

COPY

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

Smead Manufacturing Company

April 16, 1996

Prepared for:

**United States Fish and Wildlife Service
Utah Field Office
145 East 1300 South, Suite 404
Salt Lake City, Utah 84115**

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1.0 INTRODUCTION

1.1 PURPOSE AND NEED

The Smead Manufacturing Company is in the business of manufacturing primarily paper based office filing supply products for sale to consumers through dealers, contract stationers, and “superstores”, such as Office Depot and OfficeMax. Recent sales have been in excess of \$200 million. It operates manufacturing plants in Minnesota, Ohio, Georgia, California and Texas, employs approximately 2,400 persons, is privately owned and has been in business for approximately 90 years. It is currently in the process of developing a 312,000 sq. ft. manufacturing facility, plus employee parking and truck loading and unloading area along with other infrastructure such as a service road, etc., on private property within Cedar City, Utah. The facility is anticipated to employ approximately 225 persons and will represent a substantial enhancement of Smead’s manufacturing capabilities. The property is believed, by the U.S. Fish and Wildlife Service, to be habitat for The Utah prairie dog (*Cynomys parvidens*), a federally threatened species.

This 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 will be 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 is five (5) years, or until an Iron County, Utah HCP permit is issued, whichever occurs first.

1.2 UTAH PRAIRIE DOG BACKGROUND AND CONTEXT

The Utah prairie dog is a member of the white-tail subgenera, *Leucocrossuromys* and the species is limited to the southwestern quarter of the state of Utah. It was originally listed as endangered in 1974 (38 FR 14678). In 1979 the Utah Division of Wildlife Resources (UDWR) petitioned the U.S. Fish and Wildlife Service (Service) to down list 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). The Service does not consider the Utah prairie dog to be in danger of extinction (49 FR 22330). 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) encourages the relocation of prairie dogs from private to federal lands to promote the recovery of the species.

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 in Iron County, Utah is one of three areas of population concentration for this species. Although approximately 24 percent of the colonies exist on public lands in Iron County, the majority of individuals are found on private land (UDWR 1994).

2.0 PROJECT DESCRIPTION

2.1 PROJECT LOCATION AND DESCRIPTION

Smead Manufacturing Company is currently in the process of developing a 312,000 sq. ft. manufacturing facility on private property within Cedar City, Utah. The project will also include installation of associated infrastructure such as natural gas, sewer, water, and phone, and development of an access road to be used for employee and truck traffic, as well as employee parking areas. The property is located approximately 1,350 ft west of the intersection of Lund Highway and Highway 56, just west of Cedar City proper. (See Figures 1 and 2). The privately-owned property is zoned as commercial and the project is anticipated to be privately funded.

The area of the intended manufacturing development has been deemed by the U.S. Fish and Wildlife Service to be potential habitat for the Utah prairie dog, a federally threatened species. The proposed construction will require a permit to capture and relocate Utah prairie dogs found to occupy the proposed site and the possibility of incidental take of an unknown number (believed to be minimal) of prairie dogs through direct mortality during construction, should any be found to exist on the property. This take will be incidental to an otherwise lawful activity. The area of the manufacturing plant development on which the permits are requested is more specifically described as **The North 36.95 acres of the Southeast Quarter of the Northwest Quarter of Section 8, Township 36 South, Range 11 West, Salt Lake Base and Meridian, and The South 66 feet of the Northwest Quarter of the Northeast Quarter of Section 8, Township 36 South, Range 11 West, Salt Lake Base and Meridian, excepting that portion lying within existing Lund Highway.**

2.2 EXISTING ENVIRONMENT

2.2.1 Land Ownership, Existing Conditions, and Adjacent Land Uses

The land, constituting 36.95 acres, plus approximately 2 acres for an adjacent access road, needed for the project, is under contract for immediate purchase by Smead Manufacturing Company. The area for which a permit is sought consists of 28.95 acres. The execution of applicable land purchase contracts is pending the issuance of appropriate permits by the U.S. Fish and Wildlife Service.

Land use around the project includes business, industrial, and residential developments. The predominant land use in the greater Cedar City area, however, is agriculture. Land use directly to the east is minor light industrial, to the northeast is the municipal airport, to the north, south and west is largely agricultural. The property is bounded on the south by a railroad right of way and related rail tracks, which is in turn adjacent to Highway 56.

2.2.2 Topography

Cedar City is located in Cedar Valley at approximately 5,622 feet. Hurricane Cliffs lies to the east and southeast, Cross Hollow Hills to the southwest, and Cedar Valley to the northwest.

A project bench mark on the northeast corner of the parcel is at 5,675 feet. The property gradually decreases in elevation as it progresses to the west and to the south.

Figure 1

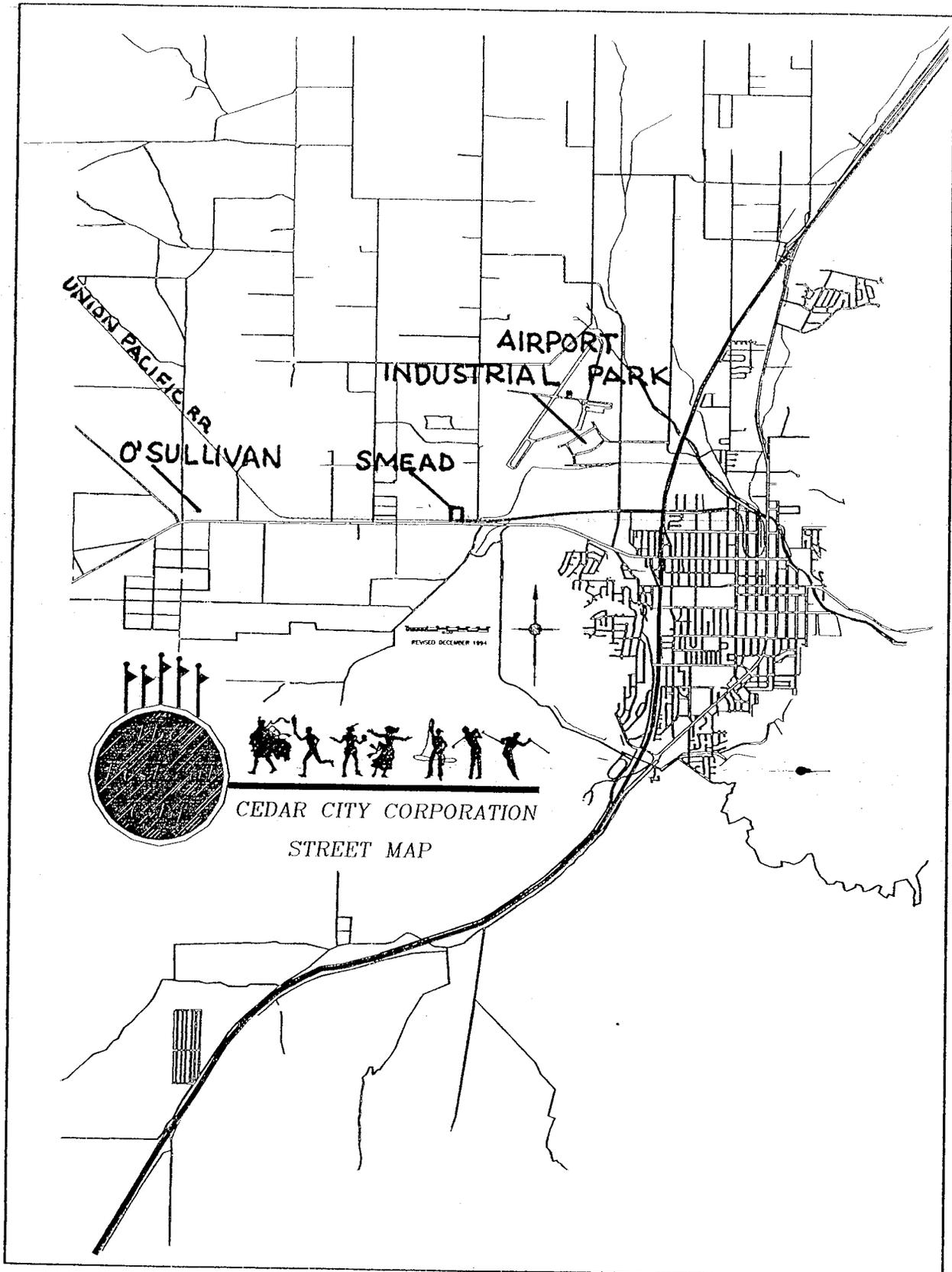
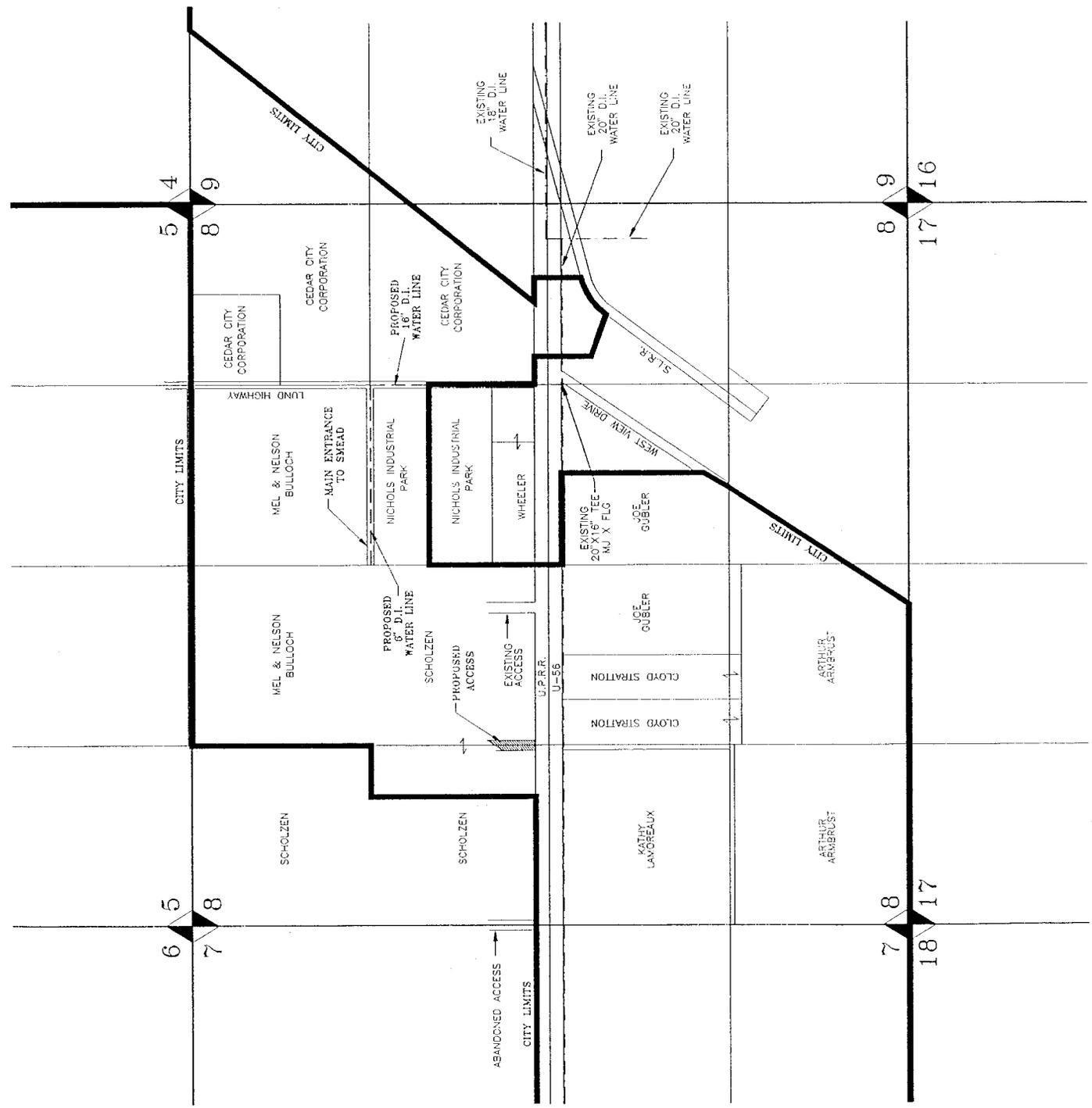


Figure 2

PROPOSED ACCESS FOR
 CEDAR CITY CORPORATION
 INDUSTRIAL DEVELOPMENT
 SECTION 8 T36S R11W



2.2.3 Soils

Soils at the project site range from silty clay loam to very gravelly loam. The soil series is Wales-Asdown-Medburn.

2.2.4 Vegetation

The majority of the property supports a grass/annual understory.

2.2.5 Wildlife

It is likely that raccoon, skunk, coyote, badger, gophers, mice, cottontail rabbits, Utah prairie dogs, meadowlarks, and sparrows occur, or may occur, within the project area. Utah prairie dog, ground squirrels, Cooper's hawk, and common raven have been observed in the project area as recently as April of 1996. (M.A. Zablan, pers. comm.)

2.2.6 Endangered, Threatened, and Candidate Species

In addition to the Utah prairie dog, two endangered species, bald eagle and American peregrine falcon were identified by the Service as potentially occurring within the project area. No critical habitat has been designated for any of the listed species.

3.0 STATUS OF ENDANGERED, THREATENED, AND CANDIDATE SPECIES ON THE PROJECT SITE

3.1 INTRODUCTION

The purpose of this section is to discuss the status of endangered, threatened, and candidate species in the project area. No critical habitat has been designated for any of the listed species and no candidate species are known to occur in the project area. Section 4.0 discusses potential impacts to these species as a result of the development.

3.1.1 Utah Prairie Dog

Utah Division of Wildlife Resources personnel surveyed Utah prairie dogs on habitat in the area of the proposed project in 1992 through 1996 (McDonald 1996, pers commun.). The project site consists of Utah prairie dog habitat with Utah prairie dog burrows, and the Utah prairie dog colonies contiguous with the project site are considered when determining impacts to the species. The following calculations provide a projected estimate of prairie dogs present in the project area and areas directly adjacent. The calculations are based on most recent Utah prairie dog observations made in 1996 (Zablan, pers. commun.) and the best available information obtained by Utah Division of Wildlife Resources in their annual counts:

7 individuals observed in the area adjacent to and directly to the east to the actual manufacturing site x 2 = 14 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);

14 prairie dogs equals approximately 9 females and 5 males (Based on a female to male ratio of 2:1); the 9 females could have 1 to 6 young (4 average) this year:

$$9 \text{ females} \times 1 \text{ young} = 9 \text{ young}$$

$$9 \text{ females} \times 4 \text{ young} = 36 \text{ young}$$

Therefore, the total number of estimated prairie dogs within the project area ranges between 23 and 50 individuals:

$$9 + 14 = 23 \text{ individuals}$$

$$36 + 14 = 50 \text{ individuals}$$

The Utah prairie dogs are not restricted to a small portion of the project site, but are currently found in areas on the northern end of the project and adjacent to the right-of-way for State Highway 56. Other prairie dog colonies occur across Highway 56.

3.1.2 Endangered Species and Candidate Species

Two endangered species, identified by the Service, which could potentially occur within the project area, or the immediate vicinity, include the bald eagle and American peregrine falcon.

No candidate species are known to exist in the project area.

There are no known bald eagle or American peregrine falcon sites within the project area. However, it is possible that bald eagles could perch along fence posts or in nearby trees and forage in the area.

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 fourteen of the approximate 39 acres of potential Utah prairie dog habitat to a manufacturing facility. In order to minimize the effect of this direct impact, there may be an incidental take of an minimal number of prairie dogs through trapping and relocation and the potential incidental take of prairie dogs as a result of on-site construction deaths. Accidental on-site deaths are not considered likely due to pre-construction education regarding prairie dogs and the ability of prairie dogs to move out of harm's way. The number of prairie dogs that might be affected are believed to be minimal, but the exact number cannot be determined.

The proposed project will affect approximately 28.95 acres of potential prairie dog habitat, more during the construction period, however, the proposed project is not anticipated to jeopardize the continued existence of the Utah prairie dog. Furthermore, the relocation of the Utah prairie dogs to Federal lands 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 a new site following relocation.

4.2.2 Direct Habitat Impacts

The proposed project will entail conversion of the approximately 28.95 acres of potential prairie dog habitat to commercial use.

4.2.3 Indirect Habitat Impacts

All foreseen impacts to the potential prairie dog habitat are direct.

4.3 ENDANGERED AND CANDIDATE SPECIES

No impacts to endangered or candidate species are anticipated to result from the project.

5.0 MEASURES TO AVOID, MINIMIZE, AND MITIGATE FOR POTENTIAL IMPACTS

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) pre-construction education program; and (3) scheduling trapping and construction to avoid hibernation periods.

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 such that they can be delisted, and protective restrictions on private property removed. Toward that goal, several relocation sites are currently being developed in Iron County by the Bureau of Land Management (BLM) which will accommodate prairie dogs from private lands. The sites are anticipated to allow for the monitoring of transplant success, habitat requirements, and the compatibility of cattle grazing and prairie dog colonization.

5.2.2 Pre-construction Education Program

In order to avoid or minimize impacts to prairie dogs that may possibly be on the site, a pre-construction education program will be given by local officials of UDWR to the Smead on-site construction managers. Advance notice is required to schedule an education program. It is anticipated that any prairie dogs inhabiting the site will be removed by the UDWR. However if a prairie dog strays into the area, this program should aid in avoiding or minimizing incidental take. UDWR will explain to the contractor's employees that they are working in habitat 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.

5.2.3 Scheduling

Avoidance and minimization of impacts will also be facilitated by trapping and relocating the prairie dogs before the end of September of 1996, when prairie dogs are active. After the prairie dogs have been removed, construction will commence and be completed. This schedule avoids prairie dog hibernation periods, giving the prairie dogs the opportunity to move out of harm's way, if necessary.

5.2.4 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 the project site. Should the discovery occur on a weekend, the agencies will be notified on the following Monday.

Within 45 days of completion of the project, Smead Manufacturing Company will forward to the Service, a brief post-construction compliance report prepared by a qualified biologist. This report will detail the following: (1) dates that construction occurred; (2) an evaluation of Smead's success in meeting project mitigation measures; (3) an explanation of failure to meet such measures, if any; (4) known project effects on prairie dogs, including number destroyed, if any; and (5) other pertinent information.

5.3 MITIGATION

Mitigation for incidental take of the Utah prairie dog will be a mitigation fee of \$500 per acre. The mitigation ratio will be 2:1; therefore the total mitigation fee for 28.95 acres will be \$28,950. The fee will be paid to a Conservation Fund for the preservation of the prairie dog to be established by the FWS at the time the permits are issued. The FWS will use these funds to enhance public lands for the recovery of the Utah prairie dog.

The basis for the fee is the approximate cost to enhance BLM lands to provide suitable prairie dog

habitat. Enhancement methods could include sagebrush chaining, mowing, brush beating, chemical treatment, discing, plowing, reseeding, interseeding, and/or burning.

5.4 FUNDING

Funding for preparation of the HCP permit application, trapping, relocation, and mitigation fees will be the responsibility of Smead Manufacturing Company.

5.5 COORDINATION WITH THE IRON COUNTY HCP

Iron County is in the process of developing a county-wide HCP for the Utah prairie dog. The Iron County HCP is anticipated to be fully implemented and functioning by summer 1997. Smead will secure a contractual commitment from Iron County to complete the county-wide HCP for the Utah prairie dog prior to Smead's agreeing to purchase the land needed to commence construction. The permit application for the Smead Manufacturing Company manufacturing development is for five years, or until an Iron County HCP permit is issued, whichever occurs first. This should be more than adequate, as construction of the planned manufacturing facility is scheduled for completion by December 31, 1996.

6.0 ALTERNATIVES

6.1 NO ACTION ALTERNATIVE

Smead Manufacturing Company's existing manufacturing site located in Pico Rivera, CA is inadequate to meet the ongoing needs of the Company. The present facility occupies the entire land area in which it is located making expansion economically unfeasible. The warehouses used at the current site are located across the street and result in a very inefficient operation. Additionally, the California site is located in a earthquake zone and has recently suffered damage from an earthquake. Because of these facts, it is not economically feasible for Smead to remain at its present site in California for any extended foreseeable period. Relocation is required.

6.2 ALTERNATIVE LOCATIONS WITHIN CEDAR CITY, UTAH

During Smead's search for alternative sites many alternatives were explored. Sites to the east revealed substantial prairie dog activity. Sites to the west did not possess sufficient infrastructure improvements, including rail access. The site under consideration is deemed to be the only reasonable location for a manufacturing facility, as planned to meet the needs of Smead Manufacturing Company.

7.0 REFERENCES CITED

Jarvis, J. 1994. Biological Assessment prepared by JBR Environmental Consultants, Inc., 8160 S. Highland Drive, Suite A-4, Sandy Utah 84093, updated March 26, 1996.

McDonald, K.P., 1996. Wildlife Biologist, Southern Region, Utah Division of Wildlife Resources, Cedar City, Utah

Zablan, M.A., 1996. Wildlife Biologist, Utah Field Office, U.S. Fish and Wildlife Service, Salt Lake City, Utah