIT 1

Cooperative Agreement

This is a voluntary agreement that recognizes the unique and important role that non-federal landowners in Utah can play in helping wildlife valued by the people of the State and of the nation. The purpose of the agreement is to enable land management activities beneficial to rare species to be carried out on non-federal owned land while minimizing the impact of such activities on the right and ability of the owner or manager thereof to use it as he or she wishes. The Cooperator will comply with all local state and federal laws in the implementation of this cooperative agreement. The terms of this agreement are as follows:

1. The Panoramaland Resource Conservation and Development Council, Inc. ("Program Administrator") and (Cooperator) have entered into this Agreement to improve and manage Utah Prairie Dog (UPD) habitat for the betterment of wildlife, including endangered species, on certain land owned or managed by the Cooperator that are delineated on the attached map (Exhibit A), and referred to herein as the "enrolled property."

2. The United States Fish and Wildlife Service (Service) has issued to the Program Administrator an endangered species permit that authorizes, until the year [2044], the incidental take and control of UPD by Cooperator and other persons who enter into cooperative agreements with the Program Administrator pursuant to the permit under a Certificate of Inclusion.

3. Certificates of Inclusion issued to Cooperators maybe authorized up to 10 years beyond the termination date of the Cooperative Agreement but in no event beyond 2044, when the permit for the program expires.

4. Cooperator agrees to conduct, or allow to be conducted, activities to restore, enhance, or manage UPD and their habitat in accordance with the plan and funding agreements set forth in the attached Exhibit B and shown in Exhibit A, and maintain such habitat for a minimum period of 15 years from the date of this Agreement.

5. The Cooperator further agrees to provide the Program Administrator with a brief report, due December 31 of the year following the signing of this Cooperative Agreement, and annually thereafter. Such report, in the format shown in Exhibit 5 or in any other simple format to be developed by the Program Administrator, shall identify any management activities undertaken to restore, enhance, or manage UPDs or their habitat on the property subject to this Cooperative Agreement, as well as any changes in the extent of occupied UPD habitat in the preceding year. The Cooperator understands and agrees that the Program Administrator will include these annual reports with the annual report that it is required to submit to the Service. The Cooperator further agrees to promptly report to the Program Administrator the observation of any dead specimens of the UPD.

6. In consideration of the foregoing, the Program Administrator has issued to the Cooperator the attached Certificate of Inclusion under the Program Administrator's permit. This Certificate authorizes the Cooperator and the Cooperator's successors or assigns:

a) to take the species identified above incidental to implementing the management activities set forth in the Agreement (Exhibit B);and through normal agricultural activities, and

b) to control the species in defined areas as shown in Exhibit A after initiation of, and consistent with such management activities as described in Exhibit B. No control of Utah prairie dogs shall occur until translocation of Utah prairie dogs has been considered and undertaken by the Utah Division of Wildlife Resources or the U.S. Fish and Wildlife Service if possible[2].

7. After the agreed-upon management activities have been initiated, the Cooperator agrees to give the Program Administer at least 90 days notice (except when precluded by emergency situations) prior to commencing any change in land use likely to reduce the number of prairie dogs or acres of occupied habitat on the enrolled property, and to allow the Program Administrator to coordinate with the Service for the opportunity to translocate any individuals of the above species from the Cooperator's land to avoid their loss.

8. The Cooperator and the Program Administrator agree that according to surveys conducted by the Service or another party acceptable to the Service, at the time that this Cooperative Agreement was signed, there were [X] adult UPD and [X] acres of occupied habitat on the enrolled property located at the general locations indicated on Exhibit A. That number of adult prairie dogs and acres of occupied habitat in those general locations shall be considered the "baseline conditions" applicable to the property. So long as at least that number of adult prairie dogs and the same acreage of occupied habitat remain in the same general locations on Cooperator's enrolled property, the Cooperator may incidentally take the species as provided in Part 6 above. If requested by the Service within 90 days of its receiving a copy of the Cooperative Agreement, the Cooperator agrees to allow the Service access to the enrolled portion of Cooperator's property for the sole purpose of verifying the baseline determination set forth in this paragraph.

9. Successors and assigns may incur the responsibilities and benefits of this Agreement by becoming a party thereto, unless terminated in writing as specified below. If Cooperator decides to sell or otherwise transfer ownership or management of the property, Cooperator agrees to give the Program Administrator notice of such decision prior to the intended sale or transfer and to give the purchaser or transferee notice of this Cooperative Agreement so that the purchaser or transferee can become a party to it if he or she so wishes. Cooperator will inform the Program Administrator in the event all, or part of, the Cooperator's property delineated on the map labeled Exhibit A is transferred to another owner. Any succession, assignment or transfer of this permit is governed by 50 CFR sections 13.24 and 13.25.

10. The Cooperator shall grant the Program Administrator or the Service access to Cooperator's property to confirm that the restoration, enhancement, or management activities set forth in Exhibit B have been conducted, and to assess the condition of the habitats being managed under the Cooperative Agreement. The Program Administrator shall give the Cooperator reasonable notice of these visits and shall be accompanied by the Cooperator or an agent of the Cooperator if the Cooperator so desires.

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[2] Suitable translocation sites must exist for translocation to be undertaken.

11. Emergency situations, such as drought, wildfire, plague, or insect infestations, may require management actions not specified in this Agreement. In these situations, the Program Administrator and Cooperator acknowledge that it may be impossible to provide the 90-day notice required by this Agreement prior to initiation of activities that could result in take of the covered species. However, the Cooperator will notify the Program Administrator within 10 days of discovering such a situation, and will make reasonable accommodations to the Program Administrator and the Service for surveying for and/or relocating affected individuals or populations of the covered species prior to the action(s). Surveys and relocation of animals may be precluded by certain urgent or emergency situations. The Program Administrator and the Cooperator will work cooperatively to avoid impacts to the covered species. If the UPD population on the Property is decimated or substantially reduced by plague, translocation of UPD to the property may be undertaken. Response to plague may include dusting the colony for fleas.

12. The Cooperator, or the Cooperator's successors or assigns, may terminate the Cooperative Agreement for reasons beyond their control at any time by giving 60 days written notification to the Program Administrator. If that occurs, the right of the Cooperator or the Cooperator's successors or assigns to incidentally take the species under the permit and Certificate of Inclusion shall expire at the end of the 60-day notification period. This Cooperative Agreement can be renewed, extended, or modified at any time subject to the Cooperator's, the Program Administrator's and the Service's approval. The baseline conditions in any renewal or extension of this Cooperative Agreement shall be determined in the same as set forth in Part 5 above.

13. Cooperator and the Program Administrator agree with respect to liability and indemnification for injuries to persons or property arising out of this Agreement as follows: [details may vary from agreement to agreement] Cooperator assumes no liability for injury to any employee or representative of Program Administrator or the Service in the course of any visit to the property under this agreement. Program Administrator or the Service shall not be liable for any damage to the property of the Cooperator arising from any visit to the property pursuant to this agreement.

14. So long as the permit and Certificate of Inclusion remain in effect, and provided the management activities required by this Agreement have been carried out, the Cooperator may exercise the right conferred by the Program Administrator's permit and the Certificate of Inclusion to incidentally take and control the species as described and identified above on the enrolled property.

Panoramaland Resource Conservation
and Development Council, Inc.,

By_____
Date_____

Cooperator,

By_____
Date_____

Exhibit A

[map of the property subject to the cooperative agreement including management and control activities described in the Cooperative Agreement]

Exhibit B

[Plan for management actions to be carried out and identified funding agreements]

CERTIFICATE OF INCLUSION

This certifies that the property described as follows [DESCRIPTION], owned by [NAME OF COOPERATOR], is included within the scope of Permit No._____ issued by the U.S. Fish and Wildlife Service on [DATE] to the Panoramaland Resource Conservation District under the authority of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended, 16 U.S.C. 1539(a)(1)(A). The term of this Certificate of Inclusion shall extend for ten years beyond the term of the Cooperative Agreement, but in no event beyond 2044. (For example, if the term of the Cooperative Agreement is 15 years, the term of the Certificate of Inclusion will be 25 years.) Such permit authorizes certain activities by participating landowners as part of a safe harbor program to restore and enhance habitat for the Utah Prairie Dog. Pursuant to that permit and this certificate, the holder of this certificate is authorized to engage in activities on the above described property that may result in the incidental taking of such species, including control subject only to the terms and conditions of such permit and the cooperative agreement entered into pursuant thereto by the Panoramaland Resource Conservation and Development Council, Inc., and [NAME OF COOPERATOR] on [DATE].

_____

Panoramaland Resource Conservation and Development Council, Inc. Date

_____

Cooperator Date

EXHIBIT 2

Management Activities, Incidental Take, and Control

Management activities will follow guidelines written and approved by the Utah Prairie Dog Recovery Team. In addition, individual projects will be planned to avoid or minimize adverse effects on all other applicable wildlife species. Incidental take and control will follow guidelines described below.

Standard Activities

The following management activities shall be included in all cooperative agreements:

- Limit the use of pesticides and herbicides within 100 feet of active prairie dog burrows to those included on a list of Service-approved chemicals.
- Avoid the use of heavy equipment in occupied prairie dog habitat during sensitive life stages such as breeding and nursing.
- All practices will be planned and applied in a manner that will avoid or minimize adverse effects to sensitive, threatened or endangered species.
- Monitor habitat restoration activities to assess the general condition of habitat, use of the habitat by the covered species, progress of the ongoing management activities, and satisfaction of the Cooperator with the project, and adjust practices as deemed necessary.

At least two of the following management activities shall be included in all cooperative agreements except as approved by the Service:

- Prescribed grazing to increase visual surveillance, increase forage quantity and quality, and deferment or rest to create vegetative barriers to limit expansion to undesirable locations, and/or
- Brush management to restore plant community balance, increase visual surveillance, and increase forage quantity and quality, and/or
- Seeding to restore degraded rangelands or pasturelands and bare ground, and increase forage quantity and quality, and/or,
- Prescribed burning to increase forage quantity and quality, and/or,
- Noxious weed control to facilitate restoration of rangelands or pasturelands, increase visual surveillance, and increase forage quantity and quality.

Additional Activities

A Cooperator may elect to include one or more of the following management activities in a Cooperative agreement:

- Irrigation improvements and control to reduce the chance of burrow flooding, and increase forage quantity and quality, increase access to moist vegetation,

- Plant vegetative barriers, such as, windbreaks, shelterbelts, or rows of tall grasses and shrubs to manage dispersal of prairie dogs into sensitive areas identified in Exhibit A of the Cooperative Agreement, thereby minimizing the need for future control of prairie dogs.

- Dust burrows for fleas using pesticides and techniques approved by the Utah Prairie Dog Recovery Team, to prevent the spread of plague, or

- Artificial burrow preparation and translocation of live UPD to establish a new colony in suitable habitat.

- Any other conservation measure that provides a net conservation benefit to the species as approved by the Service.

Incidental Take

A Cooperator's activities may result in some incidental take of UPDs while engaging in normal agricultural activities such as grazing, ranching, and farming. Incidental take will be avoided and minimized through the following:

- In occupied UPD habitat, deep tilling (greater the 18 inches) will be avoided. If it cannot be avoided, it will occur when adults and pups are above ground and can avoid impacts of equipment.

- The use of heavy equipment in occupied habitat will be avoided during breeding and nursing seasons.

Control

Due to management activities, a Cooperator may experience increases in UPD populations that could detrimentally impact the cooperator's ongoing ranching and farming activities. Thus, control measures may be authorized in a Cooperative Agreement if total adult prairie dogs on the enrolled property exceed a specified number, which shall be no less than 20 adults (as determined by the previous spring count) or twice the baseline number (whichever is larger). In addition to a cap on numbers, areas within the enrolled property may be identified as areas of control where animals could detrimentally impact the participants' ongoing ranching and farming activities, or where they detrimentally impact structures (i.e., within 50 feet of a house or barn). These areas must be identified in Exhibit A. Control will be authorized through the following:

- Issuance of a Certificate of Registration through the Utah Division of Wildlife Resources.

EXHIBIT 3

Annual Report for
Safe Harbor Agreement between the U.S. Fish and Wildlife Service
and Panoramaland Resource Conservation and Development Council, Inc.

Permittee's Name: Panoramaland Resource Conservation and Development Council, Inc.

Permit Tracking Number: TE-155376

Location: Non-Federal lands in Beaver, Garfield, Iron, Kane, Piute, Sevier, and Wayne Counties, Utah

Agreement Approved by: Utah Field Office, U.S. Fish and Wildlife Service

Covered Species: Utah Prairie Dog

Report on the Monitoring Program (1-2 paragraphs): Describe in general terms the results of any surveys carried out pursuant to Section 8.A.2 of the Safe Harbor Agreement in the year covered by the report; append a copy of the report. Describe any major changes in the collective condition of UPD habitat included in the baseline or improved as part of the Cooperators' Cooperative Agreement. Describe any evidence of utilization of such habitat by the covered species. Append to this report copies of all reports submitted to the Program Administrator by Cooperators since the last annual report.

Date Annual Report is Due: On or before March 1, for the prior calendar year

Date Annual Report was Received:_____

Date Annual Report was Reviewed: _____

Signature of Reviewer: _____

Printed Name and Phone # of Reviewer _____

Report on Area-wide Management and Conservation Actions (1-2 paragraphs): As necessary to supplement the monitoring reports above, summarize the extent and condition of occupied UPD habitat on the collective enrolled properties. Describe any apparent , year-to-year trends in success in the region, as well as significant differences in conservation success between enrolled properties. Describe any relevant regional conditions (e.g., drought, flood) that may be required to interpret the management activities described in the appended annual reports from the Cooperators. Finally, please convey any suggestions for adaptive management of project areas that may have emerged from the program so far.

EXHIBIT 4

Neighboring Landowner Agreement

1. [Name] (hereafter "Owner") owns land (hereafter "the Property") in [Beaver, Garfield, Iron, Kane, Piute, Sevier, or Wayne County] Utah, that is designated on the attached map and that is adjacent to land enrolled in the Programmatic Safe Harbor Agreement between the Panoramaland Resource Conservation and Development Council, Inc. (Council) and the United States Fish and Wildlife Service (hereafter "the Service"), dated [date]. The Programmatic Safe Harbor Agreement, and the permit issued by the Service to the Panoramaland Resource Conservation and Development Council, Inc., in connection therewith, authorizes participating landowners who enter into cooperative agreements with the Council to restore habitat on land enrolled in the program to take threatened Utah prairie dogs incidental to farming, ranching, and other lawful activities on the enrolled land, provided that baseline habitat conditions as specified in such cooperative agreements are maintained.

2. The Panoramaland Resource Conservation and Development Council, Inc., serves as the Program Administrator of the foregoing Programmatic Safe Harbor Agreement, and as such is authorized by that Agreement to enter into both cooperative agreements with landowners who enroll land in the Programmatic Agreement, and similar Neighboring Landowner Agreements with landowners who own land adjacent to land enrolled in the Agreement. Such Neighboring Landowner Agreements confer upon such neighboring landowners the same rights to take endangered species incidental to lawful activities on such neighboring land, subject to requirements as are set forth in this Agreement, as cooperative agreements confer upon landowners who enroll land in the Programmatic Agreement.

3. The Panoramaland Resource Conservation and Development Council, Inc., has determined that the "baseline conditions" applicable to the Property are as follows: [Number] of adult Utah prairie dogs and [acres] occupied Utah prairie dog habitat occur on the Property at the general locations indicated on the attached map. So long as at least as many adult Utah prairie dogs and that many acres of occupied habitat remain in the same general locations on the Property, Owner may incidentally take Utah prairie dogs in the course of any lawful use of the property, subject to Section 4 below. As used herein, "incidental" take refers to the unintentional or unavoidable killing or injuring of Utah prairie dogs in the course of carrying out otherwise lawful activities. Nothing herein authorizes Owner to capture, collect, or deliberately kill or injure any such prairie dogs.

4. Owner agrees to give the Panoramaland Resource Conservation and Development Council, Inc., at least 90 days notice (except when precluded by emergency situations) prior to commencing any change in land use likely to reduce the acreage of occupied habitat on the Property, and to allow the Service the opportunity to rescue and relocate any individual Utah prairie dogs and translocate them from the Property to avoid their loss or work with the Service to obtain an appropriate permit.

5. This Neighboring Landowner Agreement remains in effect until the expiration of the Cooperative Agreement between the Panoramaland Resource Conservation and Development Council, Inc., and the Cooperator on [date].

_____

[Owner] Date

_____

Panoramaland Resource Conservation and Development Council, Inc. Date

EXHIBIT 5

Annual Report from Cooperator to Program Administrator

Directions: Walk through the conservation area (enrolled lands) observing overall conditions and paying particular attention to the areas where practices have been applied. You may wish to have your baseline maps and Cooperative Agreement handy for reference. Explanations can be brief (one or two sentences).

At the discretion of the Program Administrator, you may substitute for this form a monitoring report provided to you by a biologist or conservation professional familiar with the Utah Prairie Dog.

Condition of Occupied Utah Prairie Dog Habitat

1. Please circle the types of management activities that you will be implementing as part of this Agreement.
    - Brush Management
    - Prescribed Grazing
    - Seeding
    - Prescribed Burning
    - Noxious Weed Control
    - Irrigation Improvements
    - Vegetative Barriers
    - Dusting Burrows
    - Artificial burrow preparation and translocation
    - Other management activities
2. List which of these activities has implemented this year and note whether they differed significantly from the activities described in Exhibit B of your Cooperative Agreement. If the activities were significantly different, explain why.
3. For each activity listed in #2, indicate which month it was completed, and indicate what work remains to be completed.

4. What is the general condition of the prairie dog habitat restored? (i.e., do prairie dogs still occupy the site, height and stature of vegetation, condition of seeded plants, etc.) Please comment separately on each management activity implemented.

5. Has the extent of the area of suitable habitat available for prairie dogs changed within the past year? For example, has the area expanded naturally or has it markedly decreased due to fire, flood, drought, or other natural events?
    - Expanded
    - Decreased
    - Stayed the same

Please explain briefly the extent and causes of any noticeable increase or decrease.

6. If your Cooperative Agreement authorizes control measures on specific portions of your property, what control measures were initiated, and on what parcel of property? How many animals were controlled? Who initiated the control measures?

7. Have you noticed any change in the types or numbers of birds, or other wildlife in the restored area? If so, please describe these briefly.

EXHIBIT 6.

June 22, 2006

Utah Prairie Dog Safe Harbor Agreement Baseline Determination Protocol

This protocol should be used to determine the Utah prairie dog Baseline for Safe Harbor Agreements (SHA). The "Baseline" for a SHA is a description of the current conditions of the Utah prairie dog habitat and colony size on the lands to be covered by the SHA (referred to as the identified lands below). The Baseline will include occupied habitat as well as the number of dogs present on the lands. Methods to determine each of these are described below.

Prior to baseline determination, the Division will determine if annual counts of UPD have been conducted in the past on colonies existing on identified lands and if the colony has been mapped. If they have, the counts will be used in conjunction with the current year counts to obtain the five year average of UPD on the identified lands. If no previous counts have been completed on the identified lands, a current survey of UPD on the site will be completed. This number will be used in conjunction with the number of acres containing active burrows to be managed for once the identified lands are returned to baseline. If the colony has been mapped, the map will be used to assist with locating UPD on the identified lands. It will not be used to determine baseline acres of occupied habitat.

All surveys must be completed by a "Qualified Biologist"[3] approved by the U.S. Fish and Wildlife Service (Service) and the Utah Division of Wildlife Resources (Division). Surveys are usually done from March 31 to June 15 before young have emerged, depending on site conditions. If the DWR has conducted annual counts on the identified lands in the past and UPD are known to exist on the site, then the site should be initially surveyed from a distance with a spotting scope so as not to disturb potential occupants. The surveyor must be close enough, however, to be able to see the entire area. He/she may need to survey from many different vantage points depending on the size of the area and obstructions. These surveys must be conducted when animals are not in hibernation and weather conditions are conducive to prairie dog activity (little to no wind, no precipitation and temperatures between 65 and 90 degrees F). The area will be monitored for 1 hour counting adult animals only. The surveyor must be careful not to double count animals.

If no animals are detected by this survey, it does not mean that the site is not occupied as animals could be hibernating or otherwise below ground. At this point, a survey covering 100% of the identified lands in the SHA should be undertaken to more fully determine the extent of occupation of the identified lands. The surveyor will walk through the entire area searching for burrows and other prairie dog sign on transects 10 meters wide. Surveyors must walk the transects noting all occupied burrows. Care must be taken as to not overlap transects. Once the

[3] Qualified Biologist: As a general rule, a qualified Utah prairie dog surveyor is a biologist with a bachelor's degree or graduate degree in biology, ecology, wildlife biology, mammalogy, or related fields. He/she must have demonstrated prior field experience using accepted resource agency techniques to survey for Utah prairie dogs. A minimum of 20 hours of documented field experience surveying for Utah prairie dogs and prairie dog sign is required. In addition, the surveyor must be capable of recognizing and accurately identifLing Utah prairie dogs and all types of Utah prairie dog sign. The surveyor must also have the ability to legibly and completely record all sign on the survey report form and topographic maps.

colony is generally located and defined, the perimeter should be drawn 15 feet outside the outermost burrow to define the occupied acreage. A digital map must then be created showing the location of the currently active colony or colonies.

After mapping UPD presence on the identified lands, additional surveys of animals should be conducted if none were seen in the initial survey. With the information gained in the mapping survey, more focused attention on the areas known to be occupied should allow for a more accurate count of individual animals. The survey protocol described above for counts should be utilized again to determine the baseline number of UPD.

A baseline report should then be generated that includes the data sheet below and a map of lands covered by the SHA with active colonies identified. The report should be submitted to the U.S. Fish and Wildlife Service and the Utah Division of Wildlife Resources.

Safe Harbor Agreement Baseline Determination Datasheet

SHA Name:

SHA Permit Number:

Recovery Area:

Location (County):

Habitat Type: native rangeland, seeded dry rangeland (heavy portion or all non-native species like crested wheatgrass), dry pasture (all non-native pasture if there is such a thing that is not irrigated), irrigated pasture, perennial cropland (hay or alfalfa), annual cropland (wheat, barley, oats, etc.), and abandoned cropland (weedy areas).irrigated agriculture, pastureland, rangeland etc.:

Acres Covered:

Survey Date:

Start Time:

End Time:

Cloud Cover:

Wind speed:

Elevation:

Colony # (DWR):

Number of UPD Observed:

Adults:

Juveniles:

Total:

Notes: