
Federal/State Cooperation in the Licensing of a Nuclear Power Project

A Joint Licensing Process Between
the U.S. Nuclear Regulatory Commission and the
Washington State Energy Facility Site Evaluation Council



U.S. Nuclear Regulatory Commission
Washington, D.C. 20555



Washington State
Energy Facility Site Evaluation Council
Olympia, WA 98504

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ABSTRACT

This report summarizes and documents a joint environmental review and licensing process established between the U.S. Nuclear Regulatory Commission (NRC) and the Washington State Energy Facility Site Evaluation Council (EFSEC) in 1980-83 for the Skagit/Hanford Nuclear Project (S/HNP). It documents the agreements made between the agencies to prepare a joint environmental impact statement responsive to the requirements of the National Environmental Policy Act of 1969 (NEPA) and the Washington State Environmental Policy Act. These agreements also established protocol to conduct joint public evidentiary hearings on matters of mutual jurisdiction, thereby reducing the duplication of effort and increasing the efficiency of the use of resources of Federal and State governments and other entities involved in the process. This report may provide guidance and rationale to licensing bodies that may wish to adopt some of the procedures discussed in the report in the event that they become involved in the licensing of a nuclear power plant project. The history of the S/HNP and of the agreement processes are discussed. Discussions are provided on implementing the joint review process. A separate section is included which presents independent evaluations of the process by the applicant, NRC, and EFSEC. Cooperating Federal agencies in the environmental review included the U.S. Department of Energy, the Bonneville Power Administration, and the Bureau of Reclamation.

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ACRONYMS AND INITIALISMS

ACRS	Advisory Committee on Reactor Safeguards
AEC	U.S. Atomic Energy Commission
ASC/ER	Application for Site Certification/Environmental Report
ASLB	Atomic Safety and Licensing Board
BPA	Bonneville Power Administration
BR	Bureau of Reclamation
DEIS	draft environmental impact statement
DOE	U.S. Department of Energy
EFSEC	(Washington State) Energy Facility Site Evaluation Council
EIS	environmental impact statement
ER	environmental report
ESRP	environmental standard review plan
FEIS	final environmental impact statement
FSAR	final safety analysis report
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
NEPA	National Environmental Policy Act
NPDES	National Pollutant Discharge Elimination System
NRC	Nuclear Regulatory Commission
NWPPC	Northwest Power Planning Council
PSAR	preliminary safety analysis report
PSP&L	Puget Sound Power & Light Company
PSS	potential site study
RCW	Revised Code of Washington
SEPA	(Washington) State Environmental Policy Act
S/HNP	Skagit/Hanford Nuclear Project
SNPP	Skagit Nuclear Power Project
SSER	supplement to safety evaluation report
TPPSEC	(Washington State) Thermal Power Plant Site Evaluation Council
WAC	Washington Administrative Code
WPPSS	Washington Public Power Supply System

1 INTRODUCTION

1.1 Purpose and Scope

This report documents a joint environmental review and licensing process which was conducted by the U.S. Nuclear Regulatory Commission (NRC) and the Washington State Energy Facility Site Evaluation Council (EFSEC) for a nuclear power plant proposed for a site on the Hanford Reservation in Washington State. Although based on agreements and associations developed previously, the joint process described here began in late 1980 and continued through the summer of 1983. Because the licensing process accomplished a number of "firsts" and because these elements were conducted successfully in record time, it was felt that other State governments and utilities may wish to establish similar joint licensing processes in considering nuclear power plant licensing in the future.

The project for which this environmental review and licensing process occurred was the Skagit/Hanford Nuclear Project (S/HNP), Units 1 and 2. The project history is briefly described in Chapter 2. Although the joint licensing process project included years of planning, various delays in applying it to S/HNP occurred. When the growth of energy demand dropped dramatically in the Northwest, the final Northwest Conservation and Electric Power Plan did not include S/HNP. As a result, Puget Sound Power & Light Company (PSP&L) withdrew its application. Although S/HNP will not be built, the value of the successful planning and environmental review activities leading up to the scheduled start of public hearings on the proposal warrants documentation.

The most significant accomplishments in this joint licensing process were as follows:

- (1) first complete joint Federal/State draft environmental impact statement (DEIS) prepared for a nuclear power plant project by NRC
- (2) first application of new NRC guidelines involving specific analyses of alternative sites
- (3) first DEIS for a nuclear project prepared by NRC in which multiple Federal agencies satisfied NEPA requirements
- (4) first DEIS for a nuclear project prepared by NRC in a four-month time frame.

This report and the DEIS resulting from the joint process were prepared by NRC and EFSEC, using URS Company of Seattle, Washington, as its consultant. PSP&L provided information for the development of this report and the DEIS.

1.2 Overview of Report

The chapters of this report trace the development of the project and of the joint process. Chapter 2 provides a brief history and background of the S/HNP.

Chapter 3 summarizes the development of the joint Washington State/NRC licensing process.

Chapter 4 focuses on the environmental review conducted by NRC and EFSEC. It describes a potential site study, an alternative sites study, an application review, development of a draft and final environmental impact statement (EIS), and a safety and emergency planning review.

Chapter 5 focuses on the joint hearing process. It points out common features and differences between the hearing processes of EFSEC and NRC. It further describes how and to what extent procedural problems were worked out at the time the project was terminated.

Chapter 6 presents viewpoints of the principal participants as to how well the joint licensing process worked and provides recommendations by these parties. The sections in this chapter are printed as prepared by these participants, and thus represent their opinions. Appendices to the report include a chronology of events related to the S/HNP, copies of the joint agreements developed by NRC and EFSEC, and a list of principal participants in the joint process.

2 HISTORY OF THE SKAGIT/HANFORD NUCLEAR PROJECT

In early 1973, Puget Sound Power & Light Company (PSP&L) announced its intent to proceed with the licensing and construction of the Skagit Nuclear Power Project (SNPP) on a 1,500-acre site located about five miles northeast of Sedro Woolley, Skagit County, in northwestern Washington State. The proposed project ultimately included two nuclear units, each with a net electrical output of 1,288 megawatts (MWe). Three other utilities (Portland General Electric Company, Pacific Power & Light Company, and The Washington Water Power Company) joined PSP&L as joint owners of the SNPP.

In concert with its public announcement, PSP&L notified the Washington State Thermal Power Plant Site Evaluation Council (TPPSEC) and the U.S. Atomic Energy Commission (AEC) of its intent to file license applications with those agencies. [TPPSEC is now called the Washington State Energy Facility Site Evaluation Council (EFSEC). Federal regulation of nuclear power plant construction and operation is now conducted by the U.S. Nuclear Regulatory Commission (NRC)]. As a result of the delay in rezoning the site, PSP&L's Application for Site Certification (ASC) was not submitted to TPPSEC until March 1974. An application for a National Pollutant Discharge Elimination System (NPDES) permit was submitted to TPPSEC at the same time. The Environmental Report (ER), Request for Limited Work Authorization, and Application for Construction Permits and Operating Licenses were filed with AEC in August 1974.

Local zoning of the proposed site at the time of PSP&L's initiation of the project was "residential" and "forestry-recreational." Because PSP&L's intended project was an inappropriate use under these zoning classifications, a request for rezoning the site to "industrial" was made to Skagit County. The rezoning was approved on March 26, 1974, for a period of approximately five years. However, if construction did not commence by the last day of 1979, the rezoning agreement would terminate.

Both TPPSEC's and the AEC's decision making procedures required the preparation of an environmental impact statement and the conduct of evidentiary hearings on the proposal. Two separate environmental impact statements were prepared. TPPSEC's DEIS on the SNPP prepared pursuant to the State Environmental Policy Act (SEPA) was issued in May 1975, and the FEIS in November 1975. The NRC draft and final EISs prepared pursuant to the National Environmental Policy Act were issued in January 1975 and May 1975 (NUREG-75/055), respectively. A draft supplemental EIS was issued in July 1976 (NUREG-0089); the final supplemental EIS was issued in April 1977 (NUREG-0235).

Evidentiary hearings were also conducted separately and independently by TPPSEC and NRC. TPPSEC's initial public hearings were held for 25 days in the town of Sedro Woolley, near the proposed site, and in Olympia, the State Capitol and headquarters of TPPSEC. The TPPSEC hearings were re-opened at the request of PSP&L and intervenors in the proceeding in March and April 1976, to hear additional evidence related to issues including the need for power, energy conservation, and the geology and seismicity of the site.

The duplication of the draft and final EIS process caused unnecessary delay and expense and may have been counterproductive to public input. Separate hearings were also a duplication of effort.

Upon completion of the environmental and hearings processes, TPPSEC recommended to the Governor that site certification be granted. On December 6, 1976, the Governor signed an order granting site certification by Washington State. Accordingly a site certification agreement was completed between PSP&L and Washington State in January 1977.

AEC public meetings and hearings were conducted by an Atomic Safety and Licensing Board. In relation to the SNPP, 86 days of public meetings and hearings were conducted. These continued beyond those of the State.

During the course of the hearings, an issue arose that had a great influence on subsequent events related to the SNPP. Questions raised regarding seismic conditions in the vicinity of the SNPP led to a concern about the safety of locating the SNPP at the proposed site. Consequently, further study of this issue was required resulting in time delays in the proceedings.

It finally became apparent that because of these delays, construction of the SNPP would not begin within the period that was a condition of the rezoning agreement, and that PSP&L would need to request an extension. During this period, public sentiment with regard to locating the SNPP in Skagit County changed markedly, especially in the wake of the accident at Three Mile Island Unit 2 in March 1979. A public advisory vote requested by the Skagit County Commissioners indicated 71 percent against extending the rezoning for the proposed site. On November 27, 1979, the Skagit County Commissioners denied PSP&L's request for a rezoning extension.

As a result of the loss of zoning, increased public opposition, and perceived delays resulting from additional geological studies, PSP&L abandoned its proposal to locate the project in Skagit County. On July 17, 1980, PSP&L announced its decision to move the project to the Federal Hanford Reservation located in eastern Washington. At this point the project became known as the Skagit/Hanford Nuclear Project (S/HNP). A chronology of events occurring in the Skagit County phase and in the Hanford phase is provided in Appendix A of this report.

Documents in this report that pertain to the licensing review process in relation to the Skagit/Hanford Nuclear Project, Units 1 and 2, can be found at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC (Docket Nos. STN 50-522 and STN 50-523); the Richland Public Library, Swift and Northgate Streets, Richland, WA 99352; and the ESFEC offices at 4224 6th Ave., SE, Building #1, PY-11, Olympia, WA 98504.

3 THE JOINT FEDERAL/STATE LICENSING PROCESS

3.1 Introduction

This chapter describes the makeup and authorities of NRC and EFSEC as related to the joint process described in this report. It also describes the joint agreements signed by NRC, and the State of Washington and EFSEC. Further discussion of the actual NRC process conducted with respect to the Skagit/Hanford Nuclear Project (S/HNP) is provided in Chapter 4 of this report. The full text of the agreements is included in Appendix B.

3.2 Energy Facility Site Evaluation Council

The Washington State Energy Facility Site Evaluation Council (EFSEC) was established under Washington law [Revised Code of Washington (RCW) Chapter 80.50] to streamline the multi-permit licensing process for large and costly energy facilities such as thermal power plants, pipelines, and associated transmission facilities. EFSEC is a one-stop permitting agency with the power to issue a site certification agreement in place of all other State and local permits. Its duties include assessing impact, providing recommendations to the Governor on approval or disapproval of a proposal, establishing permit conditions, monitoring construction and operation, and enforcing compliance with certification conditions.

In conducting these activities, it is EFSEC's statutory responsibility to integrate its site evaluation activity with the activities of Federal agencies having jurisdiction in such matters to avoid unnecessary duplication, and to present Washington State concerns and interests to other States, regional organizations, and the Federal government related to the location, construction, and operation of energy facilities which may affect the environment, health, or safety of the citizens of the State of Washington [RCW 80.50.040(12)(13); Washington Administrative Code (WAC) 463-14-070].

EFSEC is a council made up of senior representatives of fourteen State agencies headed by a council chairman who is appointed by the Governor. Cities and counties within which a site is located are also represented by EFSEC.

The first formal interaction between a future applicant and EFSEC might be a potential site study, which is an optional step to examine or discuss potential problems that might be corrected or addressed before the Site Certification Application is submitted. A potential site study was prepared at the request of the applicant in the case of the S/HNP.

Once an application is submitted, a number of additional steps are scheduled. EFSEC hires an independent consultant to review the application under EFSEC guidelines (Title 463 WAC); a land use hearing is held in the governmental jurisdiction(s) where the project is to be located to determine whether the facility complies with local land use and zoning regulations; an environmental impact statement (EIS) is prepared by EFSEC's consultant under the State Environmental Policy Act (SEPA) or in conjunction with one or more Federal

agencies under cooperating agreements; a public hearing is then held on the project under contested case procedures as specified under Washington law (RCW 80.50 and RCW 34.04). Washington law authorizes EFSEC to enter into formal agreement with Federal agencies in such cases. At the close of the record, EFSEC weighs all evidence, submittals, testimony, the application, and the EIS, and makes a recommendation to the Governor. If approved, a site certification agreement is drawn up which specifies the conditions under which the project can be built and operated.

3.3 Nuclear Regulatory Commission

The Nuclear Regulatory Commission (NRC) is responsible for the licensing and regulation of the nuclear industry under the provisions of the Energy Reorganization Act of 1974, the Atomic Energy Act of 1954, and the National Environmental Policy Act of 1969 (NEPA). These acts establish a national policy and framework for regulating civilian nuclear activities to ensure that they are conducted in a manner that will protect public health and safety, preserve environmental quality, maintain national security, and comply with antitrust laws. NRC fulfills its responsibilities through a comprehensive regulatory program which includes rulemaking, licensing, inspection, enforcement, and confirmatory safety research.

3.4 Agreements for a Joint Process for the S/HNP

3.4.1 The Memorandum of Agreement

As mentioned in Chapter 2, the environmental and public hearing processes for the Skagit Nuclear Power Project were conducted independently by the AEC and TPPSEC. Although some coordination with respect to schedules did occur, interaction and consultation on matters of mutual interest were minimal. This approach led to a duplication of effort with respect to many of the proceedings and did not take advantage of opportunities for consultation and cooperation in parts of the proceedings of mutual interest and concern. Such duplication resulted in costs to the Federal government, State, applicant, and ultimately to the rate payer.

By 1978 a growing interest in developing a joint process between NRC and EFSEC became apparent with respect to the regulation of nuclear activities in Washington State. It was felt that a more efficient use of the time of State and Federal agencies and of other parties would result if issues that were of interest to both Federal and State governments were heard jointly in a single hearing room at one time. Furthermore, a joint environmental process resulting in a single EIS responsive to both State and Federal laws would avoid costly duplication of efforts. Such a joint process would save money and time.

Accordingly, a Memorandum of Agreement (MOA) between the State of Washington and the U.S. Nuclear Regulatory Commission was signed on September 6, 1978 (see Appendix B), formally expressing the desire of the parties to cooperate in regulating nuclear activities in Washington State. The MOA set forth several principles of cooperation in areas subject to the jurisdiction of the State or NRC, or both. The MOA was intended to promote regular consultation and cooperation in exploring and devising appropriate procedures to minimize the duplication of effort and to avoid delays in decision making so as to make the most efficient use of the resources of both the State and NRC.

The MOA provided for the establishment of detailed subagreements between the State and NRC in areas of mutual concern, including environmental reviews, siting considerations, public hearings, monitoring in and around nuclear facilities, decommissioning, emergency preparedness planning and radiological response, and radioactive materials transportation.

Subsequently, with the desire of PSP&L to move the Skagit Nuclear Power Project to the Hanford Reservation, EFSEC and NRC developed subagreements to prepare a joint EIS and to conduct joint public hearings on the revised project, which became known as the Skagit/Hanford Nuclear Project (S/HNP). The full text of the MOA and the two subagreements may be found in Appendix B.

3.4.2 Subagreement 1

Subagreement 1 provided for the development of a draft and final EIS prepared to meet the requirements of both NEPA and SEPA. The agreement established a management committee consisting of a representative appointed by the EFSEC chairman and a representative appointed by the NRC Assistant Director for Environmental Technology. These appointees served as coordinating points for EFSEC and NRC requirements, developed a schedule, and were responsible for the content of the draft and final EIS.

Under Subagreement 1, each party was given exclusive responsibility for their separate requirements, but NRC with certain exceptions had overall administrative responsibility as the lead for joint activities. If disagreement over issues covered in the EIS could not be resolved, under the agreement these unresolved differences of opinion or different conclusions were to be stated and clearly identified in the EIS to ensure that the views of both EFSEC and NRC were represented. The agreement also provided that NRC would publish and distribute the draft and final EIS.

3.4.3 Subagreement 2

Subagreement 2 was developed between NRC and EFSEC to allow for the conduct of joint hearings on matters of common jurisdiction. The agreement was intended to avoid duplication and thus expedite decision making and reduce time, effort, and costs for the parties involved. According to the agreement, the joint hearings were to be held before an Atomic Safety and Licensing Board (ASLB) representing NRC and the membership of EFSEC with the EFSEC chairman or a council member designated by the chairman ruling on behalf of EFSEC. These hearings were to be located in the region of the proposed site (Hanford), at the EFSEC hearing facility in Lacey, Washington, or at locations determined to be suitable by the joint hearing bodies.

According to Subagreement 2, notices of hearing would be made as appropriate for the two agencies according to their own procedures. The determination of parties to the proceedings and issues would also be made by NRC and EFSEC according to their own procedures. Following the identification of the parties and the issues, one or more joint prehearing conferences would be held to determine the issues subject to the joint hearing and a schedule for discovery on those issues.

During the prehearing conference, stipulations and admissions of fact with respect to evidence and the contents and authenticity of documents would be obtained, and witnesses would be identified to the extent possible. In addition, a hearing schedule would be developed. Following the prehearing conference, the joint hearing bodies were to issue orders to summarize the proceedings. In addition to the prehearing conference, Subagreement 2 provided for consideration of holding a joint public hearing in the vicinity of the proposed site.

The agreement contained a variety of procedures for conducting the joint procedures, including procedures to resolve disputes. Following the joint hearing, EFSEC and NRC would proceed to make their individual decisions following their own rules of practice.

4 THE JOINT ENVIRONMENTAL AND SAFETY REVIEW PROCESS

4.1 Introduction

This chapter describes the elements of the joint environmental and safety review process conducted by NRC and EFSEC for the S/HNP. These elements included a potential site study designed to identify potential environmental problems at an early, pre-application stage; an alternative sites analysis; a review of the Application for Site Certification/Environmental Report (ASC/ER); a joint Federal/State environmental impact statement; and emergency planning.

4.2 The Potential Site Study

Under EFSEC Rules (WAC 463-22) any potential applicant may request that EFSEC conduct a preliminary study of a potential site prior to receipt of an application for site certification. Upon such a request, EFSEC may commission an independent consultant to study whatever aspects of the site are requested by EFSEC or the applicant. It is recognized in this report that few States would have a process identical to the EFSEC potential site study; however, the purposes of the study, its outcome, and its effect on the environmental process may be accomplished in different ways by various States. The potential site study process is discussed here to inform other States of the advantages of the early project review process. The study was coordinated with NRC because it was fully recognized that the results of the study might affect the content of the S/HNP ASC/ER and the DEIS.

PSP&L came before EFSEC in June 1981 to announce its intent to submit an application for site certification of the Hanford site and to request that a potential site study be conducted. Although a potential site study is normally done many months before submitting the application so that an applicant can respond to concerns raised in the study, PSP&L decided to submit its application immediately after completion of the potential site study. With one general exception, PSP&L decided to respond to the study with amendments to its application rather than wait to respond to the study by delaying submittal of the application. The exception was that to the extent possible EFSEC and its consultant worked to inform PSP&L of initial concerns so that they might be addressed in the application. PSP&L was able to make some revisions in this manner before submitting the application.

The potential site study performed for this project (URS Company, 1981) examined four major issues: socioeconomics, water quality, water supply, and fisheries. It included a detailed description of the project and substantiated conclusions about potential problems associated with the site. The most significant aspect of the report was the socioeconomic impact assessment. This was significant because it used a scenario approach to deal with potential population changes over the ten-year planning period. Since background population figures were developed exclusively for the report and other nearby nuclear projects under construction were delayed or near cancellation, the scenario approach was the

only way to effectively plan for impacts, regardless of future events. Generally, the socioeconomic impacts were favorable because construction of the S/HNP, if built, would start during a severe economic downturn in the area of the project.

The most significant elements of this potential site study concept as it might apply to the nuclear licensing processing of other States appear to be as follows:

- (1) Early and formal feedback from the agency to the applicant about potential problems at the site, or with the project, was a positive step.
- (2) Whether formally or informally, giving the applicant the opportunity to modify the project or its alternatives before proposing potentially troublesome elements can save time, avoid polarizing the parties, and serve to establish some degree of trust and cooperation.
- (3) The applicant or the State should look into those issues which it feels will eventually be a problem. This will save time.
- (4) If doubt exists about actual impacts due to uncertainties in design, construction start-date, or baseline conditions, using the scenario approach allows the licensing agencies to discuss and negotiate conditions and mitigation ideas which can accommodate changes in plans and schedules.
- (5) Direct contact between the applicant, reviewing agencies, and consultants is a valuable method of providing good understanding of the project, mutual understanding of concerns, expeditious resolution of problems, and enhancing the development of an efficient schedule.

4.3 Alternative Sites Analysis

Another significant element to the joint environmental process was the preparation of the NRC alternative sites analysis by EFSEC's environmental consultant under new Environmental Standard Review Plan (ESRP) guidelines (NUREG-0555). This cooperative effort was significant because it was the first time any entity other than NRC staff had prepared this detailed review, and the first time the new NRC guidelines had been applied by anyone in evaluating an applicant's proposed site and its alternatives. Although the analysis of alternative sites section of the ESRP is too detailed to allow repetition in this report, certain elements within the guidance and the rationale behind the new ESRP guidelines are worth providing for future State/NRC cooperative actions.

The underlying purpose of the ESRP site review is twofold: (1) to ensure that the applicant has provided adequate information about a sufficient number of reasonable sites to show that a serious effort was made in selection and that the site was chosen considering engineering, environmental, institutional and economic factors and (2) to ensure that a large enough region of interest was examined, representing siting resources reasonably available to the utility, without having to go to unreasonable extremes of examining every possible site in the United States. In the case of the S/HNP, the ESRP review was done during

a review of the Application for Site Certification/Environmental Report, and also as part of the analysis of alternatives within the DEIS.

The alternative sites study, which examined the proposed site and ten alternatives, concluded that the information provided by the applicant, the region of interest, the slate of candidate sites, and the overall conclusion of the applicant were adequate. For more information on NRC staff guidance, proposed rules, and NRC's interpretation of how to apply them, please refer to NRC reports NUREG-0555 and NUREG-0894.

4.4 The Application Review

NRC and EFSEC both have requirements to review applications before them to ensure that they meet specific guidelines (see NUREG-0555, RCW 80.50, and WAC 463). Although the guidelines are specific in many areas, they often leave room for interpretation by the reviewer. This has the advantage of providing for special circumstances which suggest a need for more data or less data; the disadvantage is that it can allow too much subjectivity on the part of an overzealous reviewer.

The S/HNP was reviewed under two sets of guidelines: those of NRC under NEPA and those of EFSEC under SEPA. Because a decision was made to expedite issuance of the EIS, a review of the Application for Site Certification/Environmental Report (ASC/ER) under EFSEC guidelines was deferred until after issuance of the DEIS. The NRC review was necessary because

- (1) The independent consultant based the DEIS to a large degree on the ASC/ER and required adequate baseline data, project description, and alternatives information to prepare the DEIS.
- (2) NRC has specific requirements for review of any construction permit application. The applicant must prepare and document a formal response to any question arising out of that review.

The review of the ASC/ER was conducted by EFSEC's consultant (also acting as consultant to NRC staff) and NRC staff using the Environmental Standard Review Plan (NUREG-0555), which encompasses all requirements of NEPA. The review was prepared independently by NRC and EFSEC's consultant, and was presented to the applicant for response.

Following a short period, the applicant met with EFSEC and its consultant to discuss and clarify concerns. A major portion of the review was the adequacy of the discussion on alternative sites (as discussed in this chapter). The applicant prepared responses to these comments, and all comments were discussed at a formal meeting between NRC, EFSEC, and the applicant. All comments were satisfactorily resolved.

In accordance with the original MOA and subsequent agreements, EFSEC's and NRC's staff and consultants were responsible for their own technical areas (air, terrestrial biology, fisheries, etc.) and supported the others' recommendations. For example, if EFSEC's consultant requested fisheries data, NRC would require that that issue be resolved before continuing with the licensing process.

4.5 The Environmental Impact Statement

Preparation of the joint DEIS for this project was a highly successful action which resulted in the publication and distribution of the "Draft Environmental Statement Related to the Construction of Skagit/Hanford Nuclear Project Units 1 and 2" (NUREG-0894) in less than four months. This was made possible by the active and aggressive role taken by EFSEC and NRC and a commitment on the part of the applicant to cooperate and provide data whenever necessary.

Within NRC the project was located in the Office of Nuclear Reactor Regulation. Because EFSEC's enabling legislation requires an independent review, a consultant was retained to prepare the EIS. Cooperating agencies included the U.S. Department of Energy (DOE), Bonneville Power Administration (BPA), and the Bureau of Reclamation (BR); all cooperating agencies contributed written sections to the document.

An important element to the timely preparation of the document was establishment of a Management Committee. One senior representative each from NRC and EFSEC made up the committee and met often throughout development of the DEIS. Each representative had the authority of his respective agency to make decisions about schedule, content, and format, thereby reducing review and approval time.

Because of the geographic separation of those staff preparing the DEIS, a preliminary planning meeting was held in Seattle to discuss text, style, and presentation. This was necessary because NRC, as the lead agency and printer of the document, had strict format and style requirements, but both EFSEC and NRC had to review and approve its content. It was agreed that the document would be prepared at the offices of EFSEC's consultant. Materials were produced which were patterned after the agreed-upon format.

Actual preparation of the DEIS text involved initial distribution of technical area assignment responsibilities to NRC staff and EFSEC's consultant. This was done based upon previous agreements that NRC staff in Washington, DC, would handle all issues related to health and safety and EFSEC's consultant would handle all other environmental issues. Some areas of work not originally assigned, such as threatened and endangered species, alternatives analysis, and other minor sections, were also assigned to EFSEC's consultant. There was no loss of time due to these changes.

Formal outside agency involvement began with a meeting of all Federal and State agencies that were involved with licensing or permitting requirements. At this meeting, which was conducted jointly by EFSEC and NRC, the proposed environmental review and licensing schedule was presented to all agency representatives. The most significant events to occur at that meeting were the clear positions taken by NRC that the scoping comment period would close on a certain date; that submittals of text to the EIS would be accepted until a certain date; and that, once the DEIS was released, the comment period would close at the legally allowable statutory review period. All attendees were advised that neither would their comments be recognized nor could they participate substantively in the review process, unless they met the schedule.

The Bureau of Reclamation (BR) submitted a discussion on water supply and its permit process, and because EFSEC's consultant recently had completed a study

on similar issues, it was possible to adopt the BR submittal with very little change. The DOE had completed an environmental assessment related to the project and instead of transferring significant parts of that assessment into the DEIS, time was saved by reproducing the entire assessment as an appendix within the DEIS. The BPA had specific text to submit on transmission, electromagnetic effects, and other areas. Because these comments arrived on the final cutoff date for comments, BPA sent a senior staff person to assist in reviewing and incorporating those sections.

The scoping process for the DEIS to identify its content and coverage followed the standard process of Federal scoping. Public meetings were held near the project in Richland and in Seattle following notices in the Federal Register and in local papers. The EIS was under preparation as the scoping comments came in and all were addressed in the document.

A key factor in issuing the report on time was the close coordination which existed during the production and review process. It is repeated that this was accomplished through an intense effort by NRC, EFSEC, and EFSEC's consultant to expedite all communication, to review elements as they became available, and to be readily available for discussion and comment.

This same level of joint review and cooperation was conducted during the development of responses to the comments submitted on the DEIS. At the time that PSP&L withdrew its application, all copy for the FEIS had been reviewed and was ready for publication.

4.6 Emergency Planning

The safety review of the Skagit/Hanford Nuclear Project was conducted for the most part by NRC. EFSEC's role was one of monitoring the progress through attendance at selected meetings and review of official correspondence. One exception, however, was emergency planning. The development of emergency preparedness plans is part of both the Federal and State licensing process for nuclear power reactor facilities. At the Federal level, an applicant must describe how it would respond to an emergency at its facility as well as plans for coordinating the response with the Federal, State, and local emergency organizations. An emergency plan must be included with both the preliminary (PSAR) and final safety analysis report (FSAR) that is approved by the NRC prior to operation.

Washington State licensing requirements specify that an emergency response plan be developed in accordance with appropriate public health and safety measures and that the plan also be coordinated with the various offsite response organizations. PSP&L was very aware of these requirements in preparing its initial safety documents for the project and very early on in the application process made contacts with the appropriate Federal, State, and local agencies to ensure that an effective emergency plan would be in place.

Because the S/HNP site was just five miles west of the Washington Public Power Supply System's (WPPSS) Nuclear Project No. 2 (WNP-2) on the Hanford Reservation, PSP&L closely coordinated the preparation of the S/HNP preliminary emergency plan with WPPSS. PSP&L also relied heavily on the understandings and

divisions of responsibility that were being developed for WNP-2. PSP&L's ability to capitalize on WPPSS's earlier planning efforts greatly benefited the development of the preliminary plan.

At the same time, PSP&L took the lead in coordinating the plan with State and local agencies with responsibility for outside emergency plans and procedures. Agencies actively involved in the process included

STATE

Washington - Energy Facility Site Evaluation Council
Department of Emergency Services
Department of Social and Health Services

Oregon - Department of Energy

LOCAL

Benton County - Department of Emergency Management

PSP&L also reviewed its plan with the Federal Emergency Management Agency, U.S. Department of Energy's Richland office, and the U.S. Coast Guard. Input also was received from the Institute of Nuclear Power Operations and Exxon Nuclear Company.

It should also be noted that PSP&L's commitment extended beyond cooperation and coordination. PSP&L provided financial assistance to the State as required by RCW 80.50.071 to support the development and maintenance of plans and procedures. PSP&L's participation was for generic emergency response planning and preparedness activities because it could be an eventual or long-term beneficiary of that effort.

PSP&L's efforts to involve governmental agencies in the development of its emergency plans in the early stages of processing its application are noteworthy. PSP&L demonstrated that a very important component of a nuclear plant's safety program could be addressed early in the process. PSP&L's approach to work with the State and local agencies with permitting responsibilities ensured that the S/HNP emergency plan would be compatible with their offsite plans and procedures. The preliminary understandings and good working relationships greatly facilitated the review process and resulted in mutually acceptable plans being developed in a very short period of time.

5 THE JOINT HEARINGS PROCESS

5.1 Introduction

The protocol for the conduct of joint hearings on the S/HNP (see Appendix B--Amended Subagreement 2) was drafted and entered into between EFSEC and NRC for the general purpose of expediting the overall decision making process relating to the application for a construction permit for the nuclear facility. Both agencies recognized that expedition of the overall nuclear licensing effort was a common goal which would serve the public interest. Thus, the decision making processes of NRC and EFSEC were reviewed to determine if they were essentially compatible to allow procedures to be developed for the conduct of joint hearings before the agencies on matters within their common jurisdiction.

5.2 Decision Making Process of EFSEC and NRC

5.2.1 EFSEC

When an applicant files an application with NRC for a construction permit for a nuclear generating facility to be located in the State of Washington, it must also file an application for site certification with EFSEC, the State agency responsible for issuing the certification. In order to issue the certification, EFSEC must hold a public hearing on the application to determine whether the provisions of the State Environmental Policy Act of 1971 (SEPA) and other applicable State requirements, such as NPDES water quality standards, are met. In accordance with established State procedures, a notice of hearing is published and parties are determined. EFSEC hearings are conducted under adjudicatory contested case procedures, including the right to examine all witnesses. Parties are entitled to present evidence on any relevant issue. EFSEC's certification decisions are based on a review of the full hearing record which encompasses all environmental matters necessary for EFSEC to determine the environmental impacts of the project and compliance with State standards. Compliance with these standards is determined in the EFSEC decision making process based upon a review of the applicant's environmental reports submitted to NRC and EFSEC, as supplemented by expert witnesses presented by the applicant, State, and other parties in the hearing. In addition, SEPA requirements regarding the preparation of environmental impact statements have been traditionally fulfilled in nuclear facility certification actions by EFSEC incorporating in the FEIS the expert witness testimony developed during the hearing process.

5.2.2 NRC

NRC's hearing process with respect to NEPA matters is essentially similar to that of EFSEC except for one material difference. In NRC practice, after the notice of hearing is published and party status is determined through petitions for intervention, the intervening parties must identify specifically the issues they wish to litigate during the hearing. The admitted issues then are subject to discovery, and any issues not eliminated through summary disposition procedures largely define (except for issues arising during the hearing) the scope of

the hearing before the Atomic Safety and Licensing Board (ASLB). Thus, the parameters of the NRC hearing are defined by the issues in controversy between the parties, whereas the EFSEC hearing may be on all matters deemed relevant to the site certification application. Although an ASLB decision regarding compliance with NEPA is based on a full review of the staff's final FIS, only matters in controversy are adjudicated in the hearing process.

In addition, the NRC hearing process includes those issues in controversy that involve radiological health and safety matters under the Atomic Energy Act of 1954. Since these matters are within the exclusive jurisdiction of NRC, they are not a part of an EFSEC site certification hearing and, accordingly, of a joint hearing pursuant to this protocol.

5.3 Purpose of Protocol

As is apparent from the above background on the EFSEC and NRC decision making processes, both require an adjudicatory hearing on environmental matters. Consequently, many issues could be heard twice in separate hearings resulting in a duplication of resources, expenditures of time, effort and costs on overlapping requirements, and a juggling of schedules. In order to avoid this unnecessary duplication and these expenditures, and thereby expedite the decision making process with respect to the overall application, the protocol was developed to enable EFSEC and NRC to conduct joint hearing on those environmental matters within their concurrent jurisdictions. In addition, because NRC and EFSEC hearing rules and practices were essentially similar, joint procedures for the conduct of the hearing could be developed that would ensure the integrity and fairness of the process and would materially assist both agencies in compiling a full and complete evidentiary record. Since the only major difference between the agencies' rules and practices concerned the NRC's requirement for the specification and identification of basis of issues to be litigated, a procedure had to be formulated to preserve this requirement in order that the joint hearing process only involved matters which were in controversy between the parties. Thus, from a legal perspective the specific procedures adopted in the protocol had to ensure that (1) the rules and practices of both agencies were not violated, (2) the concepts of fundamental fairness and due process for all parties were not jeopardized, and (3) the joint hearing process would develop a complete record on matters in controversy between the parties.

5.4 Effect of Protocol

As adopted, the protocol set forth procedures to govern activities in the following areas:

- (1) composition of the joint hearing bodies
- (2) location of the hearings
- (3) identification of parties and issues
- (4) joint prehearing conferences
- (5) discovery
- (6) summary disposition

- (7) limited appearances and public statements
- (8) evidentiary hearing conduct (party status, form and content of testimony, scheduling, motions and rulings on motions)
- (9) briefing schedules and decisions
- (10) procedures not specified by protocol
- (11) revision, suspension, and termination

The protocol's procedures are comprehensive and intended to cover the vast majority of situations likely to arise in the joint proceeding. If specific conduct was not governed by the protocol or could not be agreed upon by the hearing bodies, the NRC Rules of Practice would be followed. However, this reservation in favor of NRC rules and procedures was not expected to be implemented because of the similarity of EFSEC's and NRC's hearing process and the broad discretion given to the hearing bodies to regulate the hearing and to resolve disputes. In addition, the protocol procedures ensure that the joint hearing only encompasses those environmental issues which are proper subjects for hearing in accordance with NRC's procedures for the identification of issues. This is accomplished through pleading of issues, discovery, summary disposition procedures, and pre-hearing conferences. These procedures are intended to define and narrow issues so that only those in dispute, as determined by the joint hearing bodies, are litigated.

Notwithstanding the procedures in the protocol for identification of parties and issues to be heard in the joint hearing, EFSEC and NRC reserved the right to conduct separate hearings in accordance with their own practices and procedures. This enabled both agencies to conduct hearings on matters that were not common and which needed to be litigated and decided in their respective decision making process. In addition, the protocol could be terminated at any time by either agency. Thus, the protocol for the conduct of joint hearings would be implemented upon a joint determination of common issues and continued based on a mutual satisfaction with its operation.

From an NRC perspective, the major disadvantage of the joint hearing process would be that it probably would involve more parties, encompass more issues, and, therefore, result in a greater expenditure of NRC time and resources than would an NRC-only hearing. However, the perceived benefit of promoting a more timely and efficient public hearing and licensing process would probably outweigh any increased NRC effort. In any event, the adopted procedures for cooperation between EFSEC and NRC in preparation of environmental impact statements would certainly mitigate any increased NRC efforts in the joint hearing process.

5.5 Cancellation of the Hearings

As it turned out, the joint hearings for the S/HNP were never held. A notice of hearing was published by NRC in February 1982, and a joint EFSEC/NRC prehearing conference was held in December 1982 to discuss intervenor contentions and pre-hearing schedules. In January, EFSEC and the ASLB jointly adopted a prehearing schedule. Shortly thereafter, however, PSP&L requested suspension of licensing

because of uncertainties associated with the S/HNP being included in the final Northwest Conservation and Electric Power Plan released on April 27, 1983, by the Northwest Power Planning Council (NWPPC). When the S/HNP was not included in the final NWPPC plan, PSP&L requested a suspension of further licensing activities, which later developed into a termination of the project. As a result, the joint hearings were not begun for the S/HNP.

6 ASSESSMENTS OF THE PROCESS

6.1 Introduction

The following independent assessments of the joint process have been prepared by the primary participants--NRC, EFSEC, and PSP&L. Intervenors were also provided an opportunity to provide comment, but no responses were received.

6.2 Comments of the Nuclear Regulatory Commission

Section 274i of the Atomic Energy Act of 1954 authorizes the Nuclear Regulatory Commission (NRC) to enter into agreements with any State, or group of States, to perform inspections or other functions as NRC deems appropriate. Generally, the Memoranda of Understanding (MOUs) provide a vehicle for mutual cooperative arrangements between NRC and the States in areas of common interest. In the past, NRC has entered into MOUs with States for the purposes of: (1) coordinating the timing of State water quality permitting activity and NRC environmental reviews, (2) coordinating proprietary information exchange, (3) performing inspections, (4) coordinating the State and NRC resident inspector activities, and (5) performing environmental reviews.

In the case of the S/HNP, NRC was seeking a way to eliminate duplication in environmental data gathering by the Commission and the states. The umbrella MOU provided a general framework for broad subject areas of mutual interest to be agreed upon. From this framework, subagreements could be drafted which more specifically centered upon a certain issue.

Subagreement 1 was signed in July 1981; as provided therein, the State of Washington wrote specific portions of NRC's EIS for the S/HNP facility. The DEIS was published in April 1982. Subagreement 2, signed in July 1981, provided for joint hearings on the S/HNP application; it was amended in August 1982.

A number of factors aided the cooperative manner in which both parties undertook their activities under these subagreements:

- (1) Common goal--A fundamental requirement in a project of this type is that there must be a determination of close to 100 percent confidence that both parties' (State and NRC) goals are the same. The State of Washington and NRC had one common goal expressed by Subagreements 1 and 2: to proceed expeditiously, yet thoroughly, with the development of common data elements upon which the Federal licensing decision and the State certification decision could be made. In this case, they were almost identical.
- (2) Oversight--Both parties had full-time staff devoted to the project so there was a constant involvement and contact on both ends.
- (3) Support of applicant--The applicant involved was very supportive of the agreement. This aided greatly in the ease with which it was developed.

- (4) Stable institutional group--The State had an innovative institutional energy history; it was the first to develop its own energy facility siting law. Therefore, State interest and political backing (the Governor's office, State agencies) created a climate ripe for a project such as this.
- (5) Personalities--Perhaps the most fortunate aspect of this endeavor was that all individuals concerned developed close working relationships with each other. Even though procedures for resolving differences of opinion are built into the joint agreements, it was not necessary, in this case, that they be utilized.

NRC feels that this approach to decision making--decisions by two different bodies under different laws, but concerning a single project and based on common data elements--is rewarding and profitable to all parties. Although it is not always the case that both parties are of such a common mind, the participants believe this aspect allowed the project to proceed more smoothly.

6.3 Comments of the Washington Energy Facility Site Evaluation Council

EFSEC believes there is great promise in the concept of joint processing of environmental documents, applications, hearings or other matters that are compatible and can accommodate the objectives of the participants without compromising the process.

Entry into a joint processing agreement between EFSEC and NRC was facilitated because of the knowledge each agency had of the other's regulatory procedures. Such an arrangement requires commitments at the highest level to seek paths to expedite the licensing process and control its costs. Senior members of EFSEC were in regular contact, by telephone and by visits, with senior members of NRC to discuss the progress of the joint processing activities and to solve management problems.

The State of Washington was able to work with NRC from a point of historical perspective because of the State's early entry into the atomic age through the development of nuclear energy on the Hanford Reservation. Since that program's inception there has been an intensive effort to scientifically identify the effects and impacts of nuclear energy and particularly the ecological impacts upon the hundreds of acres comprising the Hanford Reservation. EFSEC and NRC had full access to this information and to the analyses completed for the siting studies of the Washington Public Power Supply System's three nuclear power plants proposed for construction and operation on the Hanford Reservation. The availability of this information was an enhancement to joint processing considerations.

Prior to the formal statements of intent providing for mutual cooperation there already existed a viable communications network between the State and NRC. With very little effort it was possible to build upon this informal relationship to establish formal communication and liaison channels. This also was an enhancement to joint processing considerations.

The concept was enhanced further by the fact that each agency operated with well-defined regulatory procedures tested by court reviews. EFSEC conducted its review under the State Administrative Procedures Act provisions governing

contested cases. EFSEC, using procedures developed over ten years, had ruled on the siting of nine energy facilities prior to the S/HNP. The stability of EFSEC and the public awareness of its process were positive factors in the joint processing consideration.

It is unfortunate this project was halted. The FEIS was nearly completed and several joint prehearing conferences had been held. It was apparent that joint processing could be achieved where there was a willingness by the State and Federal agencies to accommodate each other. Joint processing avoids the duplication of effort associated with the development of environmental impact statements and the conduct of hearings, while providing a single forum which allows the public to focus on a single procedure. EFSEC is hopeful that this experience will lead to other joint Federal/State cooperative efforts in the future.

6.4 Comments of Puget Sound Power & Light Company

The joint licensing process developed for S/HNP contemplated both a joint EFSEC/NRC environmental review, including joint preparation and issuance of draft and final environmental statements, as well as joint EFSEC/ASLB evidentiary hearings on matters of common jurisdiction. Although the project was terminated before these joint activities could be completed, from the applicant's point of view, the joint process was quite successful and there is every reason to believe that it would have continued to be successful had it been completed.

At the time the project was terminated, the joint environmental review had proceeded through joint preparation and issuance of the DEIS. This much of the joint process clearly met the objective of avoiding duplication of effort. It thereby saved time and money for all concerned, including the applicant.

An important contribution to the success of the joint environmental review was made by EFSEC in revising its rules to permit an applicant for certification of a nuclear facility to submit its Environmental Report prepared for the NRC as its application for site certification (WAC 463-42-012). PSP&L took advantage of this rule for the S/HNP. As a result, PSP&L was spared the additional cost and time that would have been required to prepare two separate environmental documents differing significantly in format, although not in substantive content. In addition to this saving by the applicant, the use of a common environmental document for the two proceedings greatly facilitated the conduct of a joint environmental review by the two agencies and their consultant.

The project was terminated before any joint evidentiary hearings could be held. Thus, it cannot be known for sure whether this element of the joint licensing process also would have met its objective. However, in view of the cooperative attitude of the two agencies and the comprehensive and practicable provisions of the joint hearing protocol, Subagreement 2, the applicant believes that the joint hearings would also have met the objective of avoiding duplication of effort thereby saving time and money for all concerned in assembling a sound evidentiary record for use by both of the agencies in reaching their respective decisions.

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APPENDIX A
SKAGIT--SKAGIT/HANFORD LICENSING CHRONOLOGY

APPENDIX A

SKAGIT--SKAGIT/HANFORD LICENSING CHRONOLOGY

PART 1

SKAGIT COUNTY SITE

1973

- 1-17 PSP&L announces plans for Skagit Nuclear Power Project (SNPP) on a site in Skagit County, Washington.
- 2-21 PSP&L files petition with Skagit County seeking contract zoning of site.

1974

- 3-26 Skagit County rezones site for SNPP subject to agreement which provides that rezoning contract will terminate if construction is not begun by December 31, 1979.
- 3-28 PSP&L files site certification/NPDES permit application with Washington State Thermal Power Plant Site Evaluation Council (TPPSEC).
- 8-6 PSP&L files application for construction permits and operating licenses with U.S. Atomic Energy Commission.

1975

- January NEPA DEIS distributed for public comment.
- 5-22 TPPSEC begins contested case hearing on PSP&L's site certification application.
- May SEPA DEIS distributed for public comment. NEPA FEIS distributed.
- 7-11 TPPSEC initial certification hearing phase closes.
- 7-15 Atomic Safety and Licensing Board (ASLB) begins contested hearing on PSP&L's Federal application.
- November SEPA FEIS distributed.

1976

1-26 TPPSEC adopts order authorizing issuance of NPDES permit.

3-18 TPPSEC reopens certification hearings.

4-21 TPPSEC certification hearing closes.

June, July, August ASLB hearing continues.

July Draft supplemental NEPA EIS distributed for public comment.

9-13 TPPSEC adopts order recommending to Governor that site certification be granted.

12-6 Governor enters order granting site certification.

1977

1-5 PSP&L and State of Washington execute site certification agreement.

April Final supplemental NEPA EIS distributed.

March, May, July ASLB hearing continues.

1978

March, June ASLB hearing continues.

9-6 Memorandum of Agreement between NRC and Washington State to coordinate where possible in the regulation of nuclear activities.

1979

July, August ASLB hearing continues.

10-1 PSP&L requests Skagit County Commissioners to extend the 12-31-79 rezoning termination date.

10-1 County Commissioners decide to place an advisory proposition for or against the SNPP on the November 6 general election ballot.

11-6 Vote is 71% against the SNPP.

11-27 County Commissioners deny extension of rezoning contract termination date.

12-31 Skagit County contract rezoning of site terminates.

PART 2

HANFORD SITE

1980

- 7-16 PSP&L announces decision to change proposed project site from Skagit County to a site on the Hanford Reservation in Benton County, Washington.
- 9-30 PSP&L amends its application for NRC (successor to the AEC) construction permits to change proposed site to Hanford Reservation.

1981

- 6-29 PSP&L files request for potential site study of Hanford site with Washington State Energy Facility Site Evaluation Council (EFSEC, successor to TPPSEC).
- 7-31 EFSEC enters into agreement (Subagreements 1 and 2) with NRC providing for joint EFSEC/NRC environmental review and evidentiary hearings for the project.
- 12-15 EFSEC completes potential site study.
- 12-30 PSP&L files with EFSEC the site certification/NPDES permit application for S/HNP.
- 12-30 PSP&L files with NRC amendments to the S/HNP Environmental Report and Preliminary Safety Analysis Report to reflect the Hanford site.

1982

- 1-3 EFSEC begins preparation of joint NRC/EFSEC DEIS.
- 2-5 NRC publishes notice of hearing on PSP&L's amended application for S/HNP.
- 2-17 EFSEC holds land use hearing.
- 4-12 EFSEC adopts land use order.
- 5-4 EFSEC and NRC jointly issue Draft Environmental Statement for S/HNP.
- 5-5 ASLB holds special prehearing conference.
- 5-6 EFSEC begins contested hearing on NPDES permit application.
- 12-2 EFSEC and ASLB hold joint prehearing conference to discuss intervenor contentions and prehearing schedules.

1983

- 1-7 EFSEC and ASLB jointly adopt prehearing schedules keyed to issuance of supplement to safety evaluation report (SSER) and joint FEIS.
- 1-26 Northwest Power Planning Council adopts draft Northwest Conservation and Electric Power Plan that does not include S/HNP as a potentially needed resource.
- 2-4 PSP&L requests EFSEC and ASLB to suspend licensing proceedings pending issuance of final Regional Power Plan.
- 2-14 Advisory Committee on Reactor Safeguards (ACRS) issues favorable report letter on S/HNP.
- 2-18 ASLB issues order suspending prehearing schedule.
- 3-4 EFSEC agrees to suspend S/HNP certification proceeding, except for order defining issues.
- 3-4 EFSEC adopts order defining certification issues.
- 3-28 EFSEC adopts NPDES permit order.
- 4-27 Northwest Power Planning Council adopts final Northwest Conservation and Electric Power Plan that does not include S/HNP as a potentially needed resource.
- 5-14 Combined intervenors move ASLB for summary disposition of need-for-power issue.
- 5-25 PSP&L advises EFSEC and ASLB that the four S/HNP owners are reviewing their licensing alternatives, including termination, and requests that the licensing suspension be continued until September 1983.
- 6-2 ASLB grants requested suspension.
- 6-13 EFSEC grants requested suspension.
- 8-30 PSP&L advises NRC and EFSEC that PSP&L decided to terminate S/HNP and is seeking concurrence to the termination from the other three owners.
- 11-23 PSP&L advises NRC and EFSEC that the other owners have concurred with the termination and files formal withdrawals of its State and Federal applications for S/HNP.
- 12-13 ASLB issues order granting withdrawal of the application and terminating the proceeding.

1984

1-23

EFSEC adopts final order terminating S/HNP processing on
January 31, 1984.

APPENDIX B
JOINT AGREEMENTS

MEMORANDUM OF AGREEMENT
BETWEEN THE
STATE OF WASHINGTON
AND THE
U. S. NUCLEAR REGULATORY COMMISSION

MEMORANDUM OF AGREEMENT
BETWEEN THE
STATE OF WASHINGTON
AND THE
U. S. NUCLEAR REGULATORY COMMISSION

This Memorandum of Agreement between the State of Washington (hereafter "State") and the U. S. Nuclear Regulatory Commission (hereafter "NRC") expresses the desire of the parties to cooperate in the regulation of nuclear activities; it sets forth mutually agreeable principles of cooperation between the State and NRC in areas subject to the jurisdiction of the State or the NRC or both.

This agreement is intended to provide the basis of subsequent detailed subagreements between the parties.

Close cooperation between the signatories will help assure that the goals and policies of State and Federal law and regulation will be carried out efficiently and expeditiously.

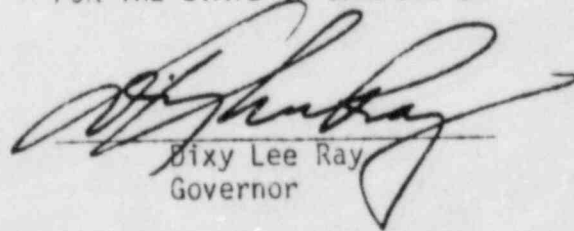
With the execution of this Memorandum, the State and NRC agree to consult regularly and cooperate in exploring and devising appropriate procedures to minimize, to the extent possible, duplication of effort and to avoid delays in decision making so that effective use will be made of the resources of the State and NRC.

Principles of Cooperation

1. Toward these goals, the State and NRC agree to explore together the development of detailed subagreements in areas of mutual concern, including, but not necessarily limited to, environmental reviews (or portions thereof) of nuclear facilities subject to licensing by NRC or certification by the State Energy Facility Site Evaluation Council (EFSEC); siting considerations; conduct and structure/format of hearings; confirmatory radiological environmental monitoring around operating nuclear facilities; decommissioning of nuclear facilities; emergency preparedness planning; response to radiological incidents; and radioactive material transportation monitoring.
2. Subagreements under this Memorandum may provide for activities to be performed by the NRC or the State under mutually acceptable guidelines and criteria which assure that the needs of both are met.

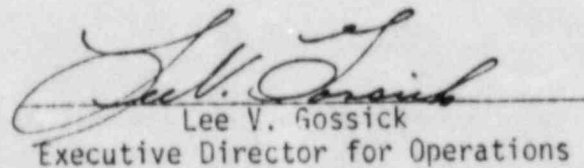
3. For activities performed by the NRC or the State at the request of NRC or the State under specific subagreements to this Memorandum, the agency making the request will explore means by which compensation may be made available to the other agency or by which the costs may be shared.
4. NRC agrees to explore with the State the possibility of sharing of proprietary information in NRC's possession with the State.
5. Each agency will explore means by which its training programs may be made available to the other.
6. Nothing in this Memorandum is intended to restrict or extend the statutory authority of either NRC or the State or to affect or vary the terms of the present agreement between the State and NRC under section 274b of the Atomic Energy Act of 1954, as amended.
7. The principal NRC contact under this Memorandum shall be the Director of the Office of State Programs. The principal State contact shall be the Chairman of the Energy Facility Site Evaluation Council (EFSEC). Subagreements will name appropriate individuals, agencies or offices as contacts.
8. This Memorandum shall take effect immediately upon signing by the State and the Nuclear Regulatory Commission, and may be terminated upon 30 days written notice by either party.

FOR THE STATE OF WASHINGTON



Dixy Lee Ray
Governor

FOR THE UNITED STATES NUCLEAR REGULATORY COMMISSION



Lee V. Gossick
Executive Director for Operations

Dated at *Olympia, Washington*
this *6th* day of *September* 1978

SUBAGREEMENT 1
BETWEEN THE UNITED STATES NUCLEAR REGULATORY COMMISSION
AND THE WASHINGTON STATE ENERGY FACILITY SITE EVALUATION COUNCIL
REGARDING ENVIRONMENTAL REVIEWS
PURSUANT TO THE SKAGIT NUCLEAR POWER PROJECT,
UNITS 1 AND 2

SUBAGREEMENT 1 BETWEEN THE U.S. NUCLEAR REGULATORY COMMISSION
AND THE WASHINGTON STATE ENERGY FACILITY SITE EVALUATION COUNCIL
REGARDING THE ENVIRONMENTAL REVIEWS
PURSUANT TO THE SKAGIT NUCLEAR POWER PROJECT, UNITS 1 AND 2

This Subagreement is promulgated under the provisions of the Memorandum of Agreement between the State of Washington and the United States Nuclear Regulatory Commission, dated September 6, 1978.

PURPOSE

The objective of this Subagreement is the timely completion of one environmental statement that fully addresses both the State and Federal environmental assessment requirements. This Subagreement between the Nuclear Regulatory Commission (NRC) and the Washington Energy Facility Site Evaluation Council (EFSEC) sets forth mutually acceptable procedures for cooperation between Washington State and NRC in the preparation of a draft environmental impact statement (DEIS) and final environmental impact statement (FES) in the matter of the Skagit Nuclear Power Project, Units 1 and 2, to be located on the U.S. Government Hanford Reservation near Richland, Washington.

It is the intent of this Subagreement that cooperative efforts should reduce duplication, provide for a more effective use of the public's resources and promote a more timely and efficient public hearing process.

IMPLEMENTATION

1. A Management Committee is created composed of a representative appointed by the Chairman of the Washington EFSEC and a representative appointed by the NRC Assistant Director for Environmental Technology. The purpose of the Management Committee will be to manage and supervise the development of the DEIS and FES, to serve as a coordinating point for Washington and NRC requirements and to develop a joint schedule for the various environmental documents required (DEIS, FES). The Management Committee shall confer and/or meet on a regular basis to review work progress on the DEIS and FES.
2. In order to effectively implement this Subagreement, the parties agree to exercise their best efforts and fullest capabilities to pursue the review process according to a schedule to be developed by the Management Committee. Except as otherwise noted and mutually agreed to, the parties agree that NRC shall take the lead and have overall administrative responsibility for all joint activities

pursuant to this Subagreement. EFSEC shall continue to have exclusive responsibility for actions required separately only under Washington State law or regulation such as the NPDES water quality permit. Either party may take independent actions not inconsistent with this Subagreement to ensure its obligations are met.

3. Each party shall diligently act to meet the established time schedules and the parties acknowledge that failure to meet the time schedules may constitute grounds after joint consultation for either party to proceed independently. If disagreements occur, each party shall seek to resolve such disagreement in a mutually satisfactory manner. Unresolved differences of opinion or different conclusions between EFSEC and NRC shall be identified and clearly stated in the EIS to ensure that the views of both parties are adequately represented.
4. For its part, the NRC agrees to exercise its best efforts to ensure that all environmental issues required under State and Federal law are adequately addressed.
5. In the event that a protocol for the conduct of joint hearings is developed and implemented between the NRC and EFSEC, the Management Committee shall ensure that the staffs of each agency shall cooperate in discharging their respective responsibilities in the joint hearing as set forth in this Subagreement and the joint protocol.
6. NRC shall publish the draft and final EIS after the Management Committee concurs in writing with the content. NRC will ensure that sufficient copies are available for distribution to all interested parties.
7. The responsibility for performing activities not specifically mentioned in this Subagreement will be determined by the aforementioned Management Committee. Such activities not addressed by the Management Committee may be performed by either party in any manner not inconsistent with the established schedule.
8. Nothing in this Subagreement is intended to restrict or expand the statutory or regulatory authority of either the EFSEC or the NRC.
9. This Subagreement shall take effect immediately upon signing by the Chairman of the Washington Energy Facility Site Evaluation Council and the Director of the NRC's Office of Nuclear Reactor Regulation and may be terminated upon 30 days written notice by either party.

10. The principal NRC point of contact for this Subagreement shall be the Assistant Director for Environmental Technology. The principal Washington State contact shall be the Chairman of Washington Energy Facility Site Evaluation Council.
11. If any provision of this Subagreement, or the application of any provision to any person or circumstance is held invalid, the remainder of this Subagreement and the application of such provisions to other persons or circumstances shall not be affected.

For the U.S. Nuclear Regulatory
Commission

For the Washington Energy Facility
Site Evaluation Council

Name *Harold H. Ruten*
Director, Office of Nuclear
Title Reactor Regulation
Date July 28, 1981

Name *Nelva R. Jensen*
Title Chairman
Date July 31, 1981

AMENDED
SUBAGREEMENT 2
BETWEEN THE WASHINGTON STATE ENERGY FACILITY SITE
EVALUATION COUNCIL AND THE UNITED STATES
NUCLEAR REGULATORY COMMISSION FOR A
PROTOCOL FOR THE CONDUCT OF JOINT HEARINGS
ON THE SKAGIT NUCLEAR POWER PROJECT,
UNITS 1 AND 2

AMENDED
SUBAGREEMENT 2 BETWEEN THE
WASHINGTON STATE ENERGY FACILITY SITE EVALUATION COUNCIL
AND THE UNITED STATES NUCLEAR REGULATORY COMMISSION
FOR A PROTOCOL FOR THE CONDUCT OF JOINT HEARINGS ON THE
SKAGIT NUCLEAR POWER PROJECT, UNITS 1 AND 2

This Protocol is promulgated under the provisions of the Memorandum of Agreement between the State of Washington and the United States Nuclear Regulatory Commission, dated September 6, 1978.

I. STATEMENT OF PURPOSES

Puget Sound Power & Light Company, Pacific Power & Light Company, The Washington Water Power Company and Portland General Electric Company have applied to the United States Nuclear Regulatory Commission (NRC) for permits to construct the Skagit Nuclear Power Project, Units 1 and 2, proposed to be located on the Hanford Reservation in Washington, and intend to apply to the Washington State Energy Facility Site Evaluation Council (EFSEC) for a Site Certification Agreement. A joint hearing before the NRC and EFSEC on matters within their common jurisdiction, particularly the National Environmental Policy Act of 1969 (NEPA) and the State Environmental Policy Act of 1971 (SEPA) would avoid unnecessary duplication, thereby expediting the decision-making process and reducing the time, effort, and costs which would otherwise be incurred by the parties were separate hearings held. In addition, to the extent that the NRC and EFSEC rules and practices are essentially similar, the holding of joint hearings will materially assist both agencies in compiling a full and complete evidentiary record on matters within their common jurisdiction. Such consolidation of matters of concurrent jurisdiction is permitted under the NRC Rules of Practice set forth in 10 C.F.R. subsection 2.716 and the authority of EFSEC contained in Revised Code of Washington (RCW) 80.50.040(12)(13).

II. COMPOSITION OF THE JOINT HEARING BODIES

The joint hearings shall, for the NRC, be held before an Atomic Safety and Licensing Board (ASLB). The Chairman of EFSEC or Council Member designated by the Chairman shall conduct the joint hearings on behalf of EFSEC and shall make necessary rulings on behalf of EFSEC on motions, procedural questions, evidentiary offerings, and other matters that may arise during the course of the joint hearings. The membership of EFSEC as defined in RCW 80.50.030 shall reserve the right to sit with the joint hearing bodies for the purposes of hearing evidence and cross examining witnesses.

III. LOCATION OF JOINT HEARINGS

The principal location for the joint hearings shall be in the region of the proposed site or at the EFSEC hearing facility at Olympia, Washington. Hearings may be held in other locations as appear suitable under the circumstances, as determined by joint hearing bodies.

IV. PROCEDURES FOR IDENTIFYING PARTIES AND ISSUES

As soon as practicable after the amendment to the application for a construction permit and the application for certification have been filed with the NRC and EFSEC, respectively, the agencies will issue appropriate notices of hearing in accordance with their own procedures. In particular, the NRC will issue a notice of hearing in the FEDERAL REGISTER pursuant to the provisions of 10 C.F.R. subsection 2.104 and EFSEC will issue a notice of hearing pursuant to the provisions contained in Chapter 463-30 WAC.

After the notice of hearing has been issued by the NRC and petitions for leave to intervene have been filed pursuant to the notice, the procedure for determining the requisite interest to become parties to the NRC proceeding and the identification of contentions shall be governed by the NRC Rules of Practice set forth in 10 C.F.R. subsection 2.714. A special prehearing conference shall be held pursuant to the provisions of 10 C.F.R. subsection 2.751a within ninety (90) days after the notice of hearing is published, or at such other time as the Commission or the ASLB may deem appropriate to:

- (1) permit identification of the key issues in the proceeding;
- (2) take any steps necessary for further identification of the issues;
- (3) consider all intervention petitions to allow the ASLB to make such preliminary or final determination as to the parties to the proceeding as may be appropriate; and
- (4) establish a schedule for further actions in the proceeding.

In the EFSEC certification proceeding, the determination of party status and the definition of issues shall be governed by the procedures set forth in Chapter 463-30 WAC.

V. JOINT PREHEARING CONFERENCES

As soon as practicable after (1) the special prehearing conference has been held in the NRC proceeding pursuant to 10 C.F.R. subsection 2.751a and the parties to and issues to be contested in the NRC proceeding have been determined by the ASLB, and (2) the application for certification has been filed with EFSEC and the parties to (and issues to be contested in) the certification proceeding have been determined by EFSEC, the joint hearing bodies shall schedule and hold one or more joint prehearing conferences for the following purposes:

- (1) determining those issues which are properly the subject of the joint hearing;
- (2) establishing a schedule for discovery on those issues;
- (3) obtaining stipulations and admissions of fact with respect to evidence and of the contents and authenticity of documents;
- (4) considering, to the extent feasible, the identification of witnesses, and other measures to expedite the presentation of evidence;
- (5) setting of pretrial and hearing schedules, including the order in which subjects shall be heard;
- (6) determining the time and procedures for site visits by the joint hearing bodies; and

- (7) considering any other measure which may expedite the orderly conduct and conclusion of the joint hearing.

The ASLB and EFSEC shall notify the parties to the NRC proceeding and the certification proceeding, respectively, of each joint prehearing conference and of the matters to be taken up at each conference, and shall direct the parties or their counsel to appear.

Following such conferences, the joint hearing bodies shall issue such orders as may be necessary to summarize the action taken at the conferences, including identification of the issues to be heard in the joint hearing.

Prior to each prehearing conference, parties are encouraged to hold informal conferences to identify the key issues, to mutually consolidate parties where appropriate, and to take whatever actions that are necessary to expedite the joint hearing.

On motion or on their own initiative, the joint hearing bodies may order any parties who have substantially the same interest that may be affected by the proceeding and who raise substantially the same questions, to consolidate their presentation of evidence, cross-examination, briefs, proposed findings of fact, and conclusions of law and argument in accordance with the provisions of 10 C.F.R. subsection 2.715a and Chapter 463-30 WAC.

Notwithstanding the above procedures for identification of parties and issues to be heard in the joint hearing, EFSEC and the NRC have the right to conduct separate hearings in accordance with their own practices and procedures.

VI. PROCEDURES FOR THE CONDUCT OF DISCOVERY

Discovery on those issues to be heard in the joint hearing as determined by the procedures of Section IV, supra, shall be governed by the Commissions's Rules of Practice set forth in 10 C.F.R. subsection 2.740-2.744 and EFSEC procedures contained in Chapter 463-30 WAC. All parties to the joint proceeding will have the right to conduct discovery consistent with the applicable procedures. Any dispute regarding discovery pertaining to joint issues shall be considered and resolved jointly by the hearing bodies on those issues. If the hearing bodies are unable to agree, the dispute will be resolved in the manner specified in Section IX.I of this Protocol.

VII. SUMMARY DISPOSITION ON PLEADINGS

Certain issues may be summarily disposed of pursuant to the provisions of 10 C.F.R. subsection 2.749 and EFSEC procedures contained in Chapter 463-30 WAC. Motions for summary disposition of issues subject to joint hearing shall be considered and resolved jointly by the hearing bodies. If the hearing bodies are unable to agree, the dispute will be resolved in the manner specified in Section IX.I of this Protocol.

VIII. HEARINGS FOR LIMITED APPEARANCES AND PUBLIC STATEMENTS

The hearing bodies shall consider the feasibility of holding a joint hearing in the vicinity of the proposed site for the purposes of accepting limited appearances or other oral or written statements from members of the public pursuant to the provisions of 10 C.F.R. subsection 2.715 and RCW 80.50.090(1)(3)(4).

IX. PROCEDURES FOR THE JOINT HEARINGS

- A. Presiding at Alternate Sessions. For the sole purpose of conducting the hearing and maintaining order, the ASLB and the EFSEC Chairman or his designee shall assume the responsibility of chairperson and preside over the joint hearing at alternate sessions, unless otherwise agreed upon by the ASLB and the Chairman or his designee.
- B. Status of Counsel for Agency Staffs. For the purposes of preparing for and holding the joint hearing, Counsel for EFSEC shall be accorded all the rights and remedies of an interested State under 10 C.F.R. subsection 2.715(c). Counsel for the NRC Staff shall be accorded all the rights and remedies of a party.
- C. Status of Parties, Participation and Standards of Conduct. Parties to the joint proceeding shall be accorded all the rights and remedies of a full party to the proceeding whether granted party status by the NRC or EFSEC. A party to the joint hearing may appear in the adjudication on his own behalf or by an attorney conforming to the requirements and standards of conduct set forth in 10 C.F.R. subsection 2.713 or of the standards of conduct of the State of Washington. Failure of an individual to conform to these standards will constitute grounds for refusing to permit that individual's continued participation in the joint hearing.
- D. Commonality of Evidentiary Record. One evidentiary record will be developed in the joint hearing. An official reporter will be designated by the NRC with the concurrence of EFSEC and the transcript prepared by the reporter shall be the sole official transcript of the hearing. A copy of the official transcript will be furnished to NRC and to EFSEC.
- E. Cooperation Among Agency Staffs. The staffs of the NRC, EFSEC, and affected State Agencies, shall cooperate to avoid unnecessary duplication in discharging their respective responsibilities in the joint hearing. The staffs shall consult each other in conducting their analyses and in preparing for, and participating in, the joint hearing. To the maximum extent possible, the staffs should avoid presenting repetitive evidence and may, if they wish, present only one set of testimony or one set of witnesses on any given issue.
- F. Written Testimony. Unless otherwise allowed by the concurrence of the hearing bodies upon a showing of good cause, direct and rebuttal testimony shall be submitted in written form and shall contain a statement of the witness' professional qualifications. Each party shall serve copies of its proposed written testimony on the hearing bodies and on the parties to the proceeding in accordance with the schedule established by the hearing bodies. Service and form of written testimony shall conform to the NRC Rules of Practice unless other procedures are agreed to.
- G. Conduct of Evidentiary Hearing. The evidentiary hearing shall begin on a schedule jointly agreed upon the hearing bodies. Except upon concurrence of the hearing bodies for good cause shown, no evidentiary hearing on a subject shall be held less than 15 days after testimony on that subject is served. The evidentiary hearing shall proceed on a contention/issue basis and parties shall present testimony and conduct cross-examination on issues in the following order: Applicants, Intervenors, State Agencies, and NRC Staff. If consistent with the orderly and expeditious conduct of the joint hearing, this order may be changed by concurrence of the hearing bodies to accommodate the convenience of the parties.
- H. Motions. Presentation, disposition, form, content, and answers to a motion by a party to the joint hearing shall be governed by the NRC Rules of Practice set forth in 10

C.F.R. subsection 2.730. Written motions shall be resolved jointly by the hearing bodies in accordance with the procedures set forth in Section IX.I, infra, and be disposed of by order and on notice to all parties.

- I. Rulings. The hearing bodies shall jointly consider and make necessary rulings on motions, procedural questions, objections, and other matters before them. If dispute arises between the ASLB* and EFSEC in the consideration of the ruling, the dispute shall be resolved in favor of the ASLB opinion except in those situations where either the ASLB or the EFSEC opinion rules that an evidentiary offering is objectionable. In such situations, the objectionable offering shall be received into evidence in the joint hearing but the evidence so offered shall not be part of the evidentiary record of the agency body ruling that it is objectionable.

X. PROCEDURE AFTER CONCLUSION OF JOINT HEARING

After conclusion of the joint hearing, each hearing body shall set a schedule for the submission of briefs, findings, conclusions and recommendations as may be required under its own rules of practice. Each agency shall separately issue decisions, certificates, licenses, or permits as may be called for under its governing laws, rules and regulations.

XI. RULES GOVERNING PROTOCOL

Unless otherwise specified in this Protocol for the Conduct of Joint Hearings or agreed to by the hearing bodies, the NRC Rules of Practice shall govern the conduct of these joint proceedings. Any parties' procedural rights, however, shall not be deemed waived by the provisions of this protocol.

XII. REVISION, SUSPENSION AND TERMINATION

The ASLB and the Chairman of EFSEC are jointly responsible for the interpretation of any provision of this protocol. The ASLB and EFSEC may revise this protocol at any time. The Nuclear Regulatory Commission or EFSEC may suspend operation of or terminate this protocol at any time. In that event, the other agency and the parties shall be provided 10 days notice before such termination or suspension.

For the U.S. Nuclear Regulatory
Commission

Name B. Paul Cotter, Jr.
Title Chief Administrative Judge
Date September 17, 1982

For the Washington Energy Facility
Site Evaluation Council

Name Nicholas D. Lewis
Title Chairman
Date July 20, 1982

*The ASLB shall advance its majority opinion in the joint consideration of the ruling.

APPENDIX C

PRINCIPAL PARTICIPANTS IN THE SKAGIT/HANFORD
NUCLEAR PROJECT JOINT LICENSING PROCESS

APPENDIX C

PRINCIPAL PARTICIPANTS IN THE SKAGIT/HANFORD NUCLEAR PROJECT JOINT LICENSING PROCESS

The individuals listed below were the principal participants in developing and conducting the joint licensing process. Addresses of their offices have been provided to facilitate contact with them in the event further information is needed about this joint process.

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BIBLIOGRAPHIC DATA SHEET

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5. AUTHOR(S)

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Office of Nuclear Reactor Regulation
Washington, D. C. 20555

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12. SUPPLEMENTARY NOTES

13. ABSTRACT (200 words or less)

This report summarizes and documents a joint environmental review and licensing process established between the U.S. Nuclear Regulatory Commission (NRC) and the Washington State Energy Facility Site Evaluation Council (EFSEC) in 1980-83 for the Skagit/Hanford Nuclear Project (S/HNP). It documents the agreements made between the agencies to prepare a joint environmental impact statement responsive to the requirements of the National Environmental Policy Act of 1969 (NEPA) and the Washington State Environmental Policy Act. These agreements also established protocol to conduct joint public evidentiary hearings on matters of mutual jurisdiction, thereby reducing the duplication of effort and increasing the efficiency of the use of resources of Federal and State governments and other entities involved in the process. This report may provide guidance and rationale to licensing bodies that may wish to adopt some of the procedures discussed in the report in the event that they become involved in the licensing of a nuclear power plant project. The history of the S/HNP and of the agreement processes are discussed. Discussions are provided on implementing the joint review process. A separate section is included which presents independent evaluations of the process by the applicant, NRC, and EFSEC. Cooperating Federal agencies in the environmental review included the U.S. Department of Energy, the Bonneville Power Administration, and the Bureau of Reclamation.

14. DOCUMENT ANALYSIS - a. KEYWORDS/DESCRIPTORS

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National Environmental Policy Act of 1969 (NEPA)
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