

**BONNEVILLE POWER ADMINISTRATION
NATIONAL ENVIRONMENTAL POLICY ACT
RECORD OF DECISION**

**for the
Safety-Net Cost Recovery Adjustment Clause (SN CRAC)
Adjustment to 2002 Wholesale Power Rates**

INTRODUCTION

The Bonneville Power Administration (BPA) has decided to implement its proposed Safety-Net Cost Recovery Adjustment Clause (SN CRAC) Adjustment to 2002 Wholesale Power Rates. This rate adjustment allows BPA to address potential revenue shortfalls and recover its costs through rates. This rate adjustment involves implementation of one of BPA's existing risk mitigation tools that has been previously subject to review under the National Environmental Policy Act (NEPA), as described more fully below. I have reviewed this previous NEPA documentation and determined that the SN CRAC rate adjustment is adequately covered within the scope of this previous NEPA documentation, and that this rate adjustment would not result in significantly different environmental effects. I therefore have determined that it is appropriate to tier this SN CRAC Record of Decision (ROD) to the August 15, 1995, Business Plan ROD for the Business Plan Final Environmental Impact Statement, DOE/EIS-0183, June 1995 (Business Plan EIS).¹

The possibility of increasing BPA revenues to address potential revenue shortfalls through response strategies such as raising rates was identified and evaluated in the Business Plan EIS, and was included as part of the Market-Driven alternative adopted by the Administrator in the Business Plan ROD. In BPA's subsequent Power Subscription Strategy and ROD, a CRAC was identified as a specific risk mitigation tool to allow BPA to address potential revenue shortfalls. This tool was further refined in BPA's 2002 Wholesale Power Rate Adjustment Proceeding for Fiscal Year (FY) 2002-2006 rates (WP-02 Rate Case). This tool was refined yet again in June 2001 as part of BPA's Supplemental Proposal, which established the SN CRAC as one of three CRACs to allow BPA to address potential revenue shortfalls. Thus, implementation of this SN

¹ Although BPA has elected to prepare a tiered ROD for this proposal, BPA recognizes that this proposal likely could be categorically excluded from NEPA evaluation pursuant to U.S. Department of Energy NEPA regulations, which are applicable to BPA. More specifically, this proposal appears to fall within Categorical Exclusion B4.3, found at 10 CFR 1021, Subpart D, Appendix B, which provides for the categorical exclusion from NEPA documentation of "[r]ate changes for electric power, power transmission, and other products or services provided by a Power Marketing Administration that are based on a change in revenue requirements if the operations of generation projects would remain within normal operating limits." Nonetheless, BPA has laid out a strategy in the Business Plan EIS and ROD for NEPA compliance concerning future business-related decisions, and believes that a tiered ROD with its attendant public process is an appropriate means for ensuring NEPA consideration of this proposal.

CRAC represents the implementation of one of BPA's risk mitigation tools that was conceptually identified and evaluated in the Business Plan EIS and ROD, and more specifically identified and evaluated under NEPA as part of BPA's Power Subscription Strategy and WP-02 Rate Case.

SUMMARY OF THE SN CRAC RATE ADJUSTMENT

This section summarizes information from the 2003 Safety-Net Cost Recovery Adjustment Clause Final Proposal – Final Study (SN-03-FS-BPA-01) issued in June 2003 for this proposed rate adjustment. For more detailed information concerning this proposal, please see the Final Study.

The SN CRAC involves a 3-year, contingent variable adjustment to power rates. The SN CRAC has a cap limiting the amount of revenues that can be collected each year. BPA's 2002 WP-02 power rate filing, which was granted interim approval by the Federal Energy Regulatory Commission (FERC) in September 2001, included base power rates and, among other rate features, three separate CRACs. These three CRACs are the Load-Based (LB) CRAC, which is designed to cover augmentation costs, the Financial-Based (FB) CRAC, which is designed to help ensure sufficient net revenues, and the SN CRAC, which is available if the likelihood of missing a Treasury payment or payment to any other creditor is 50 percent or greater despite the implementation of the LB and FB CRACs. These CRACs allowed BPA to keep base rates low and to address financial shortfalls through the variable CRACs, rather than institute higher base rates for the entire rate period. These tools also gave BPA the risk mitigation necessary to have a sufficiently high probability of repaying its obligations to the U.S. Treasury (as measured by Treasury Payment Probability or TPP).

In January 2003, BPA's forecasts indicated a 50 percent or greater chance of missing a payment to the U.S. Treasury or another creditor during FY 2003. On February 7, 2003, the BPA Administrator determined that it was necessary to trigger the SN CRAC rate adjustment process. The Administrator published a Federal Register Notice on March 13, 2003 announcing his intent to initiate an expedited rate hearing process in accordance with Section 7(i) of the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), §16 U.S.C. §839e(a)(1). See *Bonneville Power Administration's Proposed Safety-Net Cost Recovery Adjustment Clause Adjustment to 2002 Wholesale Power Rates*, 68 Fed. Reg. 12048 (2003).

The SN CRAC design is somewhat similar to the existing FB CRAC, which is described more fully in BPA's 2002 General Rate Schedule Provisions (GRSPs). The SN CRAC will be implemented in addition to the FB CRAC. As provided in section II.F.3 of BPA's 2002 GRSPs, the SN CRAC will enable BPA to implement an upward adjustment to posted power rates subject to the FB CRAC by modifying the FB CRAC parameters. BPA's proposal includes, consistent with the GRSPs, changes to the Maximum Planned Recovery Amount (the amount of revenues planned to be recovered), the duration (the length of time the SN CRAC can be in place, which can be more than one year), and the timing of collection. These modifications will achieve, to the extent market and other risk factors allow, a high probability that the remaining Treasury payments during the FY 2002-2006 rate period will be made in full.

The SN CRAC's temporary, upward adjustment to posted power rates will be based on the GRSPs developed as a result of the SN CRAC rate case, which will conclude on June 30, 2003. The proposed SN CRAC rate adjustment will be determined annually, and go into effect October 1 of each year, and be in effect for the remainder of that fiscal year. The adjustment will be applied to the appropriate rates for the 12-month fiscal year. The SN CRAC is expected to adjust rates sufficient to achieve a TPP of 80 percent for the remainder of the rate period.

BPA'S BUSINESS PLAN EIS AND ROD

In order to participate successfully in the increasingly competitive wholesale electricity market, BPA recognized in the 1990s that it needed an adaptive policy to guide the agency in meeting both its business and public service missions. BPA therefore prepared the Business Plan EIS and Business Plan ROD to support a number of decisions, including decisions to establish rates for products and services in rate cases in 1995 or thereafter. Business Plan EIS, section 1.4. BPA identified several purposes for consideration, including: achieving strategic business objectives; competitively marketing BPA's products and services; providing for equitable treatment of Columbia River fish and wildlife; achieving BPA's share of the Northwest Power Planning Council (Council) conservation goal; establishing rates that are easy to understand and administer, stable and fair; recovering costs through rates; meeting legal mandates and contractual obligations; avoiding adverse environmental impacts; and establishing productive government-to-government relationships with Indian Tribes. *Id.*, section 1.2; Business Plan ROD, sections 5 and 6.

BPA's Business Plan EIS evaluates six alternative business directions: Status Quo (No Action); BPA Influence; Market-Driven; Maximize Financial Returns; Minimal BPA; and Short-Term Marketing. Each of the six alternatives provides policy direction for deciding 19 major policy issues that fall into five broad categories: Products and Services, Rates, Energy Resources, Transmission, and Fish and Wildlife Administration. Business Plan EIS, section 2.4. Four policy options, or modules, including rate design, were developed to allow variations of the alternatives. The alternatives and modules are designed to cover the range of options for the important issues affecting BPA's business activities, as well as the impacts of those options, and variations can be assembled by matching issues and substituting modules among the six alternatives. *Id.*, section 2.1.2. All of the alternatives and modules are examined under two widely different hydro operations strategies that served as "bookends" for reasonably possible hydro operations. These alternatives thus represent a range of reasonable alternatives for BPA's business activities and BPA's ability to balance costs and revenues.

The Business Plan EIS focuses on BPA relationships to the market. Previous environmental studies for key BPA actions had shown that actual environmental impacts are determined by the responses to BPA's marketing actions, rather than by the actions themselves. *Id.*, sections 2.1.5 and 4.1.2. Four types of market responses are identified: resource development; resource operations; transmission development and operation; and consumer behavior. These market responses determine the environmental impacts, which include air, land, and water impacts, as well as socioeconomic impacts. *Id.*, Figure 2.1-1 and figure S-2. Figure 2.4-1 shows how

decisions on key issues that change BPA rates affect market responses and affect the environment. *Id.*, section 2.4.2.1.

To determine potential environmental consequences from the alternatives, the EIS identifies general market responses to key policy issues. *Id.*, Table 4.2-1. The market responses for products and services are discussed for each of the alternative business directions, and the market responses for rates are also discussed. *Id.*, sections 4.2.1 and 4.2.2. The market responses and the environmental consequences are discussed both in general terms and in terms specific to each alternative. *Id.*, section 4.3. Table 4.3-1 details the typical environmental impacts from power generation and transmission. Section 4.4 presents the cumulative market responses and environmental impacts by alternative under two “bookend” hydro operation scenarios. Table 4.4-19 summarizes the key environmental impacts by alternative. *Id.*, section 4.4.3.8. In addition, Appendix B to the Business Plan EIS includes an extensive evaluation, including market response and environmental impacts, of rate design. *Id.*, Appendix B.

Thus, the Business Plan EIS is based on a “relationship analysis” – that is, BPA has quantitatively and qualitatively evaluated relationships between variables in the short run, and assumed that these relationships will hold true in the long term. While section 4.4.3 of the Business Plan EIS does provide a discussion of possible rate levels, this discussion was provided as an illustrative example only, and was not intended to be relied on for quantitative comparisons in the future. This limitation of the numerical example was based on a recognition that quantifying the multiple permutations of risk factors would provide information of dubious validity and usefulness because each element of risk has a degree of “fuzziness,” and multiplying these risk factors correspondingly multiplies the degree of uncertainty. As discussed in the EIS, “[a]lthough this EIS includes rough numerical estimates of the rate, load, resource, and environmental effects of the six alternatives, it is clear that these values, especially in relation to the dynamics of the market, are only a snapshot in time, an illustration of the relationships among the market influences; they are not conclusive as to the ultimate outcome.” *Id.*, section 4.4.1.1.

As can be seen from the environmental analysis presented in the Business Plan EIS, the potential environmental impacts of all business direction alternatives fall within a fairly narrow band, and several of the key impacts are virtually identical across alternatives. In addition, the costs of environmental externalities differ only slightly among alternatives. *Id.*, Table 4.4-20. Thus, the differences among alternatives in total environmental impacts are relatively small.

Each of the alternative business directions examined in the Business Plan EIS is also evaluated against the purposes for the action to determine how well each of the alternatives meets the need. *Id.*, section 2.6.5; Business Plan ROD, Table 2. Based on the evaluation of potential environmental impacts and the comparison of each alternative to the identified purposes, the Administrator chose the Market-Driven alternative. Business Plan ROD, section 6. Although the Status Quo and the BPA Influence alternatives were the environmentally preferred alternatives, the differences among alternatives in total environmental impacts were relatively small and BPA’s ability to meet its public and financial responsibilities would be weakened under these alternatives. In addition, other business aspects, including loads and rates, showed greater variation among the alternatives. The Market-Driven alternative strikes a balance

between marketing and environmental concerns. It also assists BPA in maintaining the financial strength necessary to continue a relatively high level of support for public service benefits, such as energy conservation and fish and wildlife mitigation activities.

In recognizing that the Administrator could select a variety of actions, BPA included many mitigation response strategies in the Business Plan EIS and ROD to address changed conditions and allow the agency to balance costs and revenues. These response strategies include measures that BPA could implement to increase revenues (including rates), decrease spending, and/or transfer costs if its costs and revenues do not balance. Business Plan EIS, section 2.5; Business Plan ROD, section 7. These mitigation strategies enable BPA to best meet its financial, public service, and environmental obligations, while remaining competitive.

The Business Plan EIS and ROD also documented a decision strategy for tiering subsequent business decisions to the Market-Driven approach. *Id.*, section 1.4; Business Plan ROD, section 8. For each such decision as appropriate, the BPA Administrator reviews the Business Plan EIS and ROD to determine if the proposed subsequent action falls within the scope of the Market-Driven Alternative evaluated in the EIS and adopted in the ROD. If the action is found to be within the scope of this alternative, the Administrator may tier his decision for the proposed action under NEPA to the Business Plan ROD and thus issue a “tiered” ROD. Tiering a ROD to the Business Plan ROD helps BPA delineate decisions clearly, and provides a logical framework for connecting broad programmatic decisions to more specific actions. Business Plan EIS, section 1.4.

RELEVANT SUBSEQUENT TIERED RODS

In December 1998, BPA issued an Administrator’s ROD for its Power Subscription Strategy, which is a strategy for distributing to BPA customers the electric power generated by the Federal Columbia River Power System (FCRPS), within the framework of existing law. The Power Subscription Strategy addressed the availability of power, described power products and contracts, and provided strategies for pricing, including risk management and possible implementation of a CRAC. The Power Subscription Strategy also further refined rate design approaches to be used to establish rates during subsequent power and transmission rate cases.

As part of its consideration of Power Subscription Strategy, BPA conducted a NEPA evaluation of the Strategy. This NEPA evaluation is described in the December 1998 NEPA ROD that was prepared and issued separately from the Administrator’s Power Subscription Strategy ROD. Consistent with the approach laid out in the Business Plan EIS and ROD for tiering subsequent business decisions, the Administrator reviewed the Business Plan EIS and ROD to determine if the Power Subscription Strategy was within the scope of the Market-Driven Alternative evaluated in the EIS and adopted in the ROD. In the NEPA ROD, the Administrator noted that the Power Subscription Strategy is a direct application of BPA’s Market-Driven approach adopted in the Business Plan ROD, and that the potential environmental impacts of the Power Subscription Strategy were adequately covered in the Business Plan EIS. NEPA ROD, at 1, 16, and 22. The Administrator also noted that the risk management strategies, such as a CRAC, in the Power Subscription Strategy are consistent with the mitigation response strategies in the Business Plan EIS and ROD. *Id.*, at 10. The Administrator thus determined that the Power

Subscription Strategy is clearly within the scope and consistent with the Business Plan EIS and the Market-Driven alternative adopted in the Business Plan ROD. *Id.*, at 1-2. BPA thus tiered its NEPA ROD for Power Subscription Strategy to the Business Plan ROD.

In addition to the Power Subscription Strategy NEPA ROD, BPA conducted a NEPA analysis for the WP-02 Rate Case. The Administrator's ROD for the 2002 Final Power Rate Proposal prepared in May 2000 included this NEPA analysis. WP-02-A-02, at 18-50 to 53. This analysis addressed the various elements of the WP-02 proposal, including the possible use of a CRAC to allow BPA to address potential revenue shortfalls. *Id.*; also see WP-02-A-02 sections 7.1 and 7.3. The Administrator noted that the WP-02 proposal includes many features that would help BPA achieve the goals of BPA's Power Subscription Strategy, including use of a CRAC. WP-02-A-02, at 18-50 to 51. The Administrator thus found the WP-02 proposal to be consistent with the Power Subscription Strategy and its associated ROD. WP-02-A-02, at 18-51. In addition, the Administrator determined that the WP-02 proposal fell within the scope of the Business Plan EIS based on a review of the Business Plan EIS and its evaluation of environmental impacts related to various rate design issues for BPA's power products and services. *Id.* The Administrator therefore found that the WP-02 proposal was consistent with the Business Plan as well as the Business Plan EIS and ROD. *Id.* Thus, the NEPA analysis included in the Administrator's ROD was properly tiered to the Business Plan ROD. *Id.*

In December 2000, BPA announced proposed amendments to the WP-02 proposal. *Proposed Amendments to 2002 Wholesale Power Rate Adjustment Proposal*, 65 Fed. Reg. 75,272 (2000). After BPA released these proposed amendments, changes in reserve forecasts and market prices led to settlement discussions between BPA and rate case parties. After a Partial Settlement Agreement was reached with many of these parties, BPA prepared a June 2001 Administrator's ROD for the 2002 Supplemental Power Rate Proposal. WP-02-A-09. This Supplemental Proposal reflected the three separate CRACs (including the SN CRAC that is the subject of the current rate case) that were negotiated with the parties as part of the terms of the Partial Settlement Agreement. See WP-02-A-09 section 4.1. Like the May 2000 Administrator's ROD, the Administrator's ROD for the Supplemental Proposal included a NEPA analysis. *Id.*, at 9-28 to 29. This analysis was intended to supplement the NEPA analysis prepared for the 2002 Final Power Rate Proposal in order to reflect the changes contained in the Supplemental Proposal. In this analysis, the Administrator noted that the Supplemental Proposal was a continuation of the WP-02 rate proposal and that BPA had again reviewed the Business Plan EIS to determine if the Supplemental Proposal was within the scope of the Business Plan EIS and the Market-Driven alternative adopted in the Business Plan ROD. *Id.*, at 9-28. The Administrator concluded that,

After reviewing the proposed modification in light of the Business Plan EIS, it is clear that the decisions contained in this ROD are consistent with the Market-Driven alternative.

Id., at 9-29. Thus, the NEPA ROD prepared for the WP-02 rate proposal reflected the 2002 Final Power Rate Proposal, as well as changes embodied in the Supplemental Proposal.

ENVIRONMENTAL ANALYSIS

A review of the Business Plan EIS clearly shows that the potential environmental impacts from BPA's SN CRAC rate adjustment proposal are adequately covered by this EIS. BPA's Business Plan EIS focused on the relationships of BPA to the market. Business Plan EIS, section 2.1. BPA's marketing actions do not have a direct effect on air, land, and water. Previous environmental studies (e.g., Initial Northwest Power Act Power Sales Contracts EIS, January 1992; and Final Environmental Assessment: 1993 Wholesale Power and Transmission Rate Adjustment, February 1993) showed that environmental impacts are determined by the responses to BPA's marketing actions, rather than by the actions themselves. These market responses, discussed in detail in section 4.2 of the Business Plan EIS, are resource development (including conservation), resource operation, transmission development and operation, and consumer behavior. With this knowledge, BPA used market responses as the foundation for the environmental analysis of alternatives and modules in sections 4.4 and 4.5 respectively of the Business Plan EIS.

These market responses that determine the environmental impacts also determine whether BPA's costs will exceed the level of maximum sustainable revenue. If BPA were unable to balance its revenue and costs, the agency would need to pursue a response strategy. As discussed previously, these response strategies for revenue shortfall fall into three general categories: increase revenues, reduce spending, and transfer costs. BPA's goal in selecting among available response strategies is to achieve a cumulative change in costs, revenues, or spending responsibilities that is enough to enable BPA to meet its financial obligations, including Treasury payments, while continuing to compete in the regional electric energy market and provide public benefits. Application of these response strategies mitigates the economic and social impacts of cost and revenue imbalance and enhances BPA's ability to meet its public benefit obligations, including investments in conservation and fish and wildlife mitigation and recovery.

BPA's Business Plan ROD documents BPA's decision to pursue a business direction outlined in the Market-Driven BPA alternative, including response strategies to adapt quickly to the evolving marketplace. The Administrator committed to apply as many mitigation response strategies as necessary to balance costs and revenues and to meet BPA's public service and environmental obligations while remaining competitive in the marketplace. The Market-Driven approach provides the basic policy direction to decide a number of subsequent issues.

As discussed previously, BPA's Power Subscription Strategy is a direct application of the Market-Driven approach adopted in the Business Plan ROD. Acknowledging that BPA faces a number of uncertainties (hydro conditions, market prices, operating costs, and fish and wildlife costs) that could affect its success, the Power Subscription Strategy includes a Risk Management Strategy. Risk management tools, such as a CRAC, are available to make sure BPA's costs and public responsibilities are met despite these uncertainties. In its NEPA ROD for Power Subscription Strategy, the Administrator found the risk management tools in the Power Subscription Strategy are consistent with the response strategies in the Business Plan EIS. NEPA ROD, at 10. BPA has already decided (in the Business Plan ROD) to implement as many response strategies, or equivalents, as necessary to balance costs and revenues. Although the Administrator determined through the Power Subscription Strategy that CRACs would be a tool, the size and implementation details were to be addressed in the 2002 Power Rate Case.

As discussed previously, the May 2000 Administrator's ROD for the 2002 Final Power Rate Proposal contained a single CRAC. Subsequently, extraordinary changes in the wholesale electricity market threatened to overwhelm the cost recovery capability of the May 2002 Proposal. BPA thus issued an Amended Proposal designed to recover the incremental costs and to mitigate the incremental risks brought about by the upheaval in the market. The June 2001 Administrator's ROD for the 2002 Supplemental Power Rate Proposal replaced the single CRAC with a three-component CRAC: LB CRAC, FB CRAC, and SN CRAC.

The SN CRAC is just one tool available under the "increasing revenues" response strategy for the Business Plan EIS and ROD aimed at re-balancing BPA's costs and revenues. The decision to implement response strategies, such as the SN CRAC, to balance costs and revenues has previously been documented in the Business Plan ROD, the tiered Power Subscription Strategy NEPA ROD, and the two WP-02 Rate Case RODs. This SN CRAC ROD further documents the Administrator's decision to implement a response strategy he had earlier announced was a risk management tool he would use to balance BPA's costs and revenues. Based on a review of the environmental impacts contained in the Business Plan EIS and the consistency of the SN CRAC with the risk mitigation tools identified and evaluated in the Business Plan EIS, it is not expected that implementation of the SN CRAC rate adjustment would result in different impacts from those described in the Business Plan EIS.

PUBLIC PROCESS

Public process is integral to BPA decisionmaking. BPA has involved the public (and in particular, the parties to the SN CRAC rate case) at numerous points during the development of BPA's risk mitigation tools, such as the currently-proposed SN CRAC rate adjustment, intended to address potential revenue shortfalls. This public involvement has informed the public of BPA's possible risk mitigation strategies, allowed the public to comment on these strategies, and, in some instances, has helped shape how these strategies are to be implemented.

The public has been given public involvement opportunities not only at the current implementation stage for this rate adjustment, but also during the period when risk mitigation tools such as this rate adjustment were being conceptualized and refined. The Business Plan EIS was one such opportunity. Among other things, the Business Plan EIS identified and evaluated risk mitigation tools to address potential revenue shortfalls, including increasing BPA revenues by raising rates. The Business Plan Draft EIS was distributed for public review and comment in June 1994, and a public meeting was held in Portland, Oregon on September 7, 1994, to receive comments on the Draft EIS. BPA received 30 letters from the public that raised comments concerning the Business Plan Draft EIS. Based on comments received on the Draft EIS, corresponding changes to the Draft EIS, and other considerations, BPA decided to prepare a Supplemental Draft EIS before proceeding to a Final EIS. This Supplemental Draft EIS was distributed in March 1995 for a 45-day public review and comment period, and two public meetings were held (one in Spokane, Washington on April 4, 1995, and one in Seattle, Washington on April 5, 1995) to receive comments on the Draft EIS. A total of 13 letters were received from the public on the Supplemental Draft EIS. Public comments received on both the

Draft EIS and Supplemental Draft EIS were considered and addressed in the Business Plan Final EIS.

BPA's development of its Power Subscription Strategy also provided an opportunity for public input concerning BPA's potential risk mitigation tools. Among other things, this Strategy specifically included the possibility of a CRAC to allow BPA to address potential revenue shortfalls. In early 1997, BPA and the Pacific Northwest Utilities Conference Committee (PNUCC) invited 2800 interested parties throughout the Pacific Northwest to help further define Subscription. The collaborative effort to design a Subscription process began with a March 1997 public kickoff meeting, where a BPA/customer design team presented a proposed work plan, including a description of NEPA coverage for Subscription. In addition, meetings of the Subscription Work Group, which were open to the public, were normally held twice a month from March 1997, through September 1998. An average of 40-45 participants – representing customers, customer associations, tribe, state governments, public interest groups, and BPA – attended these meetings

In addition to the March 1997 kick-off meeting for the Power Subscription Strategy, two other regional meetings in December 1997 and June 1998 were held specifically to ensure the public understood and had an opportunity to participate in the Subscription process. BPA also conducted a series of meetings around the region. These meetings, which were part of the public involvement process known as "Issues '98," covered many regional subjects. Issues related to Subscription were key topics in the discussions at those meetings. The public comment period for Issues '98 closed June 26, 1998.

In September 1998, BPA released its Power Subscription Strategy Proposal, which laid out BPA's strategy for retaining the benefits of the FCRPS for the Pacific Northwest after 2001, including possible use of a CRAC. This proposal incorporated information received from customers, tribe, fish and wildlife interest groups, industries and other constituents. The public was invited to participate in two comment meetings (one in Spokane, Washington, on October 8, 1998, and one in Portland, Oregon, on October 14, 1998). The comment period for the proposal closed October 23, 1998, although all comments received after that date were considered. BPA received over 200 separate written comments on the proposal from numerous tribes, states, utilities, industries, customers, public interest groups, and citizens. These comments were considered and addressed in the Power Subscription Strategy Administrative ROD, which was issued on December 21, 1998. BPA also distributed a NEPA ROD tied to the Business Plan ROD for its Power Subscription Strategy on this date; this NEPA ROD was distributed to all interested and affected persons and agencies in the region, and was made available on BPA's website.

Public process was also provided as part of the WP-02 Rate Case, which further refined the CRAC that could be implemented to allow BPA to address potential revenue shortfalls. Beginning in late 1999, BPA sponsored a series of workshops on a variety of issues, including risk management, related to its ratemaking in the WP-02 Rate Case. These workshops were held between BPA and interested parties to develop a common understanding of the issues and to freely exchange ideas and propose alternative solutions to issues in specific areas when possible.

In May 2000, BPA signed and issued an Administrator's ROD for the 2002 Final Power Rate Proposal, which reflected the ideas and proposals of interested parties where appropriate. As discussed under "Relevant Subsequent Tiered RODs," this Administrator's ROD included a NEPA analysis that found the proposal to be consistent with and within the scope of the Business Plan EIS and ROD, and thus tiered the Administrator's ROD to the Business Plan ROD under NEPA. At the time the Administrator's ROD was issued, BPA's power rates for the Fiscal Year 2002-2006 rate period included the possible use of the single CRAC initially identified in the Power Subscription Strategy to address potential revenue shortfalls and allow BPA to keep base rates low and deal with financial shortfalls by implementing a CRAC rather than raising base rates. BPA filed its proposed rates with FERC on July 6, 2000.

After filing its 2002 proposed power rates, BPA recognized that recent changes in the power market required the agency to consider adjusting the filing to insure that BPA's probability of making its annual payment to the U.S. Treasury was at acceptable levels through the FY 2002-2006 rate period. BPA thus initiated a public comment period and notified rate case parties in October 2000 of its intent to undertake a limited section 7(i) rate case proceeding for an Amended Proposal in the WP-02 Rate Case, and issued this Amended Proposal in December 2000.

However, additional power market changes subsequent to the release of the Amended Proposal required BPA to consider significant changes to the Amended Proposal. BPA began settlement discussions with rate case parties to resolve how these changes should be addressed. As a result of these discussions, BPA and many of the rate case parties reached a Partial Settlement Agreement. A key aspect of the Partial Settlement Agreement was an agreement among BPA and the parties to replace the single CRAC included in the Administrator's ROD for the 2002 Final Power Rate Proposal with three separate CRACs (including SN CRAC) to further enhance BPA's ability to deal with financial shortfalls through CRACs rather than raising base rates. The Partial Settlement Agreement was incorporated into the 2002 Supplemental Power Rate Proposal. BPA signed and issued an Administrator's ROD for the Supplemental Proposal in June 2001. Like the May 2000 Administrator's ROD, the June 2001 Administrator's ROD included a NEPA analysis that found the supplemental proposal still consistent with and within the scope of the Business Plan EIS and ROD.

BPA filed its supplemental proposed rates with FERC on June 29, 2001. On September 28, 2001, FERC issued interim approval for BPA's rates (including use of LB, FB, and SN CRACs). FERC provided a 30-day comment period for rate case parties to file comments regarding final confirmation and approval of BPA's rates.

As BPA's financial condition continued to deteriorate in the first half of 2002, BPA initiated a "Financial Choices" public comment process to solicit ideas and options from the public and rate case parties for addressing PBL's forecasted FY 2003-2006 financial challenges. On July 2, 2002, BPA distributed a letter to rate case parties and other interested entities in the region that announced the beginning of this public process. BPA held 10 public meetings and workshops with rate case parties, customers, public interest groups, tribes, and other interested persons during this public process. One of these workshops was held specifically to consider issues related to possible implementation of an SN CRAC; this workshop was held on August

22, 2002. After the Financial Choices public comment period closed on September 30, 2002, BPA held an additional informal workshop on October 8, 2002 to discuss SN CRAC issues with rate case parties and customers. BPA issued a Financial Choices close-out letter to the region on November 22, 2002, that outlined PBL's plan for meeting its financial challenges and deferring implementation at that time of an SN CRAC.

As BPA's financial condition continued to worsen in early 2003, the BPA Administrator triggered the SN CRAC on February 7, 2003. On March 13, 2003, notice of BPA's intent to initiate this process was published in the Federal Register. 68 Fed. Reg. at 12048. This notice included notice of BPA's intent to conduct a separate consideration under NEPA of the rate proposal, and identified possible NEPA compliance documentation that could be prepared for the proposal. *Id.*, at 12052. This notice also informed the public that BPA would hold a public hearing on April 16, 2003, and would receive public comments related to the proposal through May 1, 2003. *Id.*

In February and March 2003, BPA held six workshops with rate case parties, customers, and other interested persons to discuss issues related to SN CRAC implementation. BPA also held its field hearing for the proposed SN CRAC rate adjustment in Portland, Oregon on April 16, 2003. In addition to the notice provided by the March 13, 2003, Federal Register Notice, announcement of this hearing was posted on BPA's website and provided in regional newspapers and various BPA publications. During this hearing, BPA presented information about the proposed rate adjustment and provided the public an opportunity to ask questions and comment on the proposal.

Although NEPA issues were not raised during the public comment period that ended on May 1, 2003, a few parties to the rate case raised NEPA issues through direct testimony in the rate proceeding. Due to this interest, BPA decided in late April 2003 to hold an additional public comment period through May 27, 2003, and a public meeting on May 20, 2003, focused specifically on receiving comments on NEPA-related issues. Notice of this additional NEPA comment period and public meeting was provided in BPA's May 2003 Journal, which was distributed to the public on May 5, 2003. Notice was also posted on BPA's main website on May 5, 2003, on BPA's Environment, Fish & Wildlife website on May 12, 2003, and on BPA's PBL Power Rates webpage on May 13, 2003. Three interested persons attended the May 20, 2003, public meeting, at which NEPA-related questions were asked and answered, but no comments were made. BPA received two comment letters during the additional public comment period. NEPA-related issues raised in these letters (as well as NEPA-related issues raised by rate case parties through their testimony and briefs) are addressed in the following section of this ROD.

RESPONSES TO COMMENTS RECEIVED ON THIS PROPOSAL

This section summarizes public comments received during the NEPA review for this rate adjustment proposal, and provides responses to these comments. NEPA public involvement activities for this proposal are described above in the "Public Process" section of this ROD.

BPA received two comment letters in conjunction with its NEPA review for the SN CRAC rate adjustment – one from the Generating Public Utilities (GPU) and Public Power Council (PPC), and one from the NW Energy Coalition (NVEC). In addition, three parties to the SN CRAC rate case raised issues in their rate case briefs regarding BPA’s compliance with the National Environmental Policy Act (NEPA) for this rate proposal. GPU Brief, SN-03-B-GP-01, at 8-9; GPU Ex. Brief, SN-03-R-GP-01, at 16-17; Canby Utility Board (CUB) Brief, SN-03-B-CA-01, at 20-22; CUB Ex. Brief, SN-03-R-CA-01, at 14-15; Columbia River Inter-Tribal Fish Commission (CRITFC)/Yakama Nation (YN) Brief, SN-03-B-CR/YA-01, at 47-48; CRITFC/YN Ex. Brief, SN-03-R-CR/YA-01, at 9. GPU, CRITFC/YN, and Save Our Wild Salmon Coalition (SOS)/NVEC also submitted direct testimony in the rate case concerning BPA’s NEPA compliance strategy for the SN CRAC rate proposal. Lovely, *et al.*, SN-03-E-GP-01, at 11-23; Sheets, *et al.*, SN-03-E-CR/YA-01, at 7; Weiss, SN-03-E-SA-01, at 20-22. The following summarizes by topic the NEPA-related comments that BPA received, and provides responses to these summarized comments.

Comment: BPA should prepare a new EIS for the SN CRAC rate adjustment proposal because they believe a variety of conditions in the region have changed or were not anticipated in the Business Plan EIS and were not considered when the Business Plan ROD was issued. GPU/PPC believe there is a significant difference in DSI loads that makes the analysis of economic and environmental effects inadequate. GPU, GPU/PPC, and CUB all suggest that the Business Plan EIS and ROD assumed BPA would implement tiered rates and the current design differs significantly. GPU/PPC further believe that BPA’s multiple rate surcharges have led to a level of rate instability that is inconsistent with a market-driven BPA. GPU/PPC also assert BPA has established a new financial policy, under which revenue targets are no longer driven by plans to spend money in the Northwest, but instead are driven by advanced payments to the U.S. Treasury.

Response: The Business Plan EIS was premised on BPA’s need for an adaptive business policy to enable the agency to meet the challenges and changes in the electric utility market effectively and efficiently. As is stated in the first sentence of the first chapter of the EIS, the need for the Business Plan EIS stems from the increasingly dynamic nature of the electric utility market. As new elements arise in the marketplace, whether predictable or not, the Business Plan EIS allows BPA to respond to changes or new elements accordingly. The structure of the EIS, including the relationship-based analysis and the use of modules for key issues, facilitates the ability of the agency to respond to the changes in the market.

The Business Plan EIS acknowledged that BPA’s power sales to DSIs are a subject of considerable contention in the region. The DSI modules in the EIS test a variety of service arrangements with the DSIs, including no new firm power sales contracts. Although that module was not intrinsic to the Market-Driven alternative, it was determined it could be substituted as a variable element for the Market-Driven BPA alternative. The potential environmental impacts of the various modules were analyzed in the Business Plan EIS. In addition, the Business Plan EIS included an assessment of the market responses of BPA’s customers to increases in BPA’s rates for products and services. As Figure 4.4.1 shows, DSIs could respond by absorbing part or all of the rate increase, improving energy efficiency, developing their own resources or changing

operation, curtailing production, or shutting down plants. In section 4.4.5 of the EIS, BPA acknowledges that the analysis of market responses is based on a number of assumptions about conditions in the regional electric energy market. One of the key planning uncertainties is a change in aluminum price. BPA's revenues and its operational relationship with the aluminum plants are affected by changes in the price of aluminum. Depending upon electricity rates and the "break-even" aluminum price, DSIs could remain operating or shut down completely. Both the environmental and economic impacts were assessed.

Rate design was another key issue addressed in the Business Plan EIS. As discussed on page 1-5 of the EIS, "*representative rate designs* are included as components of the alternatives analyzed in this EIS, as policy modules, and in the assessment of cumulative impacts of the alternatives." In fact, rate design policy modules were developed to address rate design issues of special concern. Three of the eight rate design policy modules encompassed different points of view concerning the possible application of tiered rates to BPA firm power sales. Also, the EIS included an entire appendix, Appendix B, devoted to rate design. Appendix B shows the limited ways rates may actually be set and examines a wide range of possible rate design alternatives. In addition, the Rate Design Appendix describes and evaluates the probable market responses by both BPA customers and end-use consumers, as well as the potential environmental impacts, for each rate design.

The Market-Driven BPA alternative included, in the short term, adopting new rates without using a tiered rate structure. Tiered rates appeared to be a disincentive to doing business with BPA and at odds with the customer focus of the alternative. In the long term, however, the adoption of tiered rates was contemplated. The analysis in the Business Plan EIS included an assessment of the market responses and environmental impacts of both tiered and untiered rates.

The various CRACs are not multiple surcharges; rather they are adjustments, designed to keep rate increases as low as possible while providing certainty BPA can balance costs and revenues. The CRACs are risk management tools that enable BPA to respond to the extraordinary changes in the wholesale electricity market, while maintaining the basic underpinnings of BPA's Power Subscription Strategy for marketing power during the rate period. These mitigation strategies, which were developed with regional input, are designed to enable BPA to best meet its financial, public service, and environmental obligations, while remaining competitive in the market.

A review of the Business Plan EIS shows that implementing rate adjustments is consistent with a market-driven BPA. The Market-Driven alternative in the Business Plan EIS strikes a balance between marketing and environmental concerns. In deciding on the market-driven approach, the Administrator determined it would allow BPA to use its success in the marketplace to ensure the financial strength necessary to better produce the public benefits BPA affords to the region. In the Business Plan ROD, the Administrator also determined to apply as many response strategies as necessary to avoid revenue shortfall and enhance BPA's ability to adapt to changing conditions. In a subsequent tiered ROD, the Administrator found that implementing the Power Subscription Strategy would respond to customers' needs and provide financial stability over time to provide public benefits. The Administrator also noted that the agency faces a number of uncertainties that could affect success. The Risk Management tools in the Power Subscription Strategy were found to be consistent with the response strategies in the Business Plan EIS and

the Administrator confirmed BPA's decision to use as many response strategies as necessary to mitigate for cost and revenue imbalance.

BPA must repay, with interest, the U.S. Treasury investment in the FCRPS. Full and timely Treasury repayment is integral to BPA balancing its costs and revenues. The Business Plan EIS is clear that if BPA's costs exceed the amount of revenue the agency can generate, BPA would have to undertake response strategies to try to rebalance the equation and to ensure all obligations, including repayment of debt to the U.S. Treasury, are fulfilled. The Subscription Strategy ROD took into account the risk associated with not meeting Treasury Payments and the 2002 Supplemental Power Rate Proposal expressly states that the SN CRAC "increases the security of BPA's planned payments to the Treasury...". WP-02-A-09, at 2-7. Furthermore, the Business Plan EIS anticipated changes in repayment to the Treasury. One of the major areas of planning uncertainty analyzed in section 4.4.5 of the Business Plan EIS is change in repayment of the Federal investment in the FCRPS. Two specific issues—repayment acceleration and debt refinancing—were assessed in terms of the potential effect on BPA revenues, rates, and loads.

All of these changes were anticipated and analyzed in the Business Plan EIS. Thus, BPA believes that the Business Plan EIS and ROD provide adequate support for a tiered ROD for the current SN CRAC rate adjustment proposal and a new EIS is not needed.

Comment: BPA should not tier its decision for the SN CRAC rate adjustment proposal to the Business Plan ROD because this proposal would result in different rate levels than those projected in the Business Plan EIS, and that BPA cannot rely on the Power Subscription Strategy. GPU and CUB maintain the Business Plan EIS did not encompass the level of the proposed SN CRAC rate adjustment and that SN CRAC would increase average power rates above the levels anticipated in the EIS. Similarly, GPU/PPC state the rate levels resulting from SN CRAC would exceed the rate levels analyzed in the Business Plan EIS.

Response: Whether this proposal would result in identical rate levels as were provided in the illustrative example in the Business Plan EIS is not the relevant inquiry for determining whether BPA can tier a decision for this proposal to the Business Plan ROD. The illustrative example of possible rate levels in the EIS is just that – an illustrative example. In determining whether a future decision can be tiered to the Business Plan ROD, the appropriate consideration is whether this decision is of the general type that was evaluated as part of the relationship analysis in the Business Plan EIS.

As discussed in Section 4.4.1.1, Evaluation of Alternatives in a Dynamic Electric Power Market, of the Business Plan EIS, "The key to the comparison of EIS alternatives is not in the *numerical* estimates of power rates, resource amounts, or air emissions, but the relationships that determine those values. Although this EIS includes rough numerical estimates of the rate, load, resource, and environmental effects of the six alternatives, it is clear that these values, especially in relation to the dynamics of the market, are only a 'snapshot' in time, an illustration of the relationships among the market influences; they are not conclusive as to the ultimate outcome."

Section 4.4.2, Summary of Illustrative Results Under 1994-1998 Biological Opinion Hydro Operation of the Business Plan EIS states, "This section summarizes and provides the numerical

documentation of the analysis presented in section 4.4.2. . . . [I]n the current electricity utility climate, prices and conditions are changing so rapidly that numerical analysis cannot be considered definitive. However, BPA expects that the principles behind the analysis and the behavior of parties in this business remain constant, and that the numerical analysis serves to illustrate how those behaviors and relationships work.”

In the March 13, 2003, Federal Register Notice for this proposed rate adjustment, BPA noted that the agency was in the process of conducting an initial review of the proposal under NEPA. 68 Fed. Reg. at 12052. Although the NEPA section of this notice made mention of rate levels, BPA did not intend to imply that it had prepared specific projected rate levels, or would necessarily compare potential rate levels from SN CRAC to the rate levels from the Business Plan EIS’s illustrative numerical example. Instead, BPA considered whether the proposed SN CRAC is generally similar to the type of rate *designs* examined in the Final Business Plan EIS and thus could be expected to result in similar rate levels. As discussed in this ROD, BPA has determined that the proposed SN CRAC is consistent with the Market-Driven Alternative that was evaluated in the Final Business Plan EIS and adopted by the BPA Administrator in the Business Plan ROD, and thus properly the subject of a decision under NEPA that is tiered to the Business Plan ROD.

BPA’s Business Plan EIS analyzes the factors affecting the balance between BPA’s costs and revenues. The BPA firm power rate at which rate increases no longer increase BPA’s revenues and cover its costs is the level of maximum sustainable revenue (sections 2.6.1 and 4.4.1.2). If BPA’s costs exceed the amount of revenue it can generate, the agency will run the risk of not being able to meet all its obligations, including repayment of its debt to the U.S. Treasury and the agency’s fish and wildlife and conservation obligations. BPA would then have to undertake response strategies to try to rebalance the equation and to avoid political intervention in response to missed Treasury payments. Such response strategies fall into three categories: increase revenues, reduce spending, and/or transfer costs. The Business Plan EIS describes representative response strategies BPA could pursue if costs exceed maximum sustainable revenue (section 2.5) and evaluates the potential environmental impacts of implementation. It is not necessary to calculate a specific number for maximum sustainable revenue to determine that costs and revenues do not balance. In the August 15, 1995 Business Plan ROD, BPA decided to implement as many response strategies, or equivalents, as necessary to balance costs and revenues.

Acknowledging that BPA faces a number of uncertainties that could affect its success, the Power Subscription Strategy includes a Risk Management Strategy. Risk management tools, such as a CRAC, are available to make sure BPA’s costs and public responsibilities are met despite these uncertainties. The risk management tools in the Power Subscription Strategy are consistent with the response strategies in the Business Plan EIS and ROD. Although the Administrator determined that CRAC would be a tool, the size and implementation details were to be addressed in the 2002 Power Rate Case. BPA’s Subscription Strategy ROD, issued December 21, 1998, documented that decision.

As discussed previously, the 2002 Final Power Rate Proposal ROD (May 2000) contained a single CRAC. Subsequently, extraordinary changes in the wholesale electricity market

threatened to overwhelm the cost recovery capability of the May 2000 Proposal. A Supplemental Proposal was designed to recover the incremental costs and to mitigate the incremental risks brought about by the upheaval in the market. The 2002 Supplemental Power Rate Proposal Administrator's Final ROD, released in June, 2001, replaced the single CRAC with the three-component CRAC. The SN CRAC is just one tool available under the 'increasing revenues' response strategy aimed at re-balancing BPA's costs and revenues.

The decision to implement response strategies, such as SN CRAC, to balance costs and revenues has previously been documented in the Business Plan ROD and in the tiered Subscription Strategy ROD and in the two 2002 Power Rate RODs. This SN CRAC ROD documents the Administrator's decision to implement a response strategy he had earlier announced was a risk management tool he would use to balance BPA's costs and revenues. As is acknowledged in the 'Comments of the Generating Public Utilities and the Public Power Council, May 27, 2003,' this decision would be "implementing the provisions in the current rate structure."

Comment: The Business Plan EIS was not scoped broadly enough to rely on for an analysis of the environmental and economic impacts of implementing the SN CRAC rate adjustment proposal.

Response: CUB states that although the SN CRAC adjustment runs through 2006, the study period for the Business Plan EIS ended in 2002. Section 4.1.1 of the Business Plan EIS notes that the EIS "projects actions, responses, and impacts to the year 2002, but the relationships are expected to hold true well beyond 2002." Section 4.4.1 elaborates further on the difficulties of "making reliable estimates of gas prices, electricity rates, or electrical loads for the next 12 months, much less for the year 2002..." and notes that the numerical example, which had a 2002 end-date study year, was provided to illustrate the relationship analysis. BPA believes that the relationships of BPA and the market are still applicable and the relationship analysis still provides a valid assessment of the environmental impacts of BPA's actions.

CRITFC/YN believe that a BPA failure to raise rates initially to recover all of its costs and repay Treasury on time and in full was not among the alternatives in the Business Plan EIS. To the contrary, all of the business strategies analyzed in the Business Plan EIS were alternatives for meeting BPA's need for adaptive policies to guide its marketing efforts and its administration of social obligations. One of the four factors that defined and focused that need was achieving a balance of costs and revenues. All of the alternatives in the EIS were compared in terms of environmental impact, as well as their success in balancing costs and revenues.

Similarly, NWECC believes that the EIS did not analyze a situation where BPA would adopt rates with a high risk of not meeting all of its needs, while being able to declare a hydro emergency for financial reasons. However, the possibility of BPA business decisions affecting hydro operations was fully acknowledged at the time the Business Plan EIS was prepared. Section 1.5.6 notes that the results of the then ongoing System Operation Review would define the power available to BPA from its hydro resources. As stated in the discussion of strategies for future hydro operations, "the BPEIS recognizes that river operations are likely to change, but the extent of the change is not yet known. Two river operation strategies were selected from the range of SOSs now being refined for the Final SOR EIS: these strategies encompass the range of effects

that the SOR decision might have on BPA's business activities and BPA's abilities to balance costs and revenues." Business Plan EIS, section 2.1.6.2 (emphasis in original).

Some commenters maintain BPA did not adequately evaluate environmental or economic impacts. GPU believes that the SN CRAC proposal will impact programs that affect the environment, such as the agency's investment in cost-effective conservation. However, the Administrator remains committed to achieving BPA's share of the Council's regional conservation goal. Business Plan ROD, at p. 12. This commitment was reaffirmed as part of BPA's Power Subscription Strategy. NEPA ROD, at p. 21. In fact, implementation of a response strategy such as the current SN CRAC helps ensure that BPA can balance costs and revenues to ensure that BPA can continue to provide public benefits such as conservation to the region. In addition, based on a review of the environmental impacts contained in the Business Plan EIS and the consistency of the SN CRAC rate adjustment with the risk mitigation tools identified and evaluated in the Business Plan EIS, it is not expected that implementation of the SN CRAC rate adjustment would result in different impacts from those described in the Business Plan EIS.

Although not specifically raised as NEPA comments, CRITFC/YN state that BPA did not evaluate the economic impacts to tribal and rural communities from raising rates or reducing fish and wildlife recovery activities and associated funding. Regarding potential economic impacts from raising rates, the Business Plan EIS was scoped broadly enough to generally evaluate these impacts. As discussed in Appendix B of the Business Plan EIS, it is acknowledged that consumers may feel some economic effect from BPA raising rates at the wholesale level, but the specific effect at the retail level is difficult to determine. Predicting the effect of a BPA rate increase on ultimate consumers is difficult due to the varying percentages of an individual utility's total costs represented by BPA power purchases and the rate design and rate levels used by the utility. In addition, the extent of any effect on consumers depends on several factors related to consumer behavior, as well as the amount of electricity the consumer uses and the share of electricity costs in total household budgets. Appendix B of the Business Plan EIS also acknowledges that rate increases have proportionally more impacts on lower-income households, and could disproportionately affect marginally profitable businesses and farms (especially those with high irrigation loads). Regarding funding for fish and wildlife recovery activities, BPA is not cutting fish and wildlife funding in this proposal, but rather BPA is proposing to hold fish and wildlife funding levels constant over the balance of the rate period. BPA funding levels for fish and wildlife were determined in separate public processes and the results of those processes were imported into the SN CRAC rate case proceeding.

Comment: BPA did not provide for sufficient public involvement under NEPA for the SN CRAC rate adjustment proposal because it did not conduct a proper public process and did not provide sufficient notice for its NEPA review.

Response: BPA believes that it has provided sufficient opportunities for public involvement under NEPA. The SN CRAC rate adjustment proposal is one of BPA's risk mitigation tools that have been subject to extensive public involvement efforts over the last few years. The public process provided for these risk mitigation tools is more fully described in the "Public Process" section of this ROD. These efforts have included Business Plan Draft and Supplement Draft EIS

review periods and public meetings in 1994 and 1995, as well as workshops and meetings for its Power Subscription Strategy in 1997 and 1998, its WP-02 Rate Case in 1999 through 2001, its Financial Choices public comment process in 2002, and its currently proposed SN CRAC in 2003. Appropriate notice has been provided for each of these public involvement opportunities through mailings to interested parties, publication of notices in the Federal Register and regional newspapers, inclusion of notices in various BPA publications, and postings of announcements on BPA webpages.

These public involvement activities have informed the public of BPA's possible risk mitigation strategies from the earlier conceptual stages through the current implementation stage for this SN CRAC rate adjustment. Through these activities, BPA has encouraged the public to comment on these strategies, and, in some instances, to help shape how these strategies are to be implemented. Indeed, the very concept of a three-component CRAC that included an SN CRAC arose from the Partial Settlement Agreement negotiations in 2001 with rate case parties. In addition, as described in other sections of this ROD, BPA has provided NEPA documentation for each appropriate stage of its decisionmaking, and this documentation has been distributed to interested persons and agencies, as well as rate case parties.

Concerning noticing and public process specifically for the currently proposed implementation of the SN CRAC rate adjustment, BPA also believes sufficient notice and public process was provided. As discussed in the "Public Process" section of this ROD, even before the Administrator announced his intent to initiate the SN CRAC process in February 2003, BPA held two workshops (one on August 22, 2002, and one on October 8, 2002) specifically to consider issues related to possible implementation of an SN CRAC. Six SN CRAC workshops also were held in February and March 2003. Rate case parties and other interested parties were specifically invited to attend these workshops. In addition, BPA's March 13, 2003, Federal Register Notice for the SN CRAC notified the public of the April 16, 2003, public hearing and a 49-day public comment period on the proposed rate adjustment, as well as BPA's intent to conduct a separate but concurrent NEPA review of the proposed rate adjustment. Due to interest in NEPA issues by a few of the rate case parties through their data requests and direct testimony in the rate case, BPA decided in late April 2003 to hold an additional public comment period and public meeting focused specifically on receiving comments on NEPA-related issues. Although nothing in NEPA required BPA to hold this additional comment period or meeting, BPA elected to provide this comment period and meeting to ensure that the public and rate case parties had another opportunity to raise any relevant environmental or NEPA-related issues. Notice of this additional comment period and meeting was provided through various means in early May 2003. The public meeting on NEPA issues was held on May 20, 2003, and NEPA-related comments were accepted by BPA through May 27, 2003. Because of these ample opportunities for public involvement and the more than adequate advance notice provided for these opportunities, BPA believes that it has provided sufficient public process under NEPA for the SN CRAC rate adjustment.

Comment: BPA failed to follow NEPA procedures for the SN CRAC rate adjustment proposal by not preparing NEPA documentation for its "triggering" decision and other subsequent rate proceeding decisions, and by not providing a quantitative analysis of potential environmental impacts from the rate adjustment.

Response: GPU claims that BPA failed to comply with NEPA by not evaluating the environmental impacts of the SN CRAC rate adjustment proposal at the time that the Administrator determined in February 2003 that it was necessary to trigger the SN CRAC rate adjustment process. However, the determination in February 2003 to initiate this rate adjustment process was not the consummation of the decisionmaking process requiring NEPA documentation. In other words, while the Administrator may have made a “decision” to *initiate* the SN CRAC process in February 2003, a final decision to *implement* SN CRAC had not been made at that time, nor had the final form of the SN CRAC been decided. This is evidenced by the fact that the level of the SN CRAC has been substantially reduced from the time of the initial proposal. Thus, BPA had no obligation to prepare a NEPA document specifically to support the Administrator’s announcement that the SN CRAC rate adjustment process had triggered, and has not failed to comply with NEPA. Consistent with NEPA, BPA has prepared its NEPA documentation to support the Administrator’s final decision for the rate adjustment proposal, which, for the purposes of NEPA, is construed by BPA to be the Administrator’s Final ROD for the SN-03 Rate Case.

GPU also claims that the Administrator failed to comply with NEPA by not evaluating the environmental impacts of subsequent decisions in the SN CRAC rate proceedings regarding the specific parameters of the SN CRAC and corresponding rate levels. Like the triggering of the SN CRAC process, these decisions were not final decisions under NEPA requiring NEPA documentation, and BPA thus has not failed to comply with NEPA. As noted above, BPA has properly prepared its NEPA documentation to support the Administrator’s Final ROD for the SN-03 Rate Case.

GPU and PPC also believe that not providing a separate Federal Register Notice of the NEPA process and not providing sufficient notice of public meetings are procedural defects under NEPA. These comments have been addressed above in the response to comments related to public involvement.

Further, GPU and PPC indicate that a numerical or quantitative comparison of the SN CRAC to the Business Plan EIS needs to be undertaken as part of the NEPA documentation for the SN CRAC. As discussed above in the response to comments related to rate designs and rate levels, the analysis in the Business Plan EIS focuses on relationships of BPA and the market, rather than providing a numerical or quantitative analysis. In this relationship analysis, BPA’s actions and the market reactions can be sorted into four market responses. These market responses determine the potential environmental impacts of BPA’s actions, as well as the agency’s ability to balance costs and revenues. These relationships were all thoroughly explored in the Business Plan EIS. The Administrator has reviewed the Business Plan Final EIS for this SN CRAC adjustment proposal and has determined that those relationships are still valid.

PUBLIC AVAILABILITY OF THIS ROD

This ROD, which satisfies BPA’s requirements under NEPA, will be distributed to interested and affected persons and agencies. The ROD will also be posted on BPA’s website for this rate

adjustment proposal, which is <http://www.bpa.gov/power/psp/rates/announcements.shtml>. Copies of the BPA Administrator's ROD for the SN CRAC rate adjustment, the Business Plan, Business Plan EIS, and the Business Plan ROD and additional copies of this NEPA ROD are all available from BPA's Communications Office, P.O. Box 12999, Portland, Oregon 97212. Copies of these documents may also be obtained by using BPA's nationwide toll-free document request line, 1-800-622-4520.

CONCLUSION

Based on a review of the Business Plan EIS and ROD, I have determined that the SN CRAC rate adjustment proposal is a direct application of the Market-Driven approach. This rate proposal is consistent with the competitive and unbundled yet cost-based characteristics of the Market-Driven alternative, and the issues related to this proposal are consistent with the analysis of key policy issues identified for the Market-Driven alternative. *Id.*, sections 2.2.3 and 2.6. In addition, this rate proposal is similar to the type of rate designs evaluated in the Business Plan EIS. *Id.*, sections 2.4.1.6 and 2.4.2.2, Appendix B. Due to these consistencies and similarities, implementation of this rate proposal thus would not be expected to result in significantly different environmental impacts from those examined for the Market-Driven alternative in the Business Plan EIS.

This proposed rate adjustment is also consistent with the risk management strategies BPA indicated that the agency could implement in the Power Subscription Strategy ROD. Furthermore, this proposed rate adjustment is consistent with the use of a CRAC identified in the 2002 Final Power Rate Proposal, as modified by the Supplemental Proposal, and analyzed as part of the tiered ROD for the WP-02 rate proposal. The Supplemental Proposal clearly identifies an SN CRAC as one of BPA's risk mitigation tools, and discusses the trigger for an SN CRAC rate process. WP-02-A-09 section 4.1. The design of the currently proposed SN CRAC and the trigger used for the SN CRAC rate process are wholly consistent with how this risk mitigation tool was described in the Supplemental Proposal. The CRAC component of the WP-02 rate proposal was specifically considered in the tiered ROD for the WP-02 rate proposal. *See* WP-02-A-02, at 18-50 to 51; WP-02-A-09, at 9-28 to 29. Because there has been no substantial deviation in the proposal and none that would result in significantly different environmental effects, the proposed SN CRAC rate adjustment is consistent with the WP-02 rate proposal and its associated tiered ROD.

Thus, the SN CRAC rate adjustment proposal falls within the scope of the Market-Driven alternative identified and evaluated in the Business Plan EIS and adopted by BPA in the Business Plan ROD. The decision to implement this rate proposal therefore is tiered to the Business Plan ROD, as provided for in the Business Plan EIS and Business Plan ROD.

Issued in Portland, Oregon.

/s/ Stephen J. Wright

June 30, 2003

Stephen J. Wright
Administrator

Date