DEPARTMENT OF ENERGY

Southwestern Power Administration

White River Minimum Flows—Proposed Determination of Federal and Non-Federal Hydropower Impacts

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of public review and comment.

SUMMARY: Section 132 of Public Law 109–103 (2005) authorized and directed the Secretary of the Army to implement alternatives BS–3 and NF–7, as described in the White River Minimum Flows Reallocation Study Report, Arkansas and Missouri, dated July 2004.

The law states that the Administrator, Southwestern Power Administration (Southwestern), shall determine any impacts on electric energy and capacity generated at Federal Energy Regulatory Commission (FERC) Project No. 2221 caused by the storage reallocation at Bull Shoals Lake. Further, the licensee of Project No. 2221 shall be fully compensated by the Corps of Engineers for those impacts on the basis of the present value of the estimated future lifetime replacement costs of the electrical energy and capacity at the time of implementation of the White River Minimum Flows project.

The law also states that losses to the Federal hydropower purpose of the Bull Shoals and Norfork Projects shall be offset by a reduction in the costs allocated to the Federal hydropower purpose. Further, such reduction shall be determined by the Administrator of Southwestern on the basis of the present value of the estimated future lifetime replacement cost of the electrical energy and capacity at the time of implementation of the White River Minimum Flows project.

Southwestern's draft determination was published by **Federal Register** Notice (73 FR 6717) dated February 5, 2008. Written comments were invited through March 6, 2008. All public comments received were considered, and Southwestern's draft determination was revised as necessary to incorporate the public comments. Since there were significant changes to Southwestern's draft determination, due in part to public comments received supporting higher energy values, Southwestern is publishing a proposed determination for public review and comment prior to its final determination.

Assuming a January 1, 2011, date of implementation for the White River Minimum Flows project, Southwestern's proposed determination results in a present value for the estimated future lifetime replacement costs of the electrical energy and capacity at FERC Project No. 2221 of $33,935,100. Southwestern's proposed determination results in a present value for the estimated future lifetime replacement costs of the electrical energy and capacity for Federal hydropower of $86,712,100.

DATES: The consultation and comment period will begin on the date of publication of this **Federal Register** notice and will end on August 4, 2008.

ADDRESSES: Written comments on Southwestern's proposed determination are due on or before August 4, 2008. Comments should be submitted to George Robbins, Director, Division of Resources and Rates, Southwestern Power Administration, U.S. Department of Energy, One West Third Street, Tulsa, Oklahoma 74103.

FOR FURTHER INFORMATION CONTACT: Mr. George Robbins, Director, Division of Resources and Rates, (918) 595–6680, *george.robbins@swpa.gov.*

SUPPLEMENTARY INFORMATION:

I. Discussion

Originally established by Secretarial Order No. 1865 dated August 31, 1943, Southwestern is an agency within the U.S. Department of Energy which was created by an Act of the U.S. Congress, entitled the Department of Energy Organization Act, Public Law 95–91 (1977). Southwestern markets power from 24 multi-purpose reservoir projects with hydroelectric power facilities constructed and operated by the U.S. Army Corps of Engineers. These projects are located in the states of Arkansas, Missouri, Oklahoma, and Texas. Southwestern's marketing area includes these states plus Kansas and Louisiana.

Southwestern developed projected energy and capacity losses for FERC Project No. 2221 and the Bull Shoals and Norfork projects, including additional losses related to the reallocation for minimum flows as appropriate. Currently, the calculated compensation due to the licensee of FERC Project No. 2221 is $33,935,100, and the calculated credit due to Federal hydropower is $86,712,100. The values were calculated on the basis of the present value of the estimated future lifetime replacement cost of the electrical energy and capacity assuming an implementation date of January 1, 2011, for the White River Minimum Flows project. The final calculation will depend on the official date of implementation as specified by the Corps of Engineers and the value of the specified parameters in effect at that time.

FERC Project No. 2221, the non-Federal Ozark Beach hydroelectric project, will be directly affected by the minimum flow plan. The implementation of the authorized plan will result in a reduction of the amount of gross head (headwater elevation minus the tailwater elevation) available for generation at the non-Federal project at Ozark Beach. The reduction in gross head will result in an annual energy loss of 6,029 megawatt-hours (MWh) of on-peak energy and 2,969 MWh of off-peak energy, or an annual total energy loss of 8,998 MWh. Also associated with the loss of gross head, there will be a capacity loss of 3.00 MW at the project.

Section 132 of Public Law 109–103 (2005) authorized alternative BS–3 at Bull Shoals, as described in the White River Minimum Flows Reallocation Study Report, Arkansas and Missouri, dated July 2004. Under the authorized plan for the Bull Shoals project, five feet of storage for minimum flows will be reallocated from the flood control pool with provisions to provide a portion of the reallocated storage for hydropower's use to maintain the yield of the current hydropower storage. The current seasonal pool plan will be superimposed on the new top of conservation pool. As a result, both the conservation and seasonal pool levels at Bull Shoals will be raised five feet. The additional downstream releases for minimum flows will be accomplished by generating with one of the main units at a low, inefficient rate. Since the current hydropower yield will be maintained, there will be no loss of marketable capacity or peaking energy at Bull Shoals. The energy loss, 23,855 MWh per year of off-peak energy, will be the result of making the required minimum downstream releases by generating energy at a much lower plant efficiency than normal generation. Since the energy that is produced from the minimum flow releases will be generated at a time when the energy is not needed to fulfill Federal peaking energy contracts, it is similar in value to the off-peak energy normally generated during flood control operations. Operating a main unit at the lower efficiency will also increase the average maintenance costs at the project by an estimated $68,000 per year.

Section 132 of Public Law 109–103 (2005) authorized alternative NF–7 at Norfork, as described in the White River Minimum Flows Reallocation Study Report, Arkansas and Missouri, dated July 2004. Under the authorized plan for the Norfork project, 3.5 feet of storage will be reallocated for minimum flows.

One-half of the storage for minimum flows will be reallocated from the flood control pool and the other half from hydropower storage. The reallocation portion from the flood control storage is similar to the storage reallocation at Bull Shoals in that the hydropower storage yield for that portion will be maintained and the existing seasonal pool plan will be superimposed on the new top of conservation pool. As a result, both the conservation and seasonal pool levels at Norfork will be raised 1.75 feet. Unlike Bull Shoals, all minimum flow releases at Norfork, whether from reallocated flood or hydropower storage, will be spilled through a siphon with no energy generated from the water. Although there is no marketable capacity loss associated with the flood control storage portion of the reallocation, there will be an off-peak energy loss. The portion of the reallocation from the hydropower storage will reduce the yield available to hydropower and will directly impact the marketable capacity and on-peak energy available at Norfork. The annual energy loss at Norfork associated with the reallocation will be 6,762 MWh of off-peak energy and 6,762 MWh of on-peak energy, for a total annual energy loss of 13,524 MWh. The marketable capacity loss will be 3.93 megawatts (MW).

II. Public Review and Comment Procedures

Opportunity is presented for interested parties to receive copies of the Proposed Determination Report detailing Southwestern's determination of the Federal and non-Federal hydropower impacts. If you desire a copy of the report, submit your request to Mr. George Robbins, Director, Division of Resources and Rates, Southwestern Power Administration, One West Third Street, Tulsa, OK 74103, (918) 595–6680, *george.robbins@swpa.gov.*

Written comments on Southwestern's proposed determination are due on or before August 4, 2008. Comments should be submitted to George Robbins, Director, Division of Resources and Rates, Southwestern, at the above-mentioned address for Southwestern's offices.

Southwestern will review and address the written comments, making any necessary changes to the proposed determination. The Administrator will publish the results of Southwestern's final determination in the **Federal Register** and will submit a report to the Corps of Engineers.

Dated: June 26, 2008.

Jon Worthington,

Administrator.

Comments on Southwestern's January 2008 Draft Determination

Southwestern received comments from four entities during the public comment period. All of the comments received were considered. The major comments, by categories, and Southwestern's responses thereto, included the following:

A. Energy Losses

1. *Comment.* ''We specifically question the applicability of the SUPER program to accurately model relatively small changes in actual conditions at Ozark Beach as opposed to overall macro level changes in an entire river basin.''

Response: SUPER was designed and programmed to simulate the operation of a multipurpose reservoir system. SUPER models the reservoir system for the entire period of record as it exists today and is operated under a specific operational scenario. The value in using SUPER is the ability to model various scenarios and to determine the relative differences in the results. The Corps has successfully used SUPER for much smaller changes in many water storage reallocation studies. Southwestern believes the combination of SUPER and Southwestern's spreadsheet model accurately captures the ''relatively small changes'' in conditions at Ozark Beach.

2. *Comment.* Southwestern's spreadsheet analysis of the SUPER output shows an average 3.3-foot difference in the Ozark Beach tailwater elevation between the base and minimum flow runs. The Bull Shoals pool level is being raised 5 feet. The 1.7-foot difference represents a 34% understatement in the results for Ozark Beach.

Response: It is not reasonable to assume that the Bull Shoals pool elevation will always be five feet higher after the minimum flows project is implemented. While five feet of flood control storage will be reallocated at Bull Shoals for minimum flows, any water stored in that reallocated storage will be released for minimum flow requirements. Those releases will be made whenever Southwestern is not generating at Bull Shoals Dam. As a result of those releases from the reallocated storage, the pool level will be drawn down on a regular basis and the reallocated storage will not typically be full. The desired downstream minimum flow releases are greater than the storage will yield. Therefore, the storage is frequently depleted. During the critical drought period, the pool level would be near pre minimum flow levels.

3. *Comment.* The non-Federal energy loss should be, as a minimum, the non-Federal licensee's computed value of 12,436 MWh.

Response: The non-Federal licensee's calculated energy loss was based on the assumption that the loss of head at Ozark Beach will be a constant five feet after minimum flows are implemented. That will not be the case. See Southwestern's response to Comment 2 above.

4. *Comment.* The commenter ''does not believe the SUPER program is accurately capturing the efficiency and energy gains due to the addition of new water wheels at Ozark Beach.'' The commenter compared the calculated generation in the spreadsheet model for the SUPER Base Run (with the new wheels) versus the calculated generation for the corresponding time period in the spreadsheet verification model (with the old wheels) and also with the non-Federal licensee's actual energy generation. The commenter also noted that there is only a 3.5% increase in generation while they believe it should show a 16% increase.

Response: The historical Table Rock outflows and Bull Shoals pool elevations are slightly different from the SUPER output because SUPER is modeling the reservoir system as it exists today, with all current water supply contracts and the current plan of operation. If the performance data for the old and new wheels are used with the same inflow data, a reasonable difference in generation is determined.

Southwestern performed the daily generation calculation for the SUPER Base Run with the performance data for the old wheels to verify the model with existing historical data. With the assumed generating efficiency for the old wheels of 75% and the assumed friction loss of one-half foot, there was a very strong correlation with historical generation at the project. The calculated average annual generation with the new wheels is about 17% higher than the calculated average annual generation with the old wheels. The historical data was used only to verify that Southwestern's spreadsheet model could reasonably predict the generation at Ozark Beach with the Table Rock outflows and Bull Shoals pool elevations as inputs.

The new wheels were used in both the base and alternative computations in order to determine the difference caused by the operation of Bull Shoals to meet the minimum flow requirements, not the increase from the installation of the

new wheels. The main use of SUPER is in comparing the relative differences between the two operational scenarios, not in trying to reproduce history.

5. *Comment.* The commenter questioned the 1940–2003 period of record in SUPER which includes 18 years before Table Rock Dam was built. They do not ''understand how the modeling can be accurate for those early years and properly reflect the operation of Ozark Beach.''

Response: It is standard practice in hydrologic engineering to use existing stream gage information to develop historical flow data at dam sites. The flow data are used in hydrologic models to model the reservoir system over as long a period of record as gage data is available. Reservoirs were designed based on hydrologic models that predicted the system operation with the reservoir in place. That is not unique to SUPER or Southwestern, but it is standard practice in hydrologic engineering and simulation modeling.

6. *Comment.* The commenter noted that Southwestern used only the releases from Table Rock Dam as the inflows for Ozark Beach, and they stated that the Ozark Beach inflows are about 8% higher than Table Rock outflows due to intervening area inflow.

Response: Southwestern agrees that the inflows into Ozark Beach will typically be larger than the outflows from Table Rock Dam. Southwestern did not consider the intervening area inflow between Table Rock Dam and Ozark Beach in its initial analysis. The Ozark Beach drainage area is about 8.5 percent larger than the Table Rock drainage area.

The analysis has been updated using a drainage area ratio analysis of the intervening area inflow originating between Table Rock Dam and Bull Shoals Dam (as developed for the SUPER model) to add to the Table Rock outflows in estimating the Ozark Beach inflows. Using that technique, the average daily inflows into Ozark Beach are about 9 percent larger than the average daily outflows from Table Rock. The updated daily inflows were used in the computations for both the base and alternative cases. After the change, the calculated average annual energy loss at Ozark Beach increased from 8,645 MWh to 8,998 MWh.

7. *Comment.* ''We are very cognizant that the Empire ratepayers are the ones who shoulder the risk of analysis that does not properly account for the loss of energy and capacity at Ozark Beach. We are striving to protect their interests.''

Response: Likewise, the Federal hydropower customers bear the risk that Southwestern's analysis does not properly quantify the impacts at the Bull Shoals and Norfork projects. Southwestern's intent is, to the extent possible, to accurately identify and quantify the impacts of the White River Minimum Flows project for both the Federal and non-Federal hydropower projects.

8. *Comment.* ''the SWPA model failed to account for the efficiency gain actually seen at the dam with the new turbine wheel replacements and the model was unable to capture the expected five (5) feet of head loss. Thus, Staff considers that there are significant reasons to doubt the accuracy of SWPA's calculations.''

Response: Southwestern disagrees. See responses to Comments 2, 3, and 4 above.

9. *Comment.* ''Southwestern presents a reasonable approach to the calculation of lost energy and capacity from storage reallocation.''

Response: Concur.

10. *Comment.* The commenter ''strongly supports the process Southwestern uses for identifying and quantifying the energy and capacity lost due to reallocation of storage at Bull Shoals and Norfork, as well as the process for determining whether particular energy lost is peaking energy versus off-peak energy.''

Response: Concur.

B. Capacity Losses

1. *Comment.* The commenter ''agrees with SWPA that the capacity lost at Ozark Beach is 3 MW.''

Response: Though our techniques for determining the capacity loss at Ozark Beach were different, we agree on the amount of lost capacity.

2. *Comment.* ''The capacity loss calculation in the report accurately determines the amount of loss based on how much capacity is lost during the peak demand period and during the critical drought period of the water storage project.''

Response: Concur.

3. *Comment.* The commenter ''strongly supports the process Southwestern uses for identifying and quantifying the energy and capacity lost due to reallocation of storage at Bull Shoals and Norfork, as well as the process for determining whether particular energy lost is peaking energy versus off-peak energy.''

Response: Concur.

C. Replacement Costs of Energy

1. *Comment.* The commenter proposed that Southwestern use cost data that is more reflective of the entire market, and they noted that off-peak energy is often supplied by natural gas and not only coal-fired generation. The non-Federal licensee previously proposed and still believes that an industry source such as Platts would provide more appropriate values for replacement costs of on-peak and off-peak energy.

Response: The preliminary analysis of the impacts at Ozark Beach by the Corps proposed the use of the ''High Fuel Value'' energy cost data developed by Platts Power Outlook Research Service, a wholesale North American power market forecast service. Platts is a division of McGraw-Hill Companies, Inc. The non-Federal licensee agreed with the Corps on the use of the Platts energy cost data for the Corps analysis.

Southwestern initially used energy values developed by the Corps using Federal Energy Regulatory Commission (FERC) methodology for both the Federal and non-Federal impacts in order to be consistent with its evaluation of previous Corps reallocation studies, including its previous evaluation of White River Minimum Flows. While Southwestern was aware that the values produced by the Corps under older FERC criteria undervalue the energy benefits foregone in storage reallocations, we believed it was important to be consistent with our previous evaluations. The FERC values that Southwestern used for on-peak energy compare favorably with the Platts on-peak values. However, the FERC values that Southwestern used for off-peak energy are significantly lower than the Platts off-peak values.

After receiving public comments on our Draft Determination Report, Southwestern requested and received a copy of the spreadsheet ''program'' developed at FERC and used by the Corps in the development of replacement energy costs. The Corps' Hydropower Analysis Center (HAC) modified the program several years ago (pre-2000), but FERC has terminated support of the program. HAC continues to update the indices in the spreadsheet, but there is no active support for the program.

Southwestern revised its analysis for its Proposed Determination to use the Platts High Fuel Value energy cost forecast instead of the FERC energy values. The change was made for three primary reasons: (1) The Corps and Empire had previously agreed that the Platts High Fuel Value energy cost forecast numbers most accurately represented the replacement cost of energy; (2) comments from electric industry participants strongly supported the use of an industry source such as Platts; and (3) Southwestern's additional research revealed that the Platts values

for on-peak energy compare favorably with the FERC and current market values; however, the Platts values for off peak energy are much more reflective of the current market than the FERC values.

As a result of the revision, the annual energy losses (in 2008 dollars) are different than those reflected in Southwestern's initial analysis. The Federal on-peak energy value decreased from $91.44/MWh to $85.05/MWh, and the off-peak energy value increased from $17.50/MWh to $50.49/MWh. The non-Federal on-peak energy value increased from $56.45/MWh to $86.06/MWh, and the off-peak energy value increased from $13.75/MWh to $50.75/MWh.

2. *Comment.* One commenter argues the energy values developed by the Corps using the FERC methodology are too low, and they used the average spot purchase energy price from three rate cases for their analysis.

Response: See response to Comment 1.

3. *Comment.* ''In today's market place coal-fired energy is not available to wholesale customers who have to go out and replace lost hydropower energy. Low cost coal energy is generally reserved for rate base paying customers.'' The comment also states that ''Coal is not an appropriate replacement for the lost hydropower energy. A more likely alternative is some form of natural gas energy.''

Response: Concur. See response to Comment 1.

4. *Comment.* The commenter noted that Southwestern's current rate for losses is over $50.00/MWh. They believe that off-peak energy should be valued in the $50.00/MWh range, which would be more reasonable in today's market.

Response: Southwestern's rate for replacing non-Federal transmission losses is not determined from either the FERC or Platts values. It is based on actual purchases to replace losses incurred in transmitting non-Federal power and has no correlation to this determination.

5. *Comment.* The commenter stated that the Corps on-peak energy value is reasonable, but conservative. Based on current and projected prices for natural gas, they believe that on-peak energy values should begin at $100.00/MWh.

Response: See response to Comment 1.

6. *Comment.* The commenter encourages Southwestern to use Platts values or to update the FERC program to properly reflect market values of on-peak and off-peak energy.

Response: Concur. See response to Comment 1.

D. Replacement Costs of Capacity

1. *Comment.* The commenter agrees with Southwestern that a combined cycle facility would be appropriate for replacing lost capacity at Ozark Beach. They prefer that Southwestern use capacity costs from Platts but did not state what the Platts cost would currently be. The commenter's calculation uses $1,093/kW (which they say is equivalent to the $128.47/kW-yr used by Southwestern) and produces a present value of $9.2 million compared to $11.0 million calculated by Southwestern.

Response: While public comments expressed much disagreement with the replacement costs of energy used by Southwestern in its initial evaluation, there was limited discussion of the replacement costs of capacity used by Southwestern. The non-Federal licensee recommended Platts capacity cost data but used the FERC value in their updated calculation. One commenter stated that the capacity value used is reasonable but conservative. Southwestern will continue to utilize the capacity cost data produced by the Corps using FERC methodology in its analysis.

2. *Comment.* The commenter says FERC capacity values as computed and used by HAC for Federal hydropower are ''reasonable'', but ''conservative''. They ''assume the cost of new combustion turbine peaking capacity to be above $70.00/kW-yr.''

Response: See response to Comment 1.

E. Maintenance Costs

1. *Comment.* The non-Federal licensee added fixed O&M costs of $11.18/kW in 2007 dollars for the replacement capacity. That added about $800,000 to the present value non-Federal impacts. They did not detail how the O&M cost figure was derived or cite a source for referral at the time of the final calculation.

Response: According to the Corps, the FERC method capacity value calculation performed by HAC includes fixed O&M costs. The inclusion of additional O&M costs would double count those costs. Therefore, no additional costs are required and none will be included.

F. Inflation

1. *Comment.* The non-Federal licensee did not discuss Southwestern's use of the ''reference case'' inflation rate of 2.0 percent from the Energy Information Administration (EIA) Annual Energy Outlook. They used the EIA ''low growth'' inflation rate of 2.5 percent in their initial and updated analysis.

Response: Southwestern recognizes that historical inflation rates have been higher than the EIA ''reference case'' rate proposed by Southwestern in its draft determination. Economic conditions over the next 50 years are difficult if not impossible to reliably predict. Since the EIA is the independent statistical and analytical agency within the U.S. Department of Energy, Southwestern will defer to the projection of the EIA and will continue to use the ''reference case'' inflation rate in the latest Annual Energy Outlook in the determination of the Federal and non-Federal hydropower impacts.

2. *Comment.* The commenter used 2.5 percent inflation in their energy cost analysis and the non-Federal licensee's numbers for all other costs.

Response: See response to Comment 1.

3. *Comment.* The commenter cites the EIA Annual Energy Outlook 2007—''from 1980 to 2005, inflation has averaged 3.5 percent per year* * *'', and they ''question the applicability of the all-urban Consumer Price Index ('CPI') to accurately reflect the long-term costs of replacing CO_2 emissions-free federal hydropower.'' The commenter suggests looking to ''an industry specific producer price index which more closely mirrors the increased costs associated with electric power generation.''

Response: See response to Comment 1. Southwestern researched to find a source for a long-term, energy-specific inflation forecast but was unsuccessful.

4. *Comment.* ''at a minimum, the 'low growth' EIA value of 2.5 percent should be used.''

Response: See response to Comment 1.

G. Present Value Determination

1. *Comment.* The non-Federal licensee, in its August 2007 report detailing its analysis of the impacts at Ozark Beach (Appendix I in Southwestern's draft report), proposed the use of the current rate on 30-year U.S. Treasury notes for the discount rate. They used 4.8 percent in their initial analysis, which was the 30-year Treasury rate in effect at that time. The rate had gone up to 5.0 percent by the time of Southwestern's analysis. In February 2008, the rate dropped to 4.375 percent. The non-Federal licensee continued to use 4.8 percent in its review of Southwestern's draft determination report.

Response: There is no disagreement on the parameters for the present value determination. The 50-year project life was used by the Corps in its preliminary analysis, and the non-Federal licensee

and Southwestern agreed on that term. The non-Federal licensee used 4.8 percent for the discount rate in both its initial and follow-up analysis, but that number was based on the 30-year U.S. Treasury rate in effect at the time of their initial analysis. The use of the 30-year Treasury rate in the analysis was first proposed by the non-Federal licensee. Southwestern will use the 30-year Treasury rate in effect at the time of the final calculation as the discount rate.

2. *Comment.* ''The selection of the current rate on 30-year U.S. Treasury notes to be used as the discount rate in the present value calculation is a reasonable rate to use for capital projects.''

Response: Concur. See response to Comment 1.

3. *Comment.* The commenter ''supports the use of the interest rate for 30-year U.S. Treasury notes in effect at the time minimum flow releases are implemented as the appropriate discount rate for determining net present value of hydropower impacts. This is the same interest rate charged on new capital investments in the federal power system, and this rate was reaffirmed by Congress in its Department of Energy appropriation for FY 2008.''

Response: Concur. See response to Comment 1.

H. Carbon Tax and Renewable Portfolio Standard

1. *Comment.* The non-Federal licensee included a $20/ton carbon tax and a 5% renewable risk premium in their calculation of the non-Federal impacts.

Response: Since there is no way to reliably estimate if, when, or how a carbon dioxide tax would be implemented, Southwestern did not include losses based on a carbon dioxide tax. The impacts to both Federal and non-Federal hydropower should be quantified and included in the compensation calculation if any carbon dioxide tax legislation is implemented before the final payment or offset is completed.

Also, since there is no way to reliably estimate if, when, or how a renewable portfolio standard would be implemented, the impacts would be difficult to quantify. The State of Missouri currently has voluntary goals for adopting renewable energy, but there are no mandatory targets. Southwestern's position on a renewable risk premium is the same as on a possible carbon dioxide tax: If a state or Federal mandatory renewable portfolio standard that qualifies any of the three projects studied is implemented before the final payment or offset is completed, the impacts to both Federal and non-Federal hydropower should be quantified and included in the compensation calculation.

The authorizing legislation for the White River Minimum Flows project states that the non-Federal licensee will be compensated with a one-time payment ''on the basis of the present value of the estimated future lifetime replacement costs of the electrical energy and capacity at the time of implementation of the White River Minimum Flows project.'' If the compensation to the non-Federal licensee were changed from a one-time payment to payments over a number of years, compensation for the impacts of a carbon dioxide tax or a renewable portfolio standard for the remainder of the payments should be computed and applied if either were implemented during that series of payments.

2. *Comment.* ''With a carbon tax of some type expected to be enacted in the near future, Staff believes that a factor must be added to account for it. While it is true, as the SWPA study pointed out, that the level of the tax is not now known, Staff does not consider 'zero' to be an acceptable estimate.''

Response: See response to Comment 1.

3. *Comment.* ''While there is not currently in place any statutory or regulatory scheme which places a price upon the emission of CO_2, such potential costs exist during the lifetime of the study.''

Response: See response to Comment 1.

I. Other

1. *Comment.* ''Please change the references in your report from 'Powersite Dam' to 'Ozark Beach' as that is the official name of the facility.''

Response: Concur. All references to Powersite Dam in Southwestern's report have been changed to Ozark Beach.

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ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8583–4]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202–564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 11, 2008 (73 FR 19833).

Draft EISs

EIS No. 20070526, ERP No. D–AFS–J65503–WY, Thunder Basin National Grassland Prairie Dog Management Strategy, Land and Resource Management Plan Amendment #3, Proposes to Implement a Site-Specific Strategy to Manage Black Trailed Prairie Dog, Douglas Ranger District, Medicine Bow-Routt National Forests and Thunder Basin National Grassland, Campbell, Converse, Niobrara and Weston Counties, WY.

Summary: EPA expressed environmental concerns about alternatives, impacts to the black-footed ferret and the use of lethal control of prairie dog colonies. EPA recommended development of a non-lethal management alternative. Rating EC2.

EIS No. 20080032, ERP No. D–AFS–J65505–C0, Durango Mountain Resort Improvement Plan, Special-Use-Permits, Implementation, San Juan National Forest, La Plata and San Juan Counties, CO.

Summary: EPA expressed environmental concerns about impacts to lynx habitat, wetlands and water quality. Rating EC2.

EIS No. 20080060, ERP No. D–AFS–J65511–SD, Upper Spring Creek Project, Proposes to Implementation Multiple Resource Management Actions, Mystic Ranger District, Black Hills National Forest, Pennington County, SD.

Summary: EPA expressed environmental concerns about project impacts to water quality and a lack of specificity regarding impacts to wetlands, and requested additional information on restoring water quality in Spring Creek, from its headwaters to Sheridan Lake, which is water quality impaired. Rating EC2.

EIS No. 20080106, ERP No. D–AFS–J39039–CO, Long Draw Reservoir Project, Re-Issue a Special-Use-Authorization to Water Supply and Storage to Allow the Continued Use of Long Draw Reservoir and Dam, Arapaho and Roosevelt National Forests and Pawnee National Grassland, Grand and Larimer Counties, CO.

Summary: EPA expressed environmental concerns about the