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SOUTH CENTRAL UTAH TELEPHONE ASSOCIATION

**UTAH PRAIRIE DOG INCIDENTAL TAKE PERMIT APPLICATION
AND HABITAT CONSERVATION PLAN**

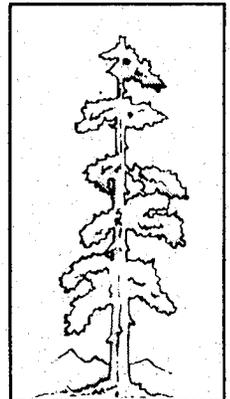
Submitted to:

**DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
REGION 6, SALT LAKE CITY, UTAH**



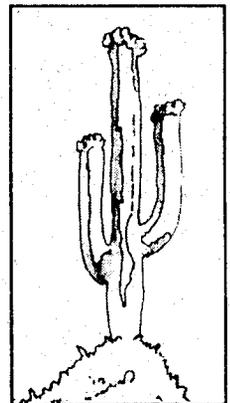
Submitted by:

SOUTH CENTRAL UTAH TELEPHONE ASSOCIATION



Prepared by:

SWCA INC. ENVIRONMENTAL CONSULTANTS



JULY 1999



HABITAT CONSERVATION PLAN

**Issuance of an Incidental Take Permit
Under Section 10(a)(1)(B) of the Endangered Species Act
Utah Prairie Dog (*Cynomys parvidens*)**

Submitted to
**Department of the Interior
U.S. Fish and Wildlife Service
Utah Field Office
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Salt Lake City, Utah 84115**

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July 30, 1999

TABLE OF CONTENTS

	PAGE
INTRODUCTION	1
PROJECT DESCRIPTION	4
Project Location, Land Ownership, Existing Conditions, and Adjacent Land Uses	4
Construction Procedures	4
ALTERNATIVES TO THE PROPOSED ACTION	5
No Action Alternative	5
UTAH PRAIRIE DOG BACKGROUND AND CONTEXT	5
Utah Prairie Dog	5
<u>Survey Methodology</u>	5
<u>Survey Results</u>	6
POTENTIAL EFFECTS	6
Utah Prairie Dog	6
<u>Direct Impacts</u>	6
<u>Indirect Impacts</u>	7
<u>Cumulative Effects</u>	7
<u>Incidental Take</u>	7
AVOIDANCE, MINIMIZATION, AND MITIGATION MEASURES FOR POTENTIAL IMPACTS TO THE UTAH PRAIRIE DOG	7
Pre-Construction Education and Construction Monitoring	7
Construction and Cable Installation	8
Mitigation	9
Future Monitoring	9
PERMIT ADMINISTRATION AND FUNDING	9
Permit Implementation Statement	9
Funding	9
LITERATURE CITED	10

APPENDICES

APPENDIX A

Site Photographs

LIST OF FIGURES

Figure 1. General Location - Proposed South Central Utah Telephone Association Project
..... 2

Figure 2. South Central Utah Telephone Association Project - Proposed Television Cable and
Utah Prairie Dog Locations 3

INTRODUCTION

South Central Utah Telephone Association (SCUTA) currently operates a fiber-optic communications system within a 10-foot-wide right-of-way (ROW) across private lands parallel to State Route (SR) 12 near the junction of U.S. Highway 89 and SR 12 (Red Canyon Junction), approximately 8 miles southeast of the town of Panguitch, Garfield County, Utah (see Figures 1 and 2). This system was installed in 1997 and provides telephone communication services to local residents and businesses in the area. This system also provides increased capacity and state-of-the-art infrastructure for regional and statewide communication.

Due to the increased demand by local residents and businesses for basic cable television services, SCUTA proposes to install approximately 2,500 feet of television coaxial cable within their existing 10-foot-wide fiber-optic communications ROW. This cable installation would provide television cable services to the local residents, motels, and recreational vehicle campgrounds located in the area (see Figures 1, 2, and Photographs in Appendix A).

During the past year, a parcel of private land in which a portion (approximately 580 feet) of the existing fiber-optic communications line occurs was cleared and subsequently abandoned. The Utah prairie dog (*Cynomys parvidens*), a federally threatened species, has colonized this parcel since its abandonment (see Figure 2 and Appendix A). Therefore, the proposed project may affect the Utah prairie dog and could result in an incidental take through direct mortality during cable installation. This potential take would be incidental to an otherwise lawful activity.

Projects that may affect threatened or endangered species or designated critical habitats, require consultation with the U.S. Fish and Wildlife Service (USFWS) under Section 7 of the Endangered Species Act (ESA) of 1973, as amended. Within the project area, only the Utah prairie dog occurs and there is no designated critical habitat for this species in the project area. No other threatened or endangered species or designated critical habitat occurs within the project area; therefore, no impacts to any other threatened or endangered species are anticipated as a result of the proposed project.

This Habitat Conservation Plan (HCP) including the Permit Application and Implementing Statement 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 an incidental take. In addition, amendments in the January 16, 1997 Federal Register Vol. 62, No. 11 that allow for categorical exclusions for the “issuance of 10(a)(1)(B) ‘low effect’ incidental take permits that, individually or cumulatively, have a minor or negligible effect on the species covered in the habitat conservation plan were taken into account.” Council on Environmental Quality (CEQ) regulations (40 CFR 1508.4) define categorical exclusions as “a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in the procedures adopted by a Federal agency in implementation of these regulations (§1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required.” It is intended that

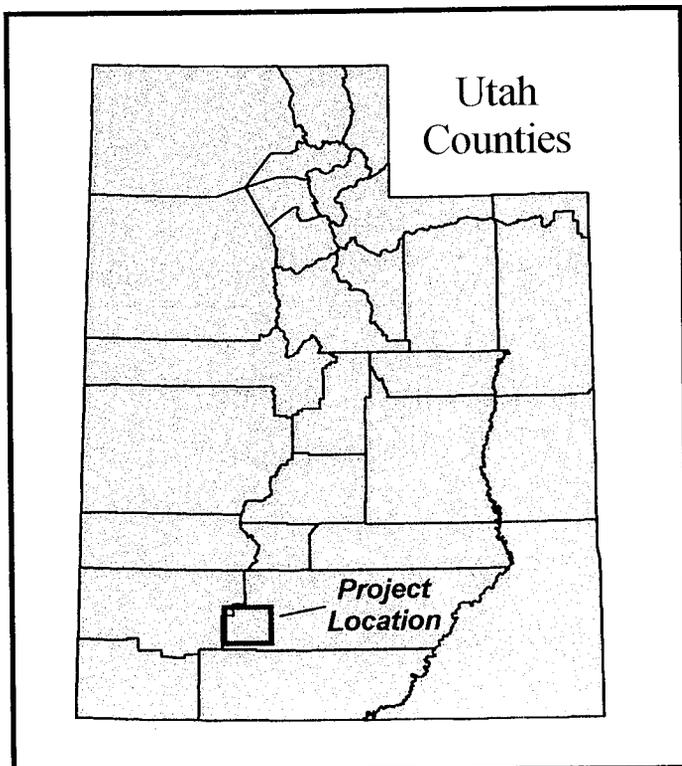
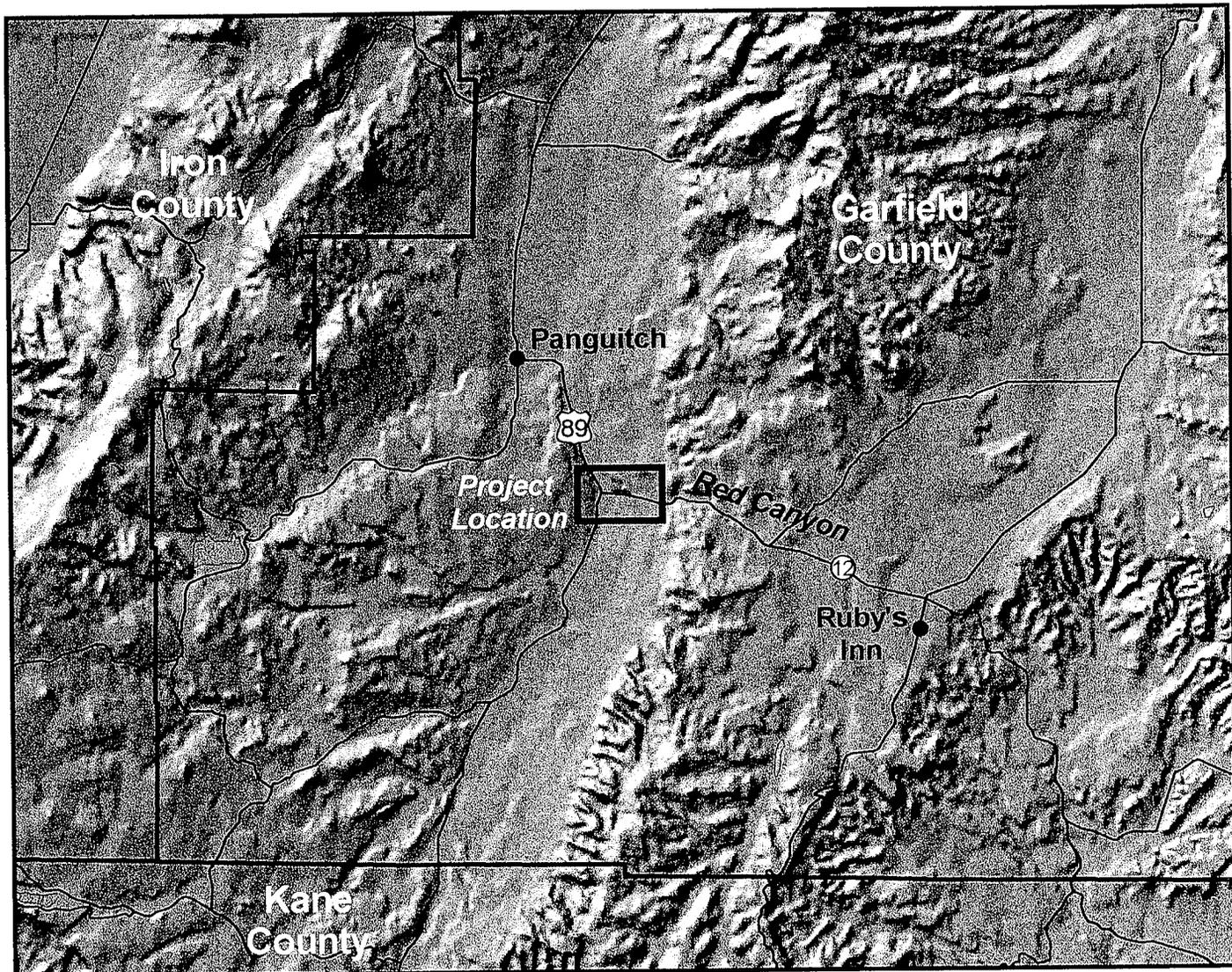
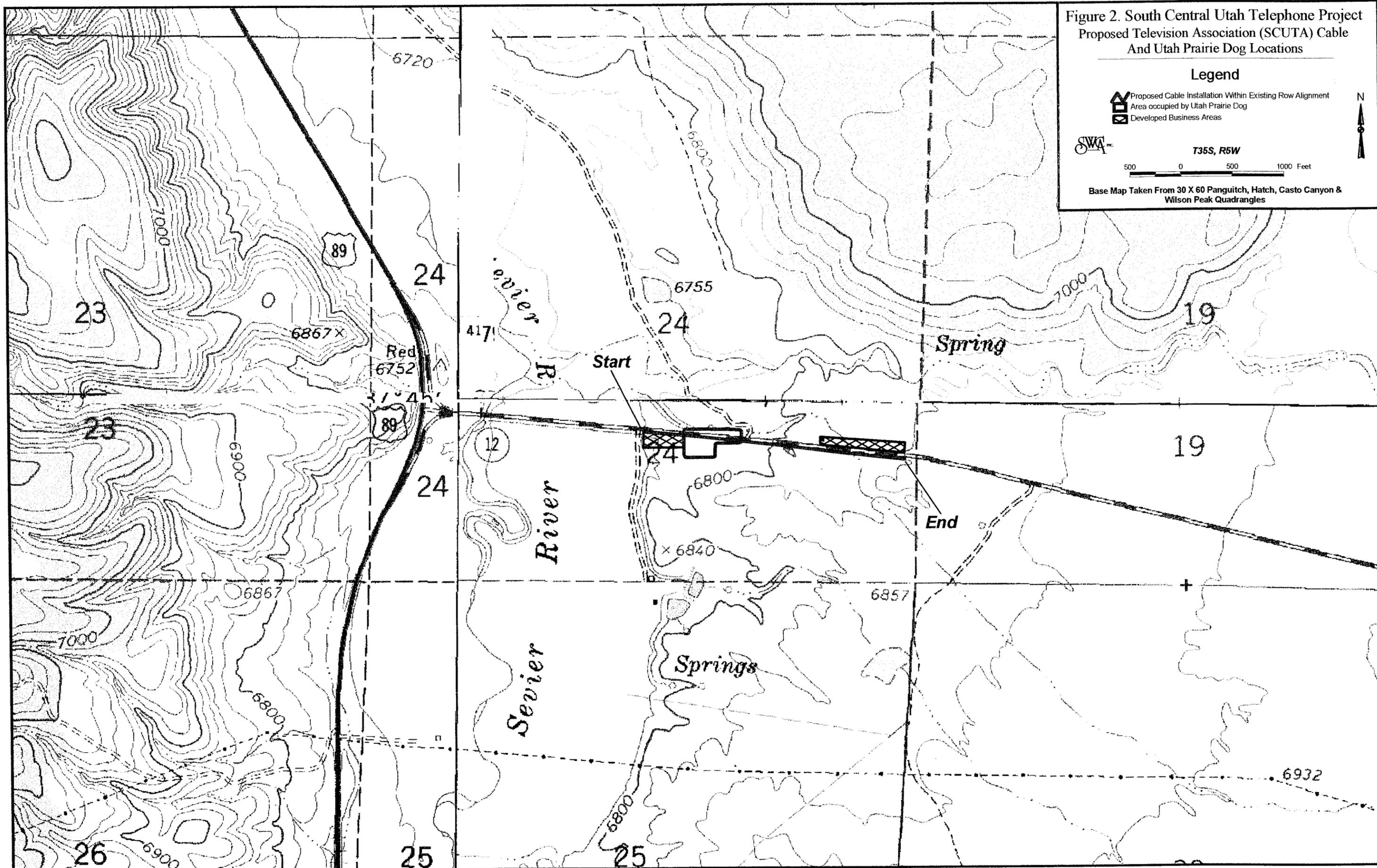


Figure 1. General Location Proposed South Central Utah Telephone Association (SCUTA) Project

SWCA INC.



Figure 2. South Central Utah Telephone Project
Proposed Television Association (SCUTA) Cable
And Utah Prairie Dog Locations



Legend

- Proposed Cable Installation Within Existing Row Alignment
- Area occupied by Utah Prairie Dog
- Developed Business Areas

SWA

T35S, R5W

500 0 500 1000 Feet

Base Map Taken From 30 X 60 Panguitch, Hatch, Casto Canyon & Wilson Peak Quadrangles

the USFWS will utilize information contained in this HCP for preparation of a Biological Opinion and issuance of an Incidental Take Permit (ITP) under the ESA Section 10(a)(1)(B) for the proposed project/permit area (USFWS 1996).

PROJECT DESCRIPTION

Project Location, Land Ownership, Existing Conditions, and Adjacent Land Uses

The proposed project area is limited to and consists of the existing 10-foot-wide communications ROW parallel to SR 12 near Red Canyon Junction (SE 1/4 of Section 24, Township 35 South, Range 5 West (Panguitch, Hatch, Casto Canyon, and Wilson Peak, UT 7.5 USGS Quadrangles), approximately 8 miles southeast of Panguitch, Garfield County, Utah (see Figure 2 and Appendix A).

The general area is flat to gently sloping and ranges between 6,720 and 6,840 feet in elevation. The majority of the project area is disturbed by cut and fill from road-side business development, business access, and existing ROWs to support travelers and tourists visiting Bryce Canyon National Park (see Photos in Appendix A). Undeveloped areas support primarily cool desert shrub vegetation communities dominated by sagebrush (*Artemisia tridentata*), rabbitbrush (*Chrysothamnus nauseosus*), crested wheat grass (*Agropyron cristatum*), and Indian rice grass (*Stipa hymenoides*). Soils are loamy, very deep, and well-drained alluvium derived dominantly from igneous rock. The subsoils are gravelly loams and sands (NRCS 1986 and Welsh 1993).

The use of the existing ROW, located on private lands, is advantageous for the installation of the cable because the ROW has been previously disturbed, it eliminates the need for new ROWs in adjacent undisturbed areas, and it minimizes cumulative impacts from additional utilities.

Construction Procedures

Cable installation activities would utilize a dozer/crawler equipped with a swing-plow blade. The swing-plow blade creates a cut 48 inches deep and 2.5 inches wide and simultaneously lays the cable. A second piece of machinery follows behind the crawler to replace and compact the soils lifted up by the swing-plow blade. This type of installation does not require clearing of vegetation, trenching, or soil removal. Sub-surface and surface-soils are only disturbed within the immediate area of the swing-plow blade and disturbance caused by the machinery would be limited to the 10-foot-wide ROW. Cable installation would disturb up to approximately 0.133 acres within the 580-foot portion of the ROW occupied by the Utah prairie dog and a total of approximately 0.5 acres within the entire ROW. Cable installation activities would require approximately one week; however, installation through the 580-foot portion of the ROW occupied by prairie dogs would only require approximately two to three days.

ALTERNATIVES TO THE PROPOSED ACTION

No Action Alternative

The no action alternative is forgoing the installation of the cable as described within the existing ROW. The implementation of the no action alternative would result in the inability for SCUTA to meet the increased service demands in the area due to the location and extent of the Utah prairie dogs. Because the Utah prairie dog and its habit extend beyond the localized project area, SCUTA would be required to consult with the USFWS under Section 7 of ESA and apply for an ITP for any proposed alternative route within the area.

Although this alternative would prevent installation of the cable into occupied habitats, due to the location of the prairie dog colony and roadside businesses along SR12, these prairie dogs would continue to experience human/prairie dog conflicts which may result in mortality. Therefore, the proposed project as described in this document represents the best efforts of SCUTA to meet the needs of the cable service demands and Utah prairie dog conservation efforts.

UTAH PRAIRIE DOG BACKGROUND AND CONTEXT

Utah Prairie Dog

The Utah prairie dog (*Cynomys parvidens*) is a federally listed species and its distribution is limited to the southwestern quarter of Utah. It was originally listed by the USFWS as endangered in 1973 (38 CFR 14678). By 1984, its status was reclassified to threatened due to rapid increases in numbers on private land (49 CFR 22330).

Historically, the Utah prairie dog was found in southwestern and central Utah almost to the Nevada-Utah border. The species now occurs principally in Iron, Sevier, Beaver, Wayne, and Garfield Counties, Utah. 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. Recovery of the Utah prairie dog since 1973 has involved development of an official recovery plan completed in 1991 and translocation of surplus prairie dogs from private land to suitable sites on public land (USFWS 1991).

Utah prairie dogs prefer habitats 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. With respect to the project area, the Utah prairie dog is known to occur along within the Sevier River Valley and along U.S. Highway 89 and portions of SR 12 in western Garfield County, Utah (BLM 1997a and USFWS 1991).

Survey Methodology: A field survey was conducted on June 21, 1999 to determine the distribution and abundance of known Utah prairie dogs within the existing ROW/project area and adjacent areas. Observations made within the proposed ROW as well as in adjacent areas included identifying the

number of prairie dogs and burrows within the ROW and determining the extent of the prairie dog colony and overall population. Photographs were taken along the proposed ROW route and the general area (area of disturbance). These photographs are included in Appendix A and the area colonized by the Utah prairie dog is shown on Figure 2.

Survey Results: Within the 2,500 x 10-foot existing ROW/project area, approximately 580 feet of the ROW (0.133 acres) contains and supports the presence of the Utah prairie dog (Figure 2). This area of the ROW contained approximately 40 burrows and approximately 12 prairie dogs were observed within the ROW area. Approximately 15 to 20 additional prairie dogs were observed adjacent to the proposed ROW within the abandoned parcel.

POTENTIAL EFFECTS

The preparation of a HCP requires determining the amount of an incidental take likely to be 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 (USFWS 1996).

Utah Prairie Dog

Direct Impacts: Direct impacts could take the form of prairie dog mortality due to the installation of the television cable as proposed across the 580 feet (0.133 acres) of ROW occupied by prairie dogs. Because this species prefers open, disturbed habitats, direct beneficial effects to the Utah prairie dog could also result from the possible creation of new habitats within the ROW. Similar utility projects in or near Utah prairie dog habitats have resulted in the colonization of newly disturbed areas by this species (BLM 1997b). Projects that clear vegetation and break through restrictive subsurface layers, apparently enable prairie dogs to establish burrows more easily and increase the suitability of the area for the species (BLM 1997b). For the most part, colonization has not occurred along the existing fiber-optic cable communication ROW or past projects conducted by SCUTA through Utah prairie dog habitats. The fact that prairie dogs probably have not invaded these areas is likely a result of the limited area of disturbance by the cable installation activities. Cable installation activities do not typically require clearing vegetation and sub-surface and surface-soils are only disturbed within (approximately 2.5 inches) the area of the swing-plow blade.

Indirect Impacts: Indirect impacts could result if prairie dogs are forced from existing burrows into less suitable adjacent areas where they could be more vulnerable to predation. Due to the proximity of SR 12, indirect impacts could also occur due to collisions with vehicular traffic. In addition, indirect impacts could result from maintenance of the cable should repairs need to be made in the area inhabited by prairie dogs. Exposing a section of the existing or proposed cable for maintenance would likely require more ground disturbance and more time spent in a specific area than the placement of the line. Maintenance activities could result in the displacement of prairie dogs and make them more vulnerable to machinery, predation, and vehicular traffic along SR 12.

Cumulative Effects: Cumulative effects to the Utah prairie dog could occur as a result of the increase in utility installation across public and private lands near the project area. The availability of utility services may facilitate commercial and residential development within areas of the Utah prairie dog's range, thereby potentially impacting the prairie dogs. Once installation is completed, it is anticipated that prairie dogs will colonize and occupy the disturbed areas until the area is no longer suitable as a result of revegetation or some other factor. Therefore, the Utah prairie dog population within the project area would not likely be permanently affected by the proposed cable installation or its cumulative effects.

Incidental Take: The proposed cable installation project could result in an incidental take of Utah prairie dogs. Based on project information and the presence of the Utah prairie dog within the project area, a permit for an incidental take of four (4) Utah prairie dogs is requested. The measures discussed below would reduce the likelihood of adverse impacts to Utah prairie dogs and keep an incidental take below the requested level. Any form of "take" that is not incidental to project activities is not authorized.

AVOIDANCE, MINIMIZATION, AND MITIGATION MEASURES FOR POTENTIAL IMPACTS TO THE UTAH PRAIRIE DOG

The stated measures outlined below are proposed in order to avoid, minimize, and mitigate potential impacts to Utah prairie dogs as a result of the proposed cable installation project.

Pre-Construction Education and Construction Monitoring

The Cedar City Office of the Utah Division of Wildlife Resources (UDWR), would be notified prior to construction to possibly remove the prairie dogs from the ROW area. The UDWR biologists would also be given time before construction to evaluate the project and would have the authority to stop the project if the impacts to prairie dogs would exceed the allowed incidental take.

Qualified biologists will also be hired by SCUTA to monitor construction activity for compliance and to account for any noncompliance in areas occupied by Utah prairie dogs. Prior to any construction within areas identified as Utah prairie dog habitat, the qualified biologists or an Authorized Officer of UDWR would inform all project employees, through an educational program, of the presence of Utah prairie dogs in the project area, and the threatened status of the species.

Project employees would also be educated on the definition of “take” and the potential penalties for taking a federally listed threatened species outside the parameters of this HCP.

Biologists and the USFWS/UDWR would maintain contact throughout the project to determine the level of impacts to the prairie dogs. The USFWS and UDWR would be notified immediately of the finding and circumstances surrounding discovery of any dead or injured Utah prairie dogs within the project area. Should the discovery occur on the weekend, the agencies would be notified on the following Monday. Should the project impacts exceed those anticipated, consultation with the USFWS would be reinitiated.

Upon completion of the project, the qualified biologist will prepare a post-construction compliance report. This report will document take, and compliance with the minimization/avoidance measures outline in this HCP.

Construction and Cable Installation

In order to expedite construction in a manner to reduce time spent within the area occupied by prairie dogs, plowing, cable installation, and compaction will be accomplished simultaneously within the designated 10-foot-wide ROW. It is estimated that two to three days will be required to effectively install the cable utilizing these methods; therefore, minimizing the time spent within the prairie dog habitat and potential direct impacts. In addition, no other equipment will be necessary for any aspect of the installation of the television cable. The swing-plow-blade can be moved up to 30 degrees on either side of the cable installation equipment, providing a greater opportunity to avoid any prairie dog burrows, if necessary.

SCUTA uses “gopher-protected” cable which effectively prevents burrowing animals from chewing through the cable. The cable is composed of an outer polyethylene jacket, and an underlying copper sheath which encases the cable. The use of this cable will eliminate the possibility of prairie dogs chewing through the line and SCUTA having to dig up the line to repair it.

All vehicles not required for direct installation of the cable (e.g., service, maintenance, personnel) will remain in existing parking areas or in existing staging areas outside of prairie dog or burrow occurrence or at least parked 50 feet from any prairie dog colony or burrows to avoid potential adverse impacts. General vehicle maintenance activities will not be conducted in any undisturbed habitat or near prairie dog burrows/colonies. However, if repairs to construction equipment are required in the area occupied by prairie dogs or burrows, all construction and maintenance vehicles will stay within the designated 10-foot-wide ROW and all vehicles will not be allowed to exceed 10 mph in or within 50 feet of prairie dogs or burrows. Overnight parking and storage of equipment and materials will not occur within 20 feet of areas of occupied prairie dogs or burrows unless they are directly in the disturbed, or to-be-disturbed ROW. In this case, they will remain at least 10 feet from burrow entrances.

Within areas of prairie dog burrows/colonies, precautions will be taken to ensure that contamination of the site by fuels, motor oils, grease, etc. does not occur and that such materials are contained and properly disposed of off-site. Inadvertent spills of petroleum products or other toxic materials will be cleaned up and removed immediately.

Project-related personnel will not be permitted to feed prairie dogs, to have firearms or pets in their possession while on the project site, and all trash including cigarette butts will be disposed of in ash trays in vehicles or in established garbage receptacles. These rules on equipment operation, firearms, pets, and trash will be explained to all personnel involved with the project prior to any construction activities within the area occupied by prairie dogs.

Mitigation

Mitigation in the form of a fee of \$900.00 per acre of disturbance to Utah prairie dog habitats will be paid to the National Fish and Wildlife Foundation, Utah Prairie Dog Conservation Fund. This fee will be paid prior to ground-disturbing activities and is based on and for only the acreage disturbed within the area occupied by the Utah prairie dog. The basis for this fee is the approximate cost to enhance public lands and to provide suitable Utah prairie dog habitats on federal-administered lands managed for the protection of the Utah prairie dog. As a result of disturbing approximately 5,800 square feet (0.133 acres) the total fee paid will be \$120.00.

Future Monitoring

The USFWS and UDWR will be contacted if maintenance needs to be carried out on the communication lines or television cable within or near the known prairie dog colonies. The same agencies would be contacted if major portions of these facilities require replacement or service at any time in the future.

PERMIT ADMINISTRATION AND FUNDING

Permit Implementation Statement

The Permit Implementation Statement (Part III of this Permit Application and HCP Package) specifies the responsibility of SCUTA to fulfill and maintain the HCP implemented by this agreement so as to provide a legal basis for issuance by USFWS of the ITP.

Funding

The proposed cable installation project including preparation of the Permit Application and HCP Package, pre- and post-construction, construction monitoring, and habitat restoration will be privately funded by and the responsibility of SCUTA.

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APPENDIX A



Photo 1 - Looking east from starting point, existing fiber-optic communications cable ROW adjacent to SR 12, across from Bryce Canyon Trading Post, near junction of Hwy 89 and SR 12 (Red Canyon Junction), Garfield County, Utah



Photo 2 - Looking east, view of existing ROW across private lands from starting point to Bryce Canyon Inn, Red Canyon Junction, Garfield County, Utah.



Photo 3 - Looking east, view of existing ROW across private lands of adjacent Bryce Canyon Inn, Red Canyon Junction, Garfield County, Utah.



Photo 4 - Looking east from Bryce Canyon Inn parking lot, disturbed/abandoned lands (approximately 580 feet) occupied by Utah prairie dog, Red Canyon Junction, Garfield County, Utah.

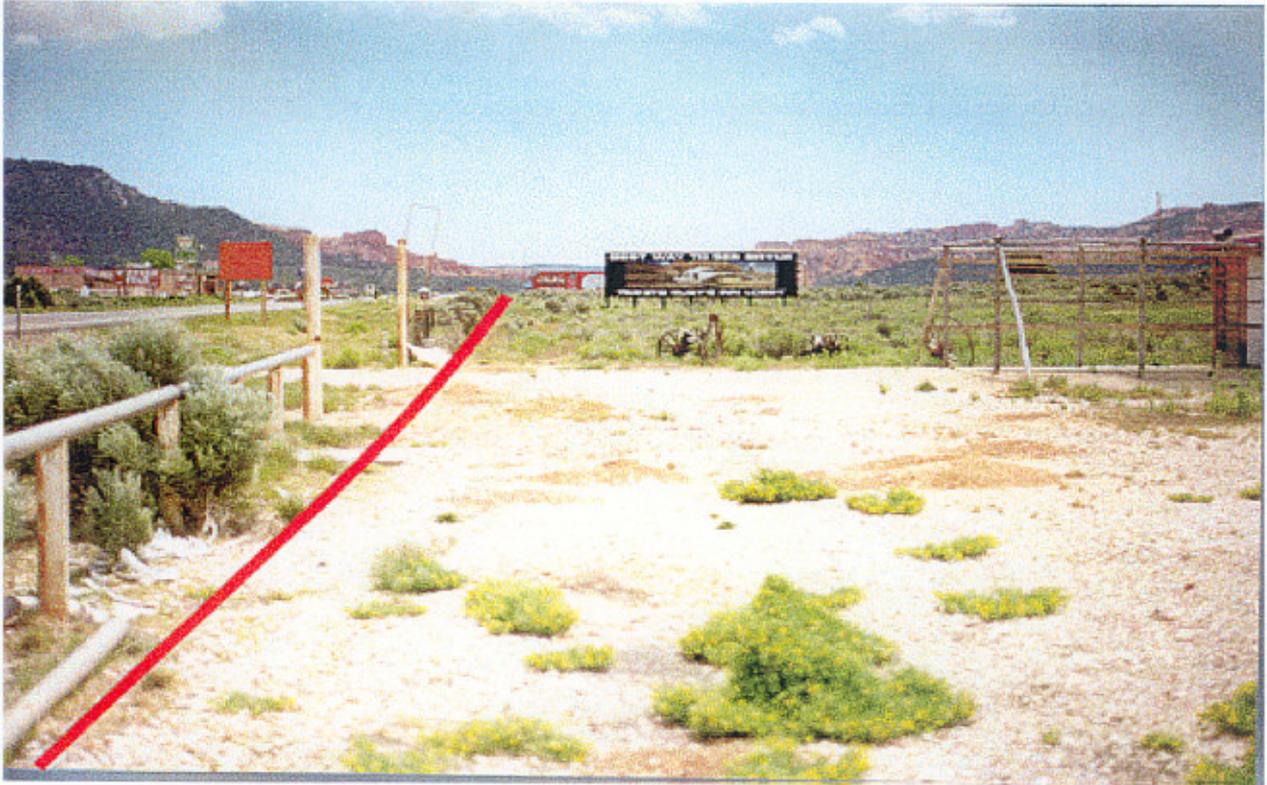


Photo 5 - Looking east, across disturbed/abandoned lands (approximately 580 feet) occupied by Utah prairie dogs, east of Bryce Canyon Inn, Red Canyon Junction, Garfield County, Utah.

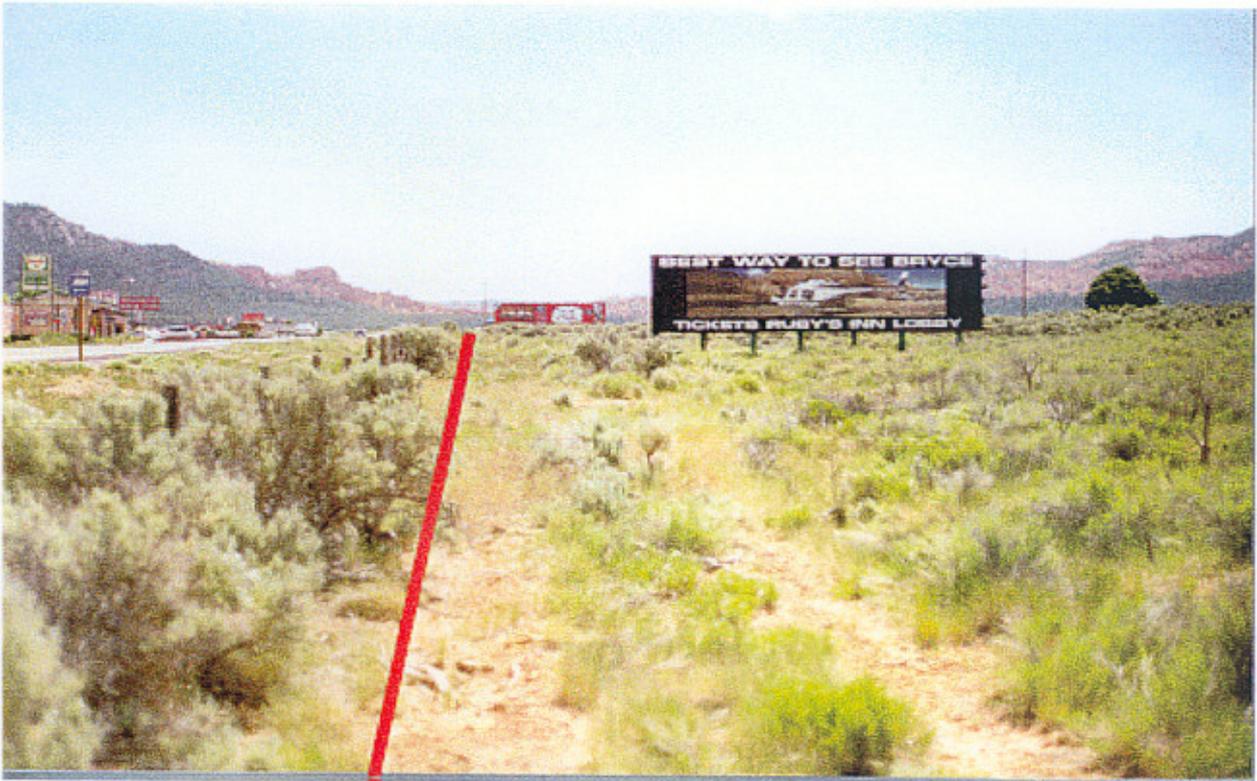


Photo 6 - Looking east, typical view of ROW across private lands, eastern border of Utah prairie dog colony, Red Canyon Junction, Garfield County, Utah.

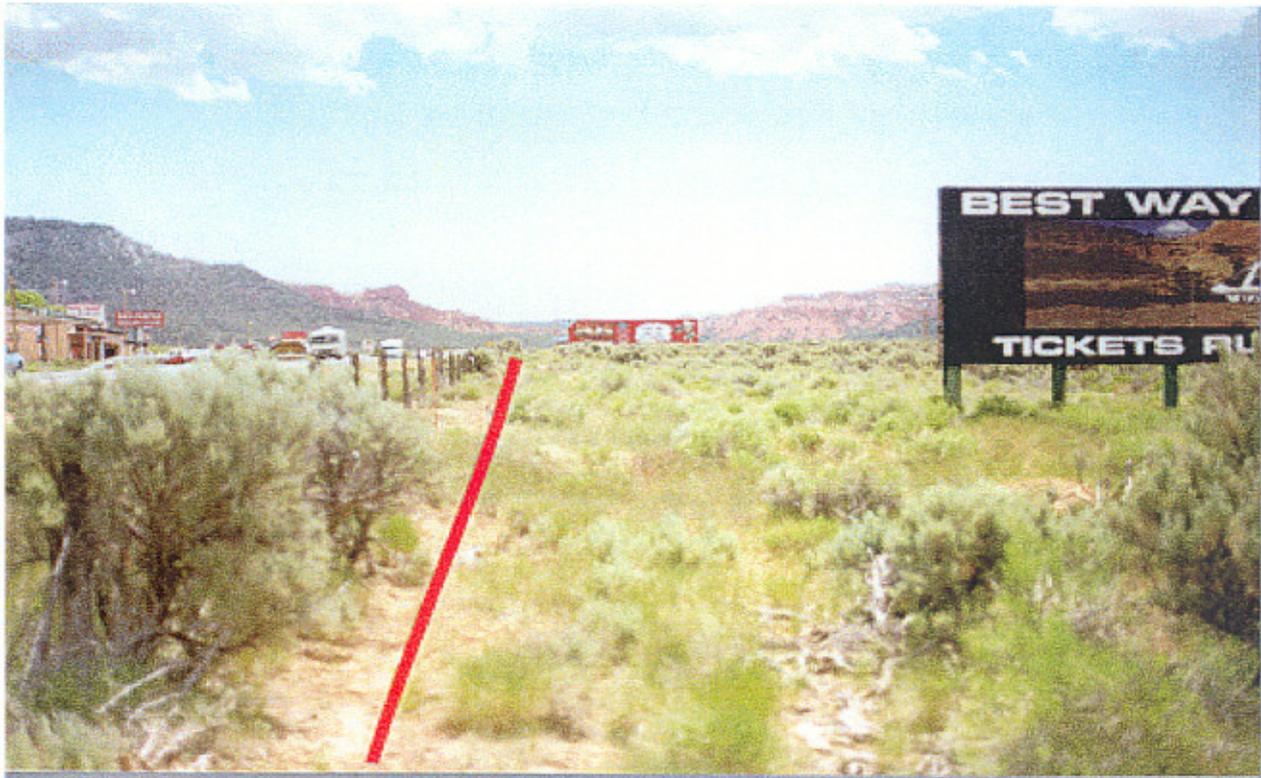


Photo 7 - Looking east, typical view of ROW across private lands, near Red Canyon Indian Store (top right in photo), Red Canyon Junction, Garfield County, Utah.



Photo 8 - Looking east, typical view of ROW across private lands, near Red Canyon Indian Store (top right in photo), Red Canyon Junction, Garfield County, Utah.



Photo 9 - Looking east, typical view of ROW across private lands, directly south of Red Canyon Indian Store, Red Canyon Junction, Garfield County, Utah.



Photo 10 - Looking east, at cable termination point directly across from Bryce Canyon Indian Store and RV Campground, Red Canyon Junction, Garfield County, Utah.



Photo 11 - Looking west, from cable termination point directly across from Bryce Canyon Indian Store and RV Campground, Red Canyon Junction, Garfield County, Utah.



Photo 12 - Looking northeast from Bryce Canyon Inn parking lot at disturbed/abandoned private lands occupied by Utah prairie dogs, Red Canyon Junction, Garfield County, Utah.



Photo 13 - Looking northwest from Bryce Canyon Inn parking lot at disturbed/abandoned private lands occupied by Utah prairie dogs, Red Canyon Junction, Garfield County, Utah.



Photo 14 - Looking northeast from Bryce Canyon Inn parking lot at disturbed/abandoned private lands occupied by Utah prairie dogs, Red Canyon Junction, Garfield County, Utah.