

**HABITAT CONSERVATION PLAN**

For The

**Issuance of an Incidental Take Permit  
Under Section 10(a)(1)(B) of the Endangered Species Act**

For The

**Utah Prairie Dog (*Cynomys parvidens*)**

By

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Prepared for:

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**December 23, 1996**

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## 1.0 INTRODUCTION

### 1.1 PURPOSE AND NEED

The LDS Church is currently planning to develop a church facility on an approximately 6.3 acre area with associated structures and parking lot, on private property near Cedar City, Iron County, Utah. The Utah prairie dog (*Cynomys parvidens*), a federally threatened species, is known to occur within the proposed project area.

This Habitat Conservation Plan (HCP) has been prepared to meet legal requirements contained in 50 CFR §17.22 (b)(1)(iii), which sets forth the application requirements for an Endangered Species Act Section 10(a)(1)(B) permit for incidental take. An Environmental Assessment has been prepared in conjunction with this HCP, as required by the National Environmental Protection Act (NEPA). An Implementation Agreement and Application Form have also been prepared. These documents constitute the permit application. The proposed length of the permit application is two (2) years. However, the LDS Church will have the option to rescind the permit on the proposed development, if and when Iron County prepares a county-wide HCP for the Utah prairie dog and it is approved by all involved federal, state, city, and private parties and a Section 10(a)(1)(B) permit is issued by the U.S. Fish and Wildlife Service (Service).

### 1.2 UTAH PRAIRIE DOG BACKGROUND AND CONTEXT

The Utah prairie dog is a member of the white-tail subgenus, *Leucocrossuromys* and is limited to the southwestern quarter of Utah. It was originally listed as endangered in 1973 (38 CFR 14678). In 1979, the Utah Division of Wildlife Resources (UDWR) petitioned the Service to downlist the Utah prairie dog from endangered to threatened. As a result, the Utah prairie dog was reclassified to threatened status in 1983 (48 FR 21604). Historically, the Utah prairie dog was found in southwestern and central Utah from the Nevada border on the west to Nephi on the north, east to the foothills of the Aquarius Plateau and south to the northern borders of Kane and Washington counties. The species now occurs principally in Iron, Sevier, Beaver, Wayne, and Garfield counties. The historical distribution of Utah prairie dogs has been reduced and their abundance has been in decline for decades due to habitat loss, intentional poisoning, drought, poor grazing practices, and episodes of plague.

Due to the number of Utah prairie dogs on private property in southwestern Utah, and conflict with private land owners, the Service established a Federal rule in 1984 that allows limited take of the Utah prairie dog on agricultural lands through trapping or shooting of Utah prairie dogs in Cedar and Parowan Valleys. The rule was amended in 1991 to allow take on agricultural lands within the entire range of the Utah prairie dog. The Utah Prairie Dog Recovery Plan (U.S. Fish and Wildlife Service 1991) considers the relocation of prairie dogs from private to federal lands to be crucial to the continued viability and eventual recovery of the species (UDWR 1995).

Utah prairie dogs prefer habitat in open terrain with clear visibility to avoid predators. They are found in elevations from 5,400 feet on valley floors up to 9,500 feet in mountain mesa habitats. Cedar City is one of three areas of population concentration for this species. Although approximately 30 percent of the colonies exist on public lands in the West Desert, the majority of individuals are found on private land (UDWR 1995).

## **2.0 PROJECT DESCRIPTION**

### **2.1 PROJECT LOCATION AND DESCRIPTION**

The LDS Church is currently planning to develop a church facility on a 6.3-acre area on the north side of Cedar City, Utah. The project is located in Section 35, T35S, R11W. See Figure 1. The privately-owned property is within city limits and zoned as commercial. The project is privately funded and includes development of a ward meeting house, parking areas as well as installation of associated infrastructure such as natural gas, sewer, water, power and phone service. The proposed project is consistent with the Cedar City Master Plan and adjacent use.

The proposed action will require the trapping and relocation of a maximum estimate of 22 Utah prairie dogs and the possibility of incidental take of two (2) prairie dogs through direct mortality during construction. This potential take would be incidental to an otherwise lawful activity. Development is anticipated to be initiated in Summer 1997.

### **2.2 EXISTING ENVIRONMENT**

#### **2.2.1 Land Ownership, Existing Conditions, and Adjacent Land Uses**

The Permit Area is owned and being planned for development by The LDS Church. The property is currently undeveloped but has been disturbed in the past by agriculture, grading, and a recent, small wildfire. There are several disjointed fences and a dirt road running east-west across the north end of the property. Land use around the Permit Area includes a newly paved road and the new Cedar City High School to the south; Highway 130 on the east; a real estate office and timber home company on the northeast; a restaurant on the north; and an active rural irrigation ditch on the west side.

#### **2.2.2 Topography**

Cedar City is located in Cedar Valley at approximately 5,622 feet. Hurricane Cliffs lie to the east and southeast, Cross Hollow Hills to the southwest, and Cedar Valley to the northwest. The project site is relatively flat with elevations ranging between 5,600 and 5,643 feet. The property gradually increases in elevation to the east.

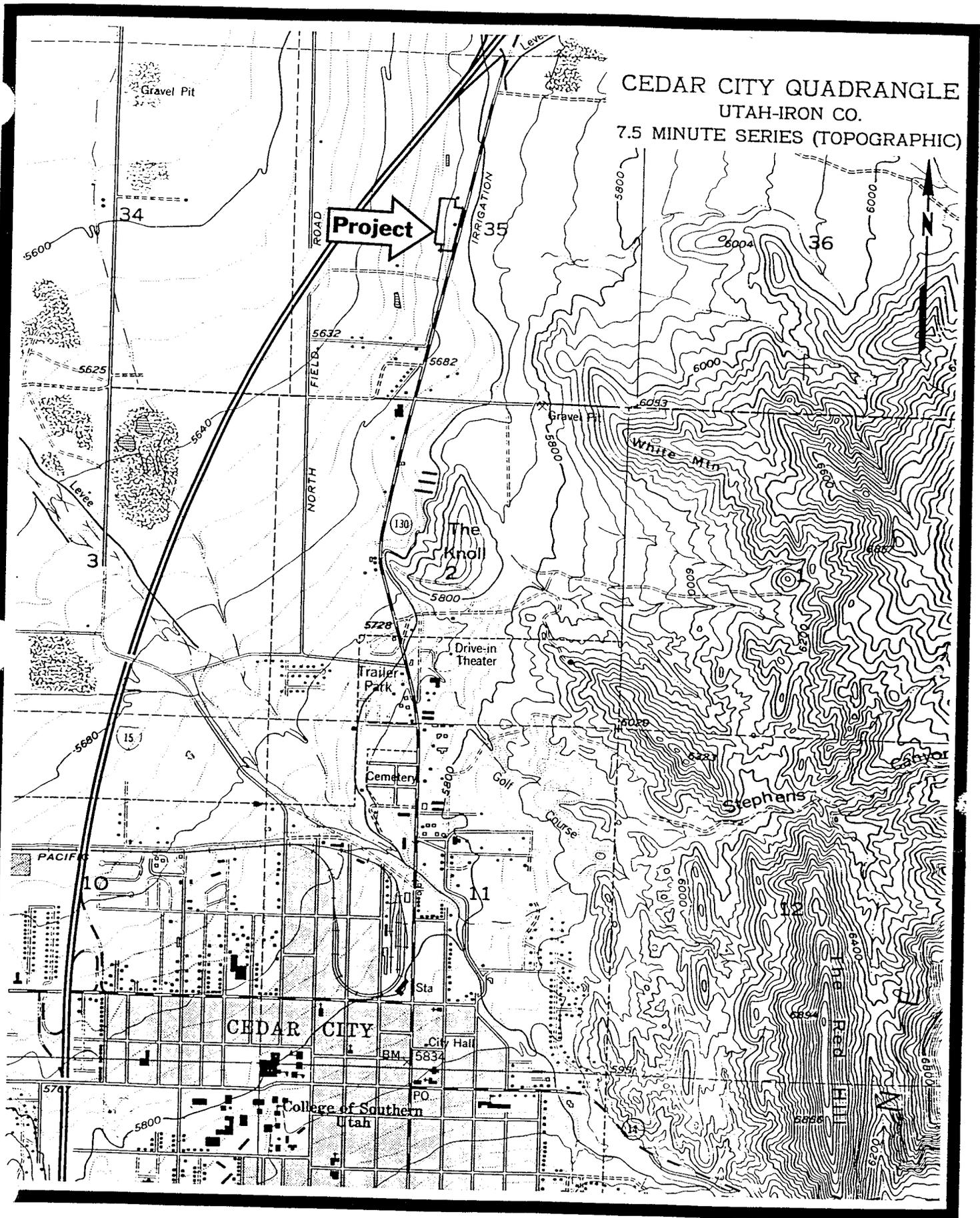


Figure 1. LDS Church Education Project Area

### 2.2.3 Soils

The project area is located in Cedar Valley which is part of the Tonoquints Volcanic unit of the Great Basin-Colorado Plateau Transition Province (Stokes 1986). The geologic uplifts bordering the Cedar Valley are a combination of Quaternary basalts and Triassic sedimentary rocks with some Navajo Sandstone. Soils in the general project area are strongly alkaline and range from silty clay loams to coarse sandy loams. The soils are alluvial, probably derived from the nearby upland basalts and sandstones.

### 2.2.4 Vegetation

The proposed Permit Area has been cleared in the past and predominately supports grass including foxtails (*Hordeum jubatum*), matted grass (species unknown), tansy mustard (*Descurainia sophia*), bur buttercup (*Ranunculus testiculatus*). Small, 2-6 feet tall, elm (*Ulmus pumila*) saplings are establishing on the southern portion of the project area. The northern half of the project area is either graded or littered with cut tree stumps and branches. A pile of rocks is also present on the north half. See Figures 2, 3, 4, and 5.

### 2.2.5 Wildlife

It is likely that Townsend's ground squirrels (observed), skunk, badger, gophers, mice, cottontail rabbits, meadowlarks, sparrows, magpies, and red tailed hawks (observed) occur within the Permit Area.

### 2.2.6 Endangered and Threatened Species

In addition to the Utah prairie dog, a federally threatened species, one endangered species and two threatened species were identified by the Service as potentially occurring within the Permit Area. No critical habitat has been designated for any of the listed species. The species are listed in Table 1 and include three birds and one mammal.



Figure 2. Looking northwest at LDS Church Property

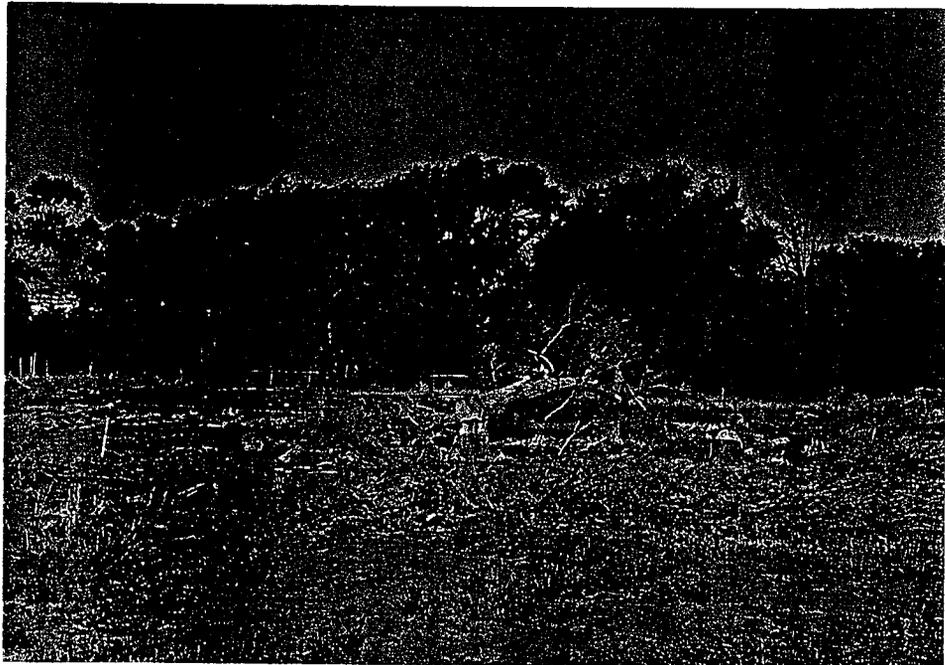
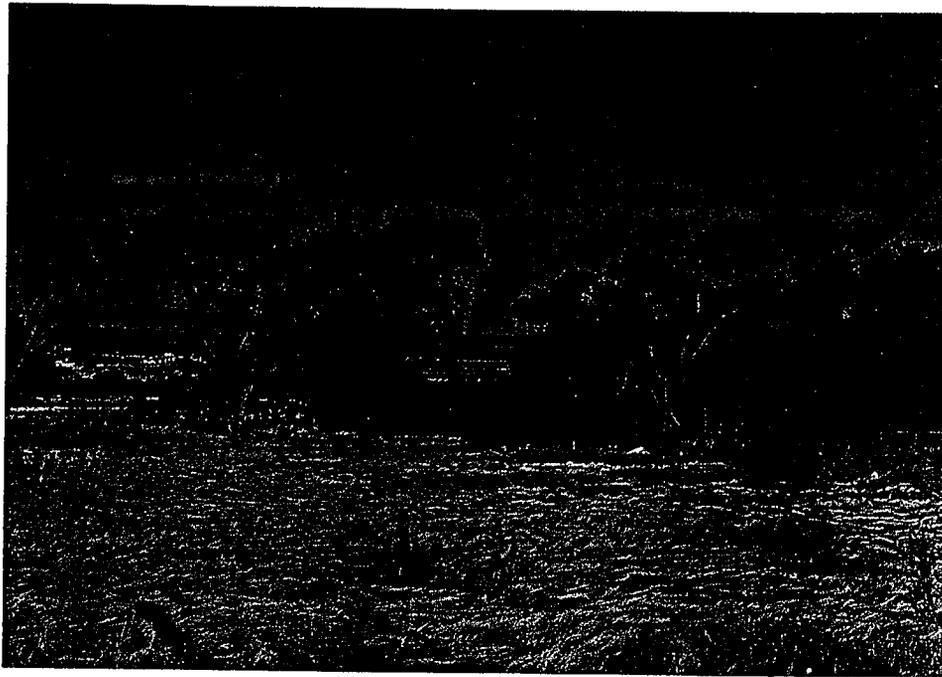
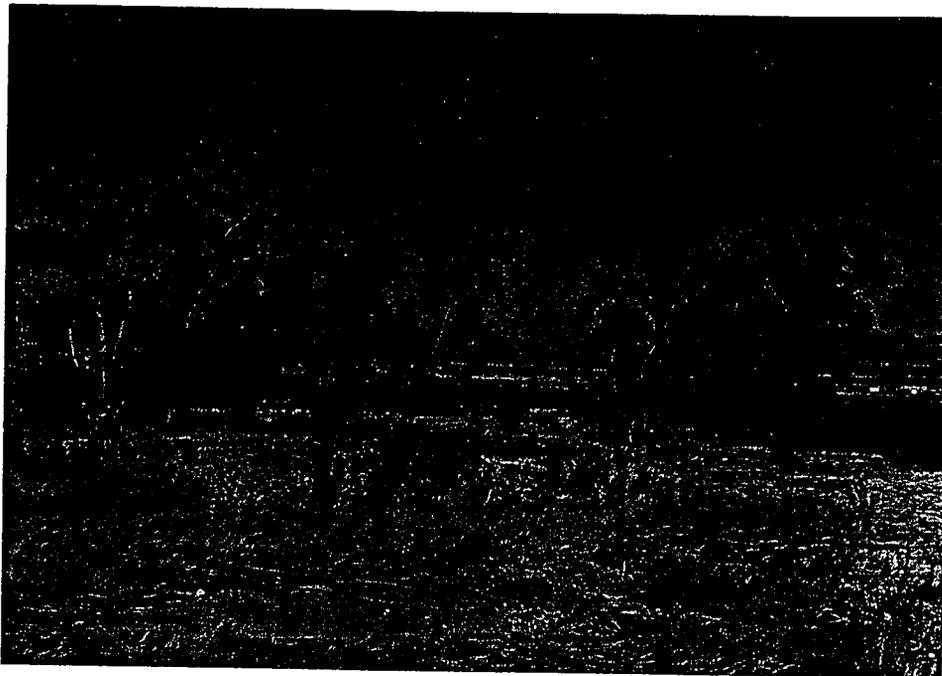


Figure 3. Looking west across north central portion of LDS Church property



**Figure 4.** Looking west across south central portion of LDS Church property



**Figure 5.** Looking west at southern end of LDS Church property

**Table 1. Endangered and Threatened Species That May Potentially Occur Within The LDS Church Permit Area**

| Species   | Status <sup>1</sup> |
|---|---------------------|
| American peregrine falcon ( <i>Falco peregrinus</i> )   | Endangered          |
| Bald eagle ( <i>Haliaeetus leucocephalus</i> )          | Threatened          |
| Utah prairie dog ( <i>Cynomys parvidens</i> )           | Threatened          |
| Mexican spotted owl ( <i>Strix occidentals lucida</i> ) | Threatened          |

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<sup>1</sup>A Federal endangered species is defined as "...any species which is in danger of extinction throughout all or a significant portion of its range other than a species of the Class Insecta, determined by the Secretary to constitute a pest whose protection under the provisions of the Endangered Species Act would present an overwhelming and overriding risk to man."

A Federal threatened species is defined as "... any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range."

### 3.0 STATUS OF ENDANGERED AND THREATENED SPECIES AND SPECIES OF CONCERN IN THE PERMIT AREA

#### 3.1 INTRODUCTION

The purpose of this section is to discuss the status of endangered, threatened, and candidate species in the Permit Area. No critical habitat has been designated for any of the listed species. A field survey was conducted on May 22, 1996 to determine the suitability of the site for the listed and candidate species. Additional discussions regarding listed species is included in the Environmental Assessment. Section 4.0 discusses potential impacts to these species as a result of the proposed development.

##### 3.1.1 Utah Prairie Dog

The prairie dogs on the LDS project area are part of a larger colony, designated 0103Z. The UDWR conducted surveys of a larger area than the LDS project area, extending from I-15 north interchange to the road constructed along the northern boundary of the new high school. The counts were conducted in 1992, 1993, 1994, 1995, and 1996, totaling 5, 21, 17, 11, and 36 prairie dogs, respectively (McDonald 1996, pers comm.). SWCA observed four (4) burrows and two (2) prairie dogs within the project area. According to McDonald (1996 pers. comm.), it is impossible to extrapolate the number of dogs on the LDS Church project area from the UDWR counts of the larger area. Therefore, the following calculations provide a projected estimate of prairie dogs based on SWCA's total count of prairie dogs.

2 individuals x 2 = 4 adult prairie dogs estimated to be present (according to Crocker-Bedford's (1975) estimate that 40 to 60 percent, or an average of 50 percent, of prairie dogs are above ground at any given time);

4 prairie dogs equals approximately 3 females and 1 male (based on a female to male ratio of 2:1, McDonald 1995, pers comm.);

The 3 females may have had 1 to 6 young (average of 4) this spring (McDonald 1995, pers comm.):

3 females x 1 young = 3 young

3 females x 6 young = 18 young

Therefore, the estimated total number of prairie dogs that could potentially occur within the project area ranges between 7 and 22 individuals:

4 + 3 = 7 individuals

4 + 18 = 22 individuals

This estimate does not include a mortality factor; therefore, the estimate errs on the high side. Prairie dogs are located in the northern portion of the Permit Area.

The area currently occupied by prairie dogs has been cleared and disturbed in the past. These actions created suitable habitat (i.e., open grassy area with no trees and minimal shrubs) for the prairie dogs. See Figures 2 and 3.

### **3.1.2 Other Threatened and Endangered Species**

In addition to the Utah prairie dog, one endangered and two threatened species identified by the Service, could potentially occur within the Permit Area or the immediate vicinity include the American peregrine falcon, bald eagle, and Mexican spotted owl. No suitable habitat exists within the Permit Area for these species with the exception of the bald eagle.

There are no known bald eagle roost sites within the Permit Area. However, it is possible that bald eagles could perch on the elm trees on the west side and forage in the area during the winter.

## 4.0 POTENTIAL IMPACTS

### 4.1 INTRODUCTION

Preparing an HCP includes determining the amount of incidental take associated with the proposed project. Take as defined in Section 3 of the ESA means "to harass, harm, pursue, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." Section 10(a)(1)(B) defines "incidental take" as "take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity." Federal regulation defines the terms "harass" and "harm" as follows. Harass means "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." Harm means "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." A Section 10 permit allows an exception to the taking prohibition of the ESA.

### 4.2 UTAH PRAIRIE DOG

Direct impacts are those which are caused by an action and occur at the same time and place as the action. Direct impact of the project is the conversion of approximately 6.3 acres of potential Utah prairie dog habitat to church facility. In order to minimize the effect of this direct impact, there will be an incidental take of an estimated 22 Utah prairie dogs through trapping and relocation and the potential incidental take of no more than two (2) prairie dogs as a result of direct mortality during construction. Accidental on-site deaths are not considered likely due to the trapping and relocation of the prairie dogs; their ability to move out of harm's way should any escape the trapping process; and mandatory preconstruction education regarding prairie dogs.

The proposed project will adversely affect approximately 6.3 acres of occupied Utah prairie dog habitat, potential habitat all of which could support an estimated 22 animals. The proposed project will not adversely affect nor jeopardize the continued existence of the Utah prairie dog population in the West Desert nor anywhere within its range. Furthermore, the relocation of the Utah prairie dogs to Federal lands is consistent with The Utah Prairie Dog Recovery Plan (U.S. Fish and Wildlife Service 1991) and will contribute to attainment of the Service's recovery goals for the Utah prairie dog.

#### **4.2.1 Indirect Impacts**

Indirect impacts are those caused by the action and are later in time or removed in distance but still reasonably foreseeable. Indirect impacts could include the failure of individual prairie dogs to survive at the new site, following relocation.

#### **4.2.2 Direct Habitat Impacts**

The proposed project will entail conversion of the approximately 6.3 acres of potential prairie dog habitat to private use.

#### **4.2.3 Indirect Habitat Impacts**

All foreseen impacts to prairie dog habitat are direct.

#### **4.2.4 Cumulative Impacts**

No cumulative impacts to Utah prairie dogs are anticipated as relocation of the prairie dog to federal lands is consistent with the Utah Prairie Dog Recovery Plan (Service 1991) and all mitigation described herein and in the Implementing Agreement will be implemented as described.

### **4.3 ENDANGERED AND THREATENED SPECIES**

No impacts to any other threatened or endangered species are anticipated as a result of the proposed project.

## **5.0 MEASURES TO AVOID, MINIMIZE, AND MITIGATE FOR POTENTIAL IMPACTS TO THE UTAH PRAIRIE DOG**

### **5.1 INTRODUCTION**

This section discusses the measures which are proposed to avoid, minimize, and mitigate potential impacts to the Utah prairie dog as a result of the project.

### **5.2 AVOIDANCE AND MINIMIZATION**

Three means to avoid or minimize impacts to the Utah prairie dog will be employed: (1) trapping and relocation; (2) fencing; and (3) pre-construction education program.

#### **5.2.1 Trapping and Relocation**

The Utah Prairie Dog Recovery Plan (U.S. Fish and Wildlife Service 1991) calls for establishing sufficient numbers of prairie dogs on public lands that they can be delisted, and protective restrictions on private property removed. Toward that goal, relocation sites are currently being developed by the BLM to accommodate prairie dogs from private lands in Iron County. The relocation sites will be monitored for transplant success, habitat requirements, and the compatibility of cattle grazing and prairie dog colonies.

The UDWR will remove the prairie dogs to a BLM and Service approved site according to established protocol. The trapping and relocation of males could be accomplished in April and any females and young in July, through coordination with the UDWR. The UDWR will trap prairie dogs until catch-per-unit-of-effort has reached a level designated by UDWR in conjunction with the Service. Trapping will be scheduled to avoid hibernation periods. The UDWR estimates trapping and relocation costs for 1997 to be \$75.00 to \$100 per prairie dog (Kimball 1996, pers. comm.). The final cost will be based on the estimated costs for moving dogs in 1996. The estimated number of prairie dogs to be relocated is 22 individuals. Upon completion of trapping, UDWR will bill the LDS Church at the above rate and on net 30 day terms for the actual number of prairie dogs trapped. Payment default may result in suspension of the permit.

#### **5.2.2 Fencing**

A chain link fence will be installed as a physical barrier to reduce the likelihood of prairie dogs recolonizing landscaped areas. Vertical slats will be inserted through the chain link to create a visual barrier. Fencing will be installed prior to trapping the prairie dogs and prior to construction. All construction equipment will be confined within the fenced project area to minimize impacts to nearby prairie dogs. This fencing in combination with the active irrigation ditch bordering the west

side of the property and the paved roads and development on the other sides will serve to minimize or exclude prairie dogs from the project area.

### **5.2.3 Pre-construction Education Program**

In order to avoid or minimize impacts to prairie dogs, a pre-construction education program will be provided for contractor personnel under the direction of the Service. Two weeks advance notice by the LDS Church to schedule the education program is required. Included in the education program, will be an explanation to the contractors' employees that they are working in habitat previously occupied by a threatened species. They will be taught the definition of "harm" and the consequences of causing harm to a threatened species. Any recommendations identified in the Service's Finding of No Significant Impact (FONSI) and in the Implementation Agreement will also be explained at that time.

### **5.2.4 Scheduling**

Avoidance and minimization of impacts will also be facilitated by trapping and relocating the prairie dogs in accordance with currently approved protocols which protect the females and juveniles subsequent to spring breeding and until the young can be safely transported.

### **5.2.5 Other Requirements**

The Service and UDWR will be notified immediately of the finding and circumstances surrounding discovery of any dead or injured listed species on-site. Should the discovery occur on the weekend, the agencies will be notified on the following Monday. A post-construction compliance report will be sent to the Service within one month of project completion.

## **5.3 MITIGATION**

Mitigation for incidental take of the Utah prairie dog will be in the form of a total mitigation fee of \$450.00 per acre at a 2:1 ratio (total \$900.00 per acre), paid prior to construction. The total mitigation fee will be paid to the National Fish and Wildlife Foundation<sup>2</sup> for the Utah Prairie Dog Conservation Fund. These funds will only be used to implement the current conservation strategy and/or Recovery Plan with respect to prairie dog habitat in the West Desert recovery area and the specific prairie dogs inhabiting the Permit Area and to enhance public lands to provide suitable

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<sup>2</sup>Cover letter and check in the amount of \$5,670 with account number 96-219 designated on it should be mailed to the following address:

National Fish and Wildlife Foundation  
Utah Prairie Dog Conservation Fund  
1120 Connecticut Avenue Northwest  
Suite 900, Bender Building  
Washington, D.C. 20036

prairie dog habitat. Enhancement methods could include: sagebrush chaining, mowing, brush beating, chemical treatment, discing, plowing, reseeding, inter-seeding, and/or burning.

The National Fish and Wildlife Foundation will be the mechanism through which BLM, the Service, or other authorized agencies/entities receive money to carry out habitat improvements, implement the recovery plan, and conduct prairie dog recovery-related research. The mitigation fee is a one time fee and no other fees will be paid to the National Fish and Wildlife Foundation, BLM, or Service in conjunction with this approximately 6.3-acre project.

#### **5.4 FUNDING**

Funding for preparation of the HCP permit application, trapping, relocation, and mitigation fees will be the responsibility of the LDS Church.

## 6.0 ALTERNATIVES

### 6.1 NO ACTION ALTERNATIVE

The no action alternative is forgoing the development of the approximately 6.3-acre area of occupied and potential Utah prairie dog habitat which would result in significant economic loss to the land owner. The proposed meeting house would be a new addition to the Enoch Stake which is overcrowded, with only two LDS Church meeting houses. A third meeting house is needed to alleviate this overcrowding. The LDS Church does not own any other property in this Stake, making this site the only alternative to provide adequate church facilities for LDS members.

The prairie dogs in the Permit Area are part of a colony immediately to the west on the other side of the irrigation ditch. The other three sides of the project area are already developed; to the east is Highway 130, to the south is the high school road and high school; and to the north and east are two small businesses and a restaurant. The ramifications of the No Action Alternative to the Utah prairie dogs in the Permit Area are: (1) the natural elimination of suitable habitat as elm trees, rabbit brush and tall weeds flourish and spread on the land if left unattended; and (2) the likelihood of high mortality should the property be put to its only other economically practical and legal use – agriculture. None of these options are considered likely to contribute to the recovery of the species.

The development of this property is logistically and economically feasible and desirable due to access, proximity to high school, LDS Ward boundaries, and adequate infrastructure. In addition, development of a church facility in this location is in agreement with Cedar City's Master Plan and the removal of the prairie dogs to public lands consistent with the Service's Recovery Plan.

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