

**WASHINGTON STATE
ENERGY FACILITY SITE EVALUATION COUNCIL**

**RESOLUTION NO. 302
ENERGY NORTHWEST NUCLEAR PROJECTS NOS. 1 AND 4
SITE RESTORATION PLAN**

WHEREAS, The Energy Facility Site Evaluation Council (Council or EFSEC) has adopted rules directing applicants and certificate holders to formulate plans for site restoration, effective March 11, 1987; and

WHEREAS, Energy Northwest is the certificate holder for the Site Certification Agreement for Nuclear Projects Nos. 1 and 4 (WNP-1 and WNP-4, or WNP-1/4) and is subject to the Council's rules regarding site restoration; and

WHEREAS, Energy Northwest has terminated its plans to complete WNP-1 and WNP-4; and

WHEREAS, Energy Northwest on June 30, 1999, submitted to the Council for review a report that evaluated the costs and benefits of a range of options for restoration of the WNP-1 and WNP-4 construction sites, including the identification of Level 3D--Demolish and Seal (with the exception of removing the turbine pedestals) as the preferred alternative; and

WHEREAS, Energy Northwest on December 5, 2002, submitted to the Council for approval a final Site Restoration Plan (Plan) for the WNP-1 and WNP-4 construction sites. The Plan is based on a revised restoration Level 3D to be completed in 26 years, and includes the implementation of near-term health, safety and environmental protection activities to be completed in 18 - 24 months following Council approval of this Resolution; and

WHEREAS, The Council has found that the revised restoration Level 3D, that does not require the removal of the WNP-1 and WNP-4 turbine pedestals, containment structures, and general services buildings, is satisfactory for the final end state of the restoration project and is protective of public health, safety, and the environment; and

WHEREAS, The Council has found that the delay of the final restoration for 26 years is acceptable to resolve the lack of funding for WNP-4 restoration; assure restoration of WNP-4 without costly and time consuming litigation; leverage multiple site restoration activities; accumulate funds necessary to complete final restoration; and maximize facility reuse potential; provided that the immediate near-term health, safety and environmental protection activities proposed by Energy Northwest are completed in the next 18-24 months to assure the site remains in a safe condition for reuse or long-term storage; and

WHEREAS, The Council understands that the cost estimates for the near-term restoration activities are expected to be between \$3-4 million. If these costs exceed \$4 million, Energy Northwest or Bonneville Power Administration (BPA) may request a reasonable extension of time to complete these tasks, and approval of such extension will not be unreasonably withheld by the Council; and

WHEREAS, The Council has determined that it will, without prejudice, revisit the final completion date at Energy Northwest's or BPA's request, if facility reuse or sequencing of WNP-1/4 restoration activities with Columbia Generating Station (CGS) decommissioning activities warrant extending that date, and that Council approval of such extension of time will not be unreasonably withheld; and

WHEREAS, The Council understands that the cost estimates for Plan restoration activities has been estimated at approximately \$45 million in 2003 dollars, and in the event that the \$45 million estimate (appropriately adjusted for costs incurred) escalated to 2025 dollars proves to be inaccurate and results in insufficient funds being available to complete the restoration activities in 26 years, BPA shall make-up the shortfall, provided that Energy Northwest or BPA may request a reasonable extension of time to complete these tasks, and approval of such extension will not be unreasonably withheld by the Council; and

WHEREAS, The Council has found the WNP-1/4 Site Restoration Funding Agreement (Attachment D to the Plan) to be a satisfactory guarantee of funding for the restoration and environmental mitigation activities stated therein and in the Plan, based on the establishment of an external trust fund by BPA; and that agreement provides for review of the funding status every five years; transmittal of annual reports of the accumulated funds in the trust; and the ability to audit the trust fund at the Council's discretion; and

WHEREAS, Pursuant to the WNP-1/4 Site Restoration Funding Agreement, and in consideration of the Council's approval of the agreed to level of restoration and for the delay in time allowed for the completion of final site restoration, BPA, within 30 days of a request for payment to Energy Northwest, will cause to be paid to the Council (State) the lump sum of \$3.5 million for offsite environmental mitigation or other activities that improve the environment to be used at the Council's discretion, after consultation with the Washington Department of Fish and Wildlife, with the bulk of the funds to be spent for mitigation in Benton County; and

WHEREAS, Subject to receipt of the mitigation funds, the Council has determined that such payment will be deemed to satisfy all requirements for wildlife or wildlife habitat mitigation under EFSEC Resolution No. 296, provided that if additional construction or changes in operation or operational conditions at the Columbia Generating Station result in the loss of additional wildlife or wildlife habitat then EFSEC may require Energy Northwest to undertake appropriate mitigation; and

WHEREAS, Upon completion of the near-term health, safety and environmental protection activities set out in the Plan, and submittal of a request from Energy Northwest to amend the WNP-1/4 Site Certification Agreement, pursuant to the WNP-1/4 Site Restoration Funding Agreement, the Council, upon a determination that the requirements of the Plan and this Resolution have been successfully satisfied, shall amend the WNP-1/4 SCA as follows. The amended SCA shall include only the requirements as EFSEC, in the reasonable exercise of its discretion, deems necessary to assure completion of Level 3D restoration actions pursuant to the Plan. Those requirements will replace any and all requirements in the existing SCA. Further, Energy Northwest may request EFSEC to further amend or terminate the SCA to release those portions of the site and/or facilities that are proposed to be: 1) sold, leased or otherwise transferred and used for long-term economic development; and/or 2) no longer intended for the development of energy facilities larger than 350 megawatts. Approval of such SCA amendment or termination shall not be unreasonably withheld by EFSEC.

WHEREAS, The Council has recognized that the actual demolition/restoration methods have not been determined at this time and that specific details of the Plan may require additional review, approval, and monitoring by the Council; and

WHEREAS, The Council agrees that upon the adoption of this Resolution approving the Energy Northwest's WNP-1/4 Site Restoration Plan, the state shall provide to Energy Northwest and BPA an immediate release from all claims, damages and causes of action, existing or otherwise, related to the restoration of the WNP-1 and WNP-4 sites beyond the level in the approved Plan; and

WHEREAS, The Council recognizes that the adoption of this Resolution approving Energy Northwest's current WNP-1/4 Site Restoration Plan will supersede all previous site restoration plans and commitments and will close EFSEC Resolution No. 280; and

WHEREAS, The Council recognizes that Energy Northwest has completed certain initial restoration tasks at the 1 and 4 projects that have benefited the public health, safety, and the environment; and

WHEREAS, The Council finds that the WNP-1/4 Site Restoration Plan (December 2002) is consistent with the public health, safety, and welfare; the applicable laws and regulations; and the intent of the WNP-1/4 SCA.

NOW, THEREFORE, BE IT RESOLVED, That the Energy Facility Site Evaluation Council hereby approves Energy Northwest's Site Restoration Plan for Nuclear Projects Nos. 1 and 4 (December 2002), subject to the commitments therein; provisions of this Resolution; and Council laws and rules.

BE IT FURTHER RESOLVED, That the Council hereby closes out Resolution No. 280; and the approved Plan supersedes all previous site restoration plans for the WNP-1/4 projects.

BE IT FURTHER RESOLVED, That implementation of the near-term restoration activities and ongoing requirements will be reviewed and monitored by the Council.

Dated and effective this 9th day of December, 2002.

WASHINGTON STATE ENERGY FACILITY SITE EVALUATION COUNCIL

By: _____
Jim Luce, EFSEC Chair

Attest: _____
Allen Fiksdal, EFSEC Manager

Attachment:

Energy Northwest Site Restoration Plan for Nuclear Projects Nos. 1 and 4 (December 2002)