are resolved will be made available for indirect restitution pursuant to the Petroleum Overcharge Distribution and Restitution Act of 1986, 15 U.S.C. 4501.

Dated: October 17, 1996.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 96–28100 Filed 10–31–96; 8:45 am]

BILLING CODE 6450–01–P

Western Area Power Administration

Record of Decision for the Salt Lake City Area Integrated Projects Electric Power Marketing Program.

AGENCY: Western Area Power Administration, DOE.

ACTION: Record of decision.

SUMMARY: The Department of Energy (DOE), Western Area Power Administration (Western), has completed a draft and final environmental impact statement (EIS), DOE/EIS–0150, on its Salt Lake City Area Integrated Projects (SLCA/IP) Electric Power Marketing Program. Western is publishing this Record of Decision (ROD) regarding the level of its commitment of electrical power and energy to be sold through the SLCA/IP long-term firm electrical power contracts.

DATES: Western will implement this decision at the beginning of the 1997 Summer marketing season, April 1, 1997.

DOCUMENTS AVAILABLE: For a copy of this ROD or a copy of the SLCA/IP Electric Power Marketing EIS and supporting documents, write to the address below.

FOR FURTHER INFORMATION CONTACT: Dave Sabo,Western Area Power Administration, CRSP Customer Service Center, P.O. Box 11606, Salt Lake City, Utah 84147, (801) 524–5497.

SUPPLEMENTARY INFORMATION: Western has prepared this ROD pursuant to the National Environmental Policy Act of 1969 (NEPA), Council on Environmental Quality NEPA implementing regulations (40 CFR Parts 1500–1508), and DOE NEPA implementing regulations (10 CFR Part 1021). This ROD is based on information contained in the ''SLCA/IP Electric Power Marketing Environmental Impact Statement,'' DOE/EIS–0150. Western has considered all comments received on its commitment-level alternatives and the other aspects of the EIS in preparing this ROD.

Background

Western is a power marketing administration within the DOE. Western's Colorado River Storage Project Customer Service Center (CRSP–CSC) is responsible for marketing power from the Colorado River Storage Project (CRSP), Collbran Project and Rio Grande Project (known collectively as the SLCA/IP), and the Provo River Project.

The SLCA/IP power marketing criteria specify terms and conditions for long-term firm capacity and energy sales contracts. In 1980, Western began examining its marketing criteria for long-term capacity and energy from the SLCA/IP because the existing long-term firm contracts were to expire in 1989. Through this process, Western developed the proposed ''Post-1989 Criteria.'' Western prepared an environmental assessment (EA) for implementation of the Post-1989 Criteria, and DOE approved a Finding of No Significant Impact (FONSI). In 1988, the National Wildlife Federation and others filed suit against Western regarding the adequacy of the EA and FONSI.

At that time, Western determined that it would prepare an EIS on the Post-1989 Criteria to end the litigation and to respond to public concerns about the operation of Glen Canyon Dam. The court entered an order requiring SLCA/IP long-term firm contractual commitments of capacity and energy to remain the same as current (1978) levels until Western had completed an EIS. The court was concerned that an increase in commitment, which was a principal feature of the Post-1989 Criteria, might result in changed operation of the SLCA/IP powerplants and changes in downstream environmental impacts. The EIS assessed potential downstream impacts of power generation at SLCA/IP facilities in compliance with that court order. After publication of the final EIS, the court dismissed the lawsuit.

Purpose and Need

Western needs to determine the level of long-term firm capacity and energy commitment from the SLCA/IP that will be made available to its customers and that will form the basis for its SLCA/IP power marketing program.

The commitment level selected must be consistent with its statutory obligations and legal constraints. This necessarily requires a weighing of economic, environmental, and other public considerations. Western's action will have to achieve a balanced mix of purposes including providing the greatest practicable amount of long-term firm capacity and energy at the lowest possible rates consistent with sound business principles, providing for long-term resource stability, having the lowest practicable adverse environmental impacts, and being responsive and adaptable to future operations of the SLCA/IP facilities.

Public Process

Public involvement in the EIS began with the publication of a Federal Register notice of intent to prepare an EIS in April 1990. Western held seven scoping meetings and received more than 21,000 written comments (mostly preprinted postcards) during the formal scoping period. Western also developed a newsletter and mailing list to keep the public informed about the EIS process and to enhance the opportunity for review and comment.

After receiving comments from the public, Western developed a scoping report to assist in characterizing and understanding the scoping comments. From this report, Western developed a statement of scope and a purpose and need statement for the EIS. Western described the statement of scope and the purpose and need in public newsletters requesting review and comment. Western proposed draft commitment-level alternatives and analyzed hydropower operational scenarios for those facilities which Western influences and exercises some measure of operational control (Glen Canyon and Flaming Gorge Powerplants and the Aspinall Units). These draft alternatives and operational scenarios were submitted to the public for review and comment. After considering the comments received, Western published a reasonable range of alternatives and operational scenarios in advance of the draft EIS.

The draft EIS was made available to the public for review in March 1994. It was mailed to over 700 individuals and organizations. A notice of availability was also published in the Federal Register. A newsletter announcing both the availability of the draft EIS and the schedule for public information hearings was sent to approximately 2,100 individuals. The draft EIS and all supporting documents were made available for public review in regional libraries and in 11 reading rooms.

Comments on the draft EIS were received from the public in written, mailed-in form and at the five public hearings. During the comment period, a total of 41 comment letters were received. Western visited with coordinating agencies, cooperating agencies, environmental groups, and customer groups before issuing the statement of scope, and determining the range of commitment-level alternatives and hydropower operational scenarios that would be considered. The

cooperating agencies were the Bureau of Reclamation (Reclamation), the National Park Service (NPS), and the U.S. Fish and Wildlife Service (Service). The coordinating agencies were the states of Utah, Wyoming, New Mexico, Colorado, and Arizona.

In addition, Western carried on a continuous dialogue with the Service and NPS regarding the technical adequacy of the analyses upon which the EIS is based. The dialogue with the Service resulted in the issuance of a Fish and Wildlife Coordination Act Report by the Service.

The final EIS was distributed to the public during late December 1995 and January 1996. The EPA notice of availability was published on February 16, 1996 (61 FR 6242). A letter on the final EIS was received from the Service reiterating previous concerns about water releases from Flaming Gorge Dam. Concerns raised in the letter will be addressed by Western, Reclamation, and the Service in the ongoing Section 7 consultation process on the operation of Flaming Gorge, the appropriate forum for the resolution of water release issues.

Alternatives

Western's hydroelectric generation is highly variable among seasons and years because of variation in natural hydrology. To create a firm level of marketable electric resource and enhance its value as a reliable source of electricity, Western markets hydroelectricity supplemented with energy purchased from other utilities and non-utility electrical generators.

The principal and determining feature of the SLCA/IP marketing program is the sale of long-term firm capacity and energy at long-term firm power rates. The amount of capacity and energy sold under long-term firm contract is called the level of commitment, as this is the amount of capacity and energy Western must generate and/or purchase to meet contract requirements. The alternatives examined in the EIS were based upon a reasonable range of levels of long-term firm commitments and are called commitment-level alternatives.

The range of commitment-level alternatives evaluated in the EIS was determined on the basis of a reasonable range of possible levels of SLCA/IP generation of both capacity (which is equivalent to the instantaneous output of a generator, usually stated in megawatts [MW]) and energy (the amount of power generated over a period of time, usually stated in gigawatt-hours [GWh]). Within constraints set by Reclamation, Western will schedule and release water on an hourly and daily basis from the SLCA/IP in coordination with Reclamation and make purchases as needed to meet the contractual commitments defined by the alternatives.

The commitment-level alternatives considered in the EIS span the range of commitments necessary and possible for Western to fulfill its statutory obligations. Seven combinations of capacity and energy commitments characterize the entire range of commitments that could be offered by Western. Capacity commitments range from a low of 550 MW (less than 40% of the historical commitment) to a high of 1,450 MW. Energy commitments range from a low of 3,300 GWh (less than 60 percent of the historical commitment) to a high of 6,200 GWh.

The major characteristics of the commitment-level alternatives considered in the EIS are described in Table 1. In addition to two moderate capacity and energy alternatives (3 and 6), the alternatives include high capacity and energy (alternative 1, the preferred alternative), low capacity and energy (alternative 4), high capacity and low energy (alternative 2), and low capacity and high energy (alternative 5) combinations.

TABLE 1.—ELECTRIC POWER MARKETING EIS COMMITMENT-LEVEL ALTERNATIVES

Alternative	Capacity commitment (MW)	Energy commitment (GWh)	Load factor (%)	Minimum schedule requirement (%)	Description
No action	1291	5700	50	35	Moderate capacity and high energy (the 1978 marketing program commitment level).
1 (preferred alternative).	1449	6156	48.5	35	High capacity and high energy (the post-1989 commitment level).
2	1450	3300	26	10	High capacity and low energy.
3	1225	4000	37	15	Moderate capacity and moderate energy.
4	550	3300	68	52	Low capacity and low energy.
5	625	5475	100	100	Low capacity and high energy.
6	1000	4750	54	33	Moderate capacity and moderate energy.

TABLE 2.—RELATIVE IMPACTS OF THE COMMITMENT-LEVEL ALTERNATIVES [a]

Commitment-level alternative	Financial viability and retail rates	Regional economic activity	Agricultural production	Air resources	Water, ecological, cultural, recreation, land use, and visual resources
No action (1978 Marketing Criteria).	Slight impacts on financial viability of Western's customers and the retail rates charged to end-users.	No impacts in any of the nine subregions or in the two high-reliance counties.	No impacts on agricultural production.	No impacts on local or regional air quality or noise.	Impacts dependent on hydropower operations.
Commitment-level alternative 1 (preferred alternative).	No impact on financial viability; slight impact on retail rates.	No impacts in any of the nine subregions; slight impacts in the two high- reliance counties.	Slight impact on agricultural production.	Slight impact on local or regional air quality or noise.	Same as above.

TABLE 2.—RELATIVE IMPACTS OF THE COMMITMENT-LEVEL ALTERNATIVES [a]—Continued

Commitment-level alternative	Financial viability and retail rates	Regional economic activity	Agricultural production	Air resources	Water, ecological, cultural, recreation, land use, and visual resources
Commitment-level alternative 2.	Slight impact on financial viability; moderate impact on retail rates.	Same as above	Same as above	Same as above	Same as above.
Commitment-level alternative 3.	Slight impact on financial viability; moderate impact on retail rates.	Same as above	Same as above	Same as above	Same as above.
Commitment-level alternative 4.	No impact on financial viability; moderate or large impacts on retail rates.	Same as above	Same as above	Same as above	Same as above.
Commitment-level alternative 5.	Slight impact on financial viability; moderate to large impact on retail rates.	Same as above	Same as above	Same as above	Same as above.
Commitment-level alternative 6.	Slight impact on financial viability; moderate impact on retail rates.	Same as above	Same as above	Same as above	Same as above.

Western's Preferred Alternative and the Environmentally Preferred Alternative

Commitment-level alternative No. 1, the post-1989 commitment level, was developed and chosen as Western's preferred alternative during an extended public process involving SLCA/IP customers and other interested parties. This alternative was also identified as the environmentally preferred alternative on the basis of the results of the analyses in the EIS (see Table 2). This choice was made because, under the preferred alternative, socioeconomic impacts, including impacts to financial viability, retail rates, and regional and agricultural economies, would be minimized. Furthermore, an analysis cited in the EIS indicates that potential impacts to natural and cultural resources result almost exclusively from hydropower operations rather than from commitment levels. In other words, the preferred alternative has no significant impacts to natural and cultural resources and is the alternative which minimizes impacts to socioeconomic resources.

Hydropower Operational Scenarios

In addition to analyzing the impacts of commitment-level alternatives, the EIS evaluated the potential impacts of a reasonable range of hydropower operations at Glen Canyon Dam, Flaming Gorge Dam, and the Aspinall Unit (which includes the powerplants at the Blue Mesa, Morrow Point, and Crystal dams). These are the three SLCA/IP facilities that provide most of the hydropower marketed by Western, and over which Western exercises some measure of hourly or daily control. The array of potential hydropower operations—referred to as operational scenarios—ranges from historical high hourly fluctuations to no hourly fluctuation (baseload or steady flows) at each facility.

By considering both commitment-level alternatives and operational scenarios together, examination of a full range of operations and commitment levels and their combined impacts was possible. Actual hydropower operations within the range of scenarios examined may come about as a result of management decisions by Western and Reclamation. Reclamation determines operational constraints (including minimum and maximum release rates and monthly release volumes) for Federal hydropower facilities, and Western makes operational decisions within those constraints at Glen Canyon, Flaming Gorge, and the Aspinall Unit.

Environmental Consequences of Commitment-Level Alternatives

The impacts of commitment-level alternatives on water resources, ecological resources, cultural resources, and recreation would depend on the operational scenarios implemented at the hydropower facilities under consideration (see Environmental Consequences of Hydropower Operational Scenarios, below). No impacts on these environmental resources were associated with the commitment-level alternatives themselves.

Local and regional air quality and noise levels would be affected only slightly by any of the commitment-level alternatives. Slight impacts would result from differences in emission factors associated with different types of electric generation and would be related to shifts from hydroelectric generation to various types of thermal power generation.

Commitment-level alternatives were analyzed for their potential impacts on the financial viability of Western's utility customers, the retail rates charged to the end-users of electricity, regional economic variables (including population, employment, disposable income, and gross regional product), agricultural production, and the use value of recreational activities. In addition, the analysis considered the potential effects that a change in Western's commitment levels could have on the need for additional capacity and energy and on the mix of generation options used to supply electricity to the affected region and the resulting impacts on local and regional air quality. The selection of a commitment level was determined to have no discernible effect on other environmental resources.

Hydropower operational scenarios could affect socioeconomic conditions through their effects on purchases and exchanges and the resultant cost of electricity. Thus, it was necessary to specify both an operational scenario and a commitment-level alternative to assess

overall socioeconomic and air resource impacts. Commitment-level alternatives were paired with specific supply options, which consisted of the full range of possible operational scenarios at each of the three facilities considered in the EIS, combined with the power purchases needed to meet a particular commitment level.

The environmental consequences of the combinations of commitment-level alternatives and supply options considered in the EIS are summarized in Table 2. None of the combinations of commitment-level alternatives and supply options are expected to have a significant effect in any of the nine subregions or any of the four regional socioeconomic variables. Only slight impacts are likely on conservation and renewable energy programs as measured in terms of consumption efficiency and load management. These results are partly a reflection of the fact that the power marketed by Western accounts for only about 10 percent of the total electricity consumed in the affected region. In addition, much of the affected region has an excess supply of generating capacity. This excess capacity would serve to offset the adverse price effects of a reduction in the amount of Western's long-term firm commitment of capacity and energy and thus blunt the regional economic impacts of any increase in electricity prices.

A change in Western's long-term firm commitments is expected to have a small effect on agricultural production, as measured by net income to the agricultural sector at the state level. At the state level, most of the impacts would consist of shifts from irrigated to dry land farming methods for individual crops and some substitution among crops. The largest impact indicated by the analysis was a decrease in net agricultural income by about 1.2 percent in Utah in the final year of the forecast period. This impact would occur under commitment-level alternative No. 4, which represents the lowest long-term firm commitment of capacity and energy.

Different combinations of commitment-level alternatives and supply options could affect the financial viability of Western's utility customers and the retail rates charged to end-users. The combination of commitment-level alternative No. 2 with the full-range of dam operations at the three affected facilities would leave the financial viability of affected utilities unchanged. In addition, with this combination, many of Western's utility customers would experience a decline in their retail rates. However, the remaining combinations of commitment-level alternatives and operational scenarios could result in negative rate impacts. Commitment-level alternatives 4 and 5 combined with steady flows at each dam would result in the largest weighted average increase in retail rates (15 percent) across affected utilities. The combination of alternative No. 4 and steady flows would also result in the largest rate increase. Under these conditions, it is estimated that the retail rates charged by municipal utilities in Utah that rely on Western for more than 25 percent of their supply would increase by 41 percent.

Overall, municipals in Utah and New Mexico, which have high reliance on Western power, would experience the largest retail rate impacts under any of the commitment-level alternatives. Utility customers in Arizona, Colorado, and Nevada (which have low reliance levels) would experience slight to moderate impacts on retail rates under most alternatives. Utility customers in Wyoming, which have very low reliance levels, would be largely unaffected.

Environmental Consequences of Hydropower Operational Scenarios

Most of the hydropower marketed by Western from the SLCA/IP is generated at Glen Canyon Dam, Flaming Gorge Dam, and the Aspinall Unit. At these CRSP facilities, Western has some discretion over hourly and daily releases within Reclamation flow constraints. Impacts of hydropower operational scenarios at these facilities are discussed in this section.

Glen Canyon Dam

The operating scenarios described below are the alternatives examined by the Department of the Interior in the Glen Canyon Dam EIS. The description of the environmental consequences of these scenarios is consistent with the analyses summarized in that EIS.

Continuation of historical operations and maximum power plant capacity operational scenarios would have impacts on most environmental resources similar to those that have occurred since the dam was completed in 1963. Installation of the dam and, to a lesser extent, its operations have affected most natural resources dependent on the river and have produced the existing conditions for these resources.

Moderate and low fluctuating flow operational scenarios would potentially produce moderate benefits for water resources (moderate increases in the probability of a net gain in riverbed sand), cultural resources, and white-water boating. These operational scenarios could result in slight or moderate benefits to trout, native fish, angling, and Federally-listed species: the peregrine falcon, bald eagle, and southwestern willow flycatcher. Slight adverse impacts could occur to the humpback chub, and adverse impact could occur to the Kanab ambersnail.

Although steady flow scenarios could result in benefits to a number of resources, some benefits may require occasional high flows to build beaches and maintain fish habitats. Benefits could occur for water resources (moderate increases in the probability of a net gain in riverbed sand), aquatic ecology, terrestrial ecology, cultural resources, and recreation. Benefits would potentially be expected for Federally-listed species: the humpback chub, bald eagle, peregrine falcon, and southwestern willow flycatcher. Marsh vegetation could decrease under all of the steady flow scenarios. Beach and habitat maintenance flows could have adverse effects on the Kanab ambersnail, an endangered species.

Flaming Gorge Dam

The year-round high fluctuating flow operational scenario for Flaming Gorge Dam features higher maximum releases and greater daily flow fluctuations than occurred under historical operations. These higher flows and daily fluctuations could result in adverse impacts to some ecological resources, including trout, native fish, endangered fish, and riparian vegetation. Since this scenario has a higher erosion rate than steady flows, adverse impacts to cultural resources would potentially be expected.

The remaining three operational scenarios at Flaming Gorge Dam are seasonally adjusted and feature periods of restricted flow to meet requirements of the U.S. Fish and Wildlife Service Biological Opinion for operation of the facility. These scenarios exhibit a high sustained flow in May or June, reduced fluctuations and lower flows in summer and autumn, and steady flows when ice cover is present on the river. These flows are intended to be protective of endangered fish in the system and could result in benefits to these species, as well as to other resources. Some adverse impacts could result from seasonal adjustment, however. The spring peak in flows would potentially result in large adverse impacts to anglers. The bald eagle and over-wintering waterfowl could be adversely affected by steady flows in the winter. With steady flows, less open ice-free water would be available for these species.

Seasonally-adjusted high fluctuations would potentially result in moderate

changes to flow and stage patterns, but would potentially have erosion rates similar to those of year-round high fluctuations. Slight to moderate benefits are expected to native fish. This scenario would potentially result in slight benefits to angling in mid-summer through autumn (when fluctuations are reduced) and moderate benefits to white-water boating during the spring peak flows. Slight adverse impacts are expected to terrestrial ecology because of the inundation of some riparian vegetation. Slight adverse impacts are also expected to trout under year-round high fluctuations.

Although seasonally-adjusted moderate and steady flows are relatively similar in their impacts to most resources, seasonally-adjusted steady flows generally would potentially provide greater levels of environmental benefits. Both scenarios would potentially have reduced erosion rates and, thus, would potentially benefit water resources and cultural resources. Slight or moderate benefits to trout and moderate to large benefits to native and endangered fish, angling, and white-water boating are also expected under these scenarios because of reduced daily fluctuations. Seasonally-adjusted moderate fluctuations are expected to have slight adverse impacts on terrestrial resources because some existing riparian vegetation would be inundated and lost.

Aspinall Unit

Because Crystal Dam reregulates flows from the Aspinall Unit, flows in the Gunnison River below the Unit and the resources that depend on those flows would not be affected by changes in hydropower operations. Slight to moderate changes to flow and stage in Blue Mesa and Morrow Point reservoirs would potentially occur because of seasonal adjustments in releases and daily fluctuations. Despite these changes in flow and stage, neither operational scenario is expected to result in impacts to sediment, most ecological resources (aquatic ecology, threatened and endangered species), cultural resources, land use, or visual resources. Both scenarios would potentially result in slight benefits to terrestrial resources in the headwaters of Crystal Reservoir in the form of an increase in riparian vegetation. Slight adverse impacts to the bald eagle are expected under the seasonally-adjusted steady flow scenario because the reservoirs would freeze earlier in the winter with reduced fluctuations. Slight adverse impacts to boaters on Morrow Point and Crystal reservoirs could occur at low water under the seasonally-adjusted high fluctuation scenario.

Summary of Public Comments

A number of specific issues were raised by agencies and the public during the public review period of the draft EIS. Most Western customers who commented on the draft EIS recommended that Western select as the preferred alternative commitment-level alternative No. 1, a high-capacity, high-energy alternative. Since publication of the draft EIS, Western has chosen this commitment level alternative as the preferred alternative and has also identified it as the environmentally preferred alternative in the final EIS.

These customers also wrote that they agreed with the major findings of the draft EIS, but were concerned that Western had relied on studies (e.g.,Glen Canyon Environmental Studies) that were incomplete at the time. Western's final EIS has been updated to incorporate the most recent information available from these studies.

Concerns raised by the Service and NPS that the preferred alternative would result in operations at hydropower facilities that were more damaging to natural resources are not borne out by the analyses in the EIS. The weak relationship between hydropower operations and commitment levels allows a decoupling of selections of commitment level and operational restrictions.

These same Federal agencies also expressed concern that fluctuations at hydropower facilities would result in detrimental impacts on downstream ecological resources. These impacts have been fully considered and presented in the EIS. Western's decision regarding a commitment level will not present an obstacle to any future decision to change the operation of a hydropower facility by either Reclamation or Western.

Finally, these agencies expressed concern that protection of natural resources would require occasional releases that are above powerplant capacity. Such releases would be under the jurisdiction of Reclamation and are beyond the scope of Western's control of these facilities.

Environmental groups commented that if Western made a high commitment of electrical power, the bulk electrical purchases that would be required would exceed Western's legal authority. Western has determined that the alternatives included in the EIS are all lawful.

Environmental groups also mentioned that the analyses summarized in the EIS were methodologically accurate, but expressed their preference for a process that included interested publics in more detailed aspects of the analysis process. Finally, environmental groups were concerned about Western's treatment of air resource impacts and commented that Western should be concerned with the absolute value of decreases in air pollution that results from changed dam operation and not just with the percentage change. The final EIS presented the absolute value of expected air quality changes as well as the percentage change.

Decision

SLCA/IP Electric Power Program Commitment Level

Western has elected to implement the preferred alternative, Alternative No. 1, as described in the final EIS and summarized in this ROD at the beginning of the Summer marketing season- April 1, 1997. This alternative best meets Western's purpose and needs and the needs of Western's customers, while being responsive to the comments received. The preferred alternative has no significant environmental impacts. Its economic impacts are beneficial, relative to the no-action alternative.

Hydropower Operational Scenarios:

Glen Canyon Powerplant: Western supports the preferred alternative as identified in Reclamation's Glen Canyon Dam—Environmental Impact Statement (GCD-EIS). This alternative was painstakingly crafted by the cooperating agencies involved in the preparation of the GCD-EIS and represents years of collaborative scientific effort. Western will comply with the operational parameters specified in Reclamation's preferred alternative.

Flaming Gorge Powerplant: A revised biological opinion on the operation of Flaming Gorge Dam is anticipated to be issued to Western and Reclamation in 1997. This biological opinion will represent the conclusions of 5 years of study required by the first biological opinion issued in 1991. Moreover, Reclamation has announced its intention to prepare an EIS on the operation of Flaming Gorge Dam.

Because of these ongoing processes, considerable uncertainty exists regarding the hydroelectric power resource at Flaming Gorge Dam. Western will, therefore, coordinate with Reclamation to operate Flaming Gorge Dam in compliance with the 1991 biological opinion and the current operational criteria specified for this facility and will make no further adjustments in its operation pending the environmental reviews noted above.

Aspinall Powerplants: A 5-year study of operations of the Aspinall powerplants is scheduled to be completed in 1997. A resulting biological opinion on its operation will be prepared which will likely require permanent changes in the operation of the three powerplants. The change would be required to improve habitat for endangered fish species. Therefore, uncertainty also exists with regard to the hydroelectric power resource at the Aspinall units. Western will make no further adjustments in their operation pending this biological opinion.

Mitigation Action Plan

No Mitigation Action Plan will be prepared, as the proposed action involves no construction, has no significant impacts to natural resources, and has positive socioeconomic impacts.

Issued at Golden, Colorado, October 17, 1996.

J. M. Shafer,

Administrator.

[FR Doc. 96–28101 Filed 10–31–96; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5644–9]

Agency Information Collection Activities: Proposed Collection; Comment Request; Hazardous Waste Management System: Land Disposal Restrictions ''No-Migration'' Variances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following proposed Information Collection Request (ICR) to the Office of Management and Budget (OMB): Hazardous Waste Management System: Land Disposal Restrictions ''No-Migration'' Variances, EPA ICR Number 1353, and OMB Control Number 2050–0062. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before December 31, 1996.

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number F–96–NMIP–FFFFF to: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 401 M Street, SW, Washington, DC 20460. Hand deliveries of comments should be made to the Arlington, VA, address below. Comments may also be submitted electronically through the Internet to: rcra-docket@epamail.epa.gov. Comments in electronic format should also be identified by the docket number F–96–NMIP–FFFFF. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Commenters should not submit electronically any confidential business information (CBI). An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 401 M Street, SW, Washington, DC 20460.

Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page.

FOR FURTHER INFORMATION CONTACT: Chris Rhyne, USEPA, Office of Solid Waste (5303W), 401 M Street, SW., Washington, D.C. 20460; Phone (703) 308–8658; FAX (703) 308–8609.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those that treat, store or dispose of hazardous waste on the land, and are subject to the land disposal restrictions at 40 CFR part 268.

Title: Hazardous Waste Management Systems: Land Disposal Restrictions ''No-Migration'' Variances (OMB Control No. 2050–0062; EPA ICR No. 1353), expiring 4/30/97.

Abstract: The 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act (RCRA) of 1976 created substantial new requirements for those who manage hazardous waste. (See 42 USC 6905, 6912(a), 6921, 6924, 6925, and 6935.) The amendments prohibit land disposal of hazardous wastes beyond specified dates unless, as provided in RCRA Sections 3004 (d), (e), and (g), the owner/operator of a hazardous waste storage or disposal facility demonstrates to the Administrator of the Environmental Protection Agency (EPA) that there will be no migration of hazardous constituents from the land disposal unit for as long as the waste remains hazardous.

To receive a variance from the hazardous waste land disposal prohibitions, owner/operators of hazardous waste storage or disposal facilities may petition the Environmental Protection Agency to allow land disposal of a specific restricted waste at a specific site. The Permits and State Programs Division, Office of Solid Waste, will review the petitions and determine if they successfully demonstrate ''no migration.'' The applicant must demonstrate that hazardous wastes can be managed safely in a particular land disposal unit, so that ''no migration'' of any hazardous constituents occurs from the unit for as long as the waste remains hazardous. (See 40 CFR 268.6.) If EPA grants the variance, the waste is no longer prohibited from land disposal in that particular unit. If the owner/operator fails to make this demonstration, or chooses not to petition for the variance, best demonstrated available technology (BDAT) requirements of 40 CFR 268.40 *et seq.* must be met before the hazardous wastes are placed in a land disposal unit. Responses to the collection of information are voluntary.

The information collected is not of a personal nature nor is it subject to the Privacy Act of 1974 or Office of Management and Budget Circular A–108. EPA expects that owners and operators may wish to maintain the confidentiality of certain information. Provisions for confidentiality are found in Section 3007(b) of RCRA and in 40 CFR Part 2, which establishes EPA's general policy regarding public disclosure of information. Provisions for confidentiality have also been included in 40 CFR Part 260, the general rule of the RCRA hazardous waste management system.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;