8

Legislative Recommendations, Unique Stream Segments, and Reservoir Sites

[31 TAC §357.43]

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Chapter 8: Legislative Recommendations, Unique Stream Segments, and Reservoir Sites

Each of the 16 regional water planning groups may make recommendations to the Texas Water Development Board (TWDB) regarding legislative and regional policy recommendations; identification of unique ecological stream segments; and identification of sites uniquely suited for reservoirs. The Coastal Bend Regional Water Planning Group (CBRWPG) formed a subcommittee at an open meeting on October 17, 2024, to consider legislative and regional policy recommendations. The subcommittee met on November 14, 2024, to discuss and prepare recommendations, which the Coastal Bend Region adopted on December 12, 2024. The following are the Coastal Bend Region's recommendations regarding these matters.

8.1 Legislative and Regional Policy Recommendations

Under the authority of Senate Bill 1, the CBRWPG has developed the following legislative and regional policy recommendations.

8.1.1 General Policy Statement

I. The Texas Legislature is urged to declare that: i) all water resources of the state are hydrologically inter-related and should be managed on a "conjunctive use" basis, wherever possible; ii) existing water supplies should be more efficiently and effectively used through improved conservation and system operating policies; and iii) water re-use should be promoted, wherever practical, taking into account appropriate provisions for protection of downstream water rights, domestic and livestock uses, and environmental flows.

II. The Coastal Bend Region urges the legislature to support policies and programs to meet Texas' water supply needs and prepare for and respond to drought conditions.

III. The Texas Legislature should continue to provide funding to the TWDB and other state agencies for water conservation initiatives, including providing technical support and assistance to water user groups regarding public information programs; leak detection, repair, and monitoring; meter testing and replacement; or other best management practices included in their water conservation programs.

IV. The Texas Legislature is urged to make funds available through regional water planning groups and groundwater conservation districts to educate the citizens of Texas about all water issues, as well as the powers and benefits of groundwater conservation districts and river authorities.

V. The Texas Legislature is urged to provide continued support to the Texas Water Development Board in administering the Texas Water Fund that creates new water sources for the state.

8.1.2 Interbasin Transfers

I. The Texas Legislature is urged to repeal the "Junior Rights" provision and the additional application requirements for interbasin transfers that were included in Senate Bill 1.

8.1.3 Desalination

I. The Texas Legislature is urged to direct the Texas Commission on Environmental Quality (TCEQ) to investigate the current regulatory status of the "concentrate", "reject water", or "byproduct discharge" produced during the desalination of brackish ground water, brackish surface water and seawater in industrial and municipal treatment processes and compare these to reject water requirements for the oil and gas industry and arrive at a common set of standards for the disposal of these waste products so that safe, economical methods of disposal will be available to encourage the application of these technologies in Texas. TCEQ is encouraged to consider and promulgate regulations to define standards related to quality and quantity of byproduct discharge and location.

II. The Texas Legislature is urged to direct TCEQ to work with TWDB, Texas Parks and Wildlife Department (TPWD) and encouraged to work with the U.S. Fish and Wildlife Services (USFWS), U.S. Army Corps of Engineers (USACE), and National Marine Fisheries Services (NMFS) to develop information on the potential environmental impacts of concentrate discharges from seawater desalination facilities and to facilitate the permitting of these discharges into tidal waters where site specific information shows that minimal environment damage would occur. Stewardship plans, to preserve economic diversification through environmental protection, should be included among the Legislature's support options. Off-shore zones in the Gulf of Mexico identified in the 2018 "Marine Seawater Desalination Diversion and Discharge Zones Study" by the TPWD and the General Land Office in response to House Bill 2031 and at the request of the 84th State Legislature should be considered for seawater desalination projects.

III. Texas Legislature is urged to amend state laws governing the procurement of professional services by public agencies to allow municipalities, water districts, river authorities, smaller communities, and other public entities, provided that they have the expertise, to utilize alternative delivery methods for public work projects, including desalination facilities. For example, some large-scale desalination facilities are now constructed using Construction-Management-at-Risk (CMAR) or Public Private Partnership methods, allowing for a cost-effective transfer of project risks to the private sector.

IV. The Texas Legislature is urged to support evaluation, construction and implementation of a pilot desalination plant in the Coastal Bend Region to quantify and qualify impacts of operating a brackish or seawater desalination facility. Avoidance of environmentally sensitive bay and estuary ecological systems should be considered during planning and evaluation of brine disposal options, which may include considering deep well injection and brackish groundwater options that produce less brine.

V. An evaluation should be undertaken of the feasibility of a local or regional desalination facility for the treatment of poor quality groundwater to improve the quality of potable water for Coastal Bend Region cities.

VI. Studies of desalination options to further reduce the cost of using seawater and/or brackish groundwater should be continued.

8.1.4 Groundwater Management

I. The Texas Legislature is urged to provide funding for the Groundwater Management Areas (GMAs) to support their efforts towards the evaluation of groundwater availability and desired future conditions.

II. Studies of the potential to develop aquifer storage and recovery (ASR) system(s) in the Gulf Coast Aquifer should be continued to help drought-proof water supplies in the Region.

III. The TWDB, TCEQ, and the Texas Railroad Commission are urged to expand and intensify their activities in collecting, managing, and disseminating information on groundwater conditions and aquifer characteristics throughout Texas.

IV. The TWDB is urged to continue funding for updates to the groundwater availability models at least on a five-year basis, specifically the GMA 16 Groundwater Flow Model covering the Coastal Bend Region.

V. The Texas Legislature is urged to require the Texas Railroad Commission to cooperate with TWDB and TCEQ to encourage oil and gas well drillers to furnish e-logs, well logs, and other information and require logging of shallow, groundwater bearing formations to facilitate the better identification of aquifer characteristics.

VI. The Texas Legislature is urged to appropriate funding for TWDB to continue and expand their statewide coastal, environmental flows, surface water, and groundwater data program and to consider additional funds, through regional institutions such as those in the Texas A&M University system, to support research, data collection, monitoring, modeling, and outreach related to coastal, surface water and groundwater management activities in the Coastal Bend Region.

VII. TCEQ is urged to amend rules and regulations to require routine water quality monitoring, by a non-partisan third-party, of mining operations and enforcement of water quality standards, including in situ mining and those with deep well injection practices.

VIII. The Texas Legislature is urged to prohibit in-situ mining in aquifers that serve as drinking water sources for residents and livestock.

XI. The Railroad Commission is urged to continue its identification of improperly plugged and abandoned oil and gas wells that adversely affect local groundwater supplies. Funding should be provided to address known problems and/or force responsible parties to properly plug abandoned wells, including oil, gas, and water wells.

X. The TWDB is urged to consider local mining projects (such as natural gas from the Eagleford shale) when developing mining water demand projections in the future for

regional planning. The TWDB is urged to continue to provide guidance on how planning groups should address local mining water projects, especially those associated with gas production from the Eagleford shale or other projects with variable, and often indeterminate production timelines.

XI. Feasibility studies should be undertaken to identify opportunities/costs to develop regional groundwater systems that could utilize poor quality groundwater in conjunction with a desalination treatment plant to more effectively manage groundwater resources within the Coastal Bend Region.

XII. The Coastal Bend Region recognizes the importance of considering groundwater and surface water interaction when managing water resources and evaluating development of future water supplies. The Region encourages the Texas Legislature to provide funding for groundwater conservation districts and groundwater management areas to consider protection of springs and groundwater-surface water interaction when considering new desired future conditions (DFCs).

8.1.5 Surface Water Management

I. The Texas Legislature is urged to provide funding for the development of periodic updates to surface Water Availability Models, (WAMs), with specific consideration to updating the Nueces River Basin WAM or regional Corpus Christi Water Supply Model to extend through the current drought period. The City of Corpus Christi, who currently directly or indirectly provides water supplies for over 80 percent of the water demands in the 11-county Coastal Bend Region, has invested in a water supply model to simulate their four-river basin surface water supply system that includes 82 years of historical hydrology from 1934-2015. The current drought, beyond 2015, is not represented.

II. The TCEQ is urged to enforce existing rules and regulations with respect to water impoundments.

III. Environmental studies of the segments of the Frio and Nueces Rivers downstream of Choke Canyon Reservoir to the Calallen Pool intakes should be undertaken to fully evaluate the potential impacts of reduced instream flows, including groundwater recharge.

8.1.6 Regional Water Resources Data Collection and Information Management

I. The Texas Legislature is urged to provide Senate Bill 1 planning funds, through the CBRWPG to a regional institution, to support regional water resources data collection and activities to develop and maintain a “Regional Water Resources Information Management System” for the Coastal Bend area.

8.1.7 Role of the RWPGs

I. The regional water planning groups should play a role in facilitating public information/public education activities that promote a wider understanding of state and regional water issues and the importance of long-range regional water planning.

II. The TWDB is encouraged to set up focus work group discussions for regional water planning-related studies and invite participation from regional water planning group representatives to provide local input when developing water demand projections or other data that regional planning groups rely on to develop their plan.

III. The Texas Legislature is urged to continue funding the TWDB to provide support for state mandated regional water planning group activities.

IV. Public entities in the Coastal Bend Water Planning Region are urged to provide their share of continued funding for the administrative support activities that facilitate the CBRWPG activities.

8.1.8 Water Quality

I. The Texas Legislature is urged to support studies to closely monitor discharges from sand and gravel operations in the Nueces River watershed and particularly Lower Nueces River.

II. Studies should be undertaken to analyze the effects/costs of new U.S. Environmental Protection Agency (EPA) Safe Drinking Water Act requirements regarding the treatment of problematic constituents in water on stakeholders and water users in the Coastal Bend Region.

8.1.9 Additional Recommendations

The following additional recommendations were developed by the CBRWPG:

I. A detailed inventory of irrigation systems, crops, and acreage should be undertaken to more accurately estimate irrigation demands in the region.

II. The Coastal Bend Region requests additional clarification is provided by the Texas Legislature regarding the repercussions of identifying a stream segment as unique.

8.2 Identification of River and Stream Segments Meeting Criteria for Unique Ecological Value

According to Texas Water Code, Section 16.051, the State Water Plan is to include TWDB recommendations to the legislature for designation of river and stream segments of unique ecological value. If the legislature then designates a river or stream segment of unique value, it means that a state agency or political subdivision of the state may not finance construction of a reservoir on the designated river or stream segment.

Planning groups may recommend the designation of river or stream segments of unique ecological value located within their planning area. The following criteria can be used as a basis for designating stream segments of unique ecological value: biological function, hydrologic function, riparian conservation areas, high water quality, exceptional aquatic life, high aesthetic

value, and threatened or endangered species/unique communities.[1] The TWDB considers planning group recommendations of unique reservoir sites from adopted regional water plans when developing the State Water Plan.

The CBRWPG formed a subcommittee[2] at an open meeting on October 17, 2024, to consider designation of ecologically unique stream segments for the Coastal Bend Region. The subcommittee met on November 14, 2024, to discuss and prepare recommendations[3] for CBRWPG consideration. The subcommittee considered TPWD's 2002 recommendations of four stream segments in the Coastal Bend Region for designation of ecologically significant value: Aransas River Tidal (Segment 2003), Nueces River Tidal (Segment 2101), Nueces River (below Lake Corpus Christi) (Segment 2102), and Nueces River (above Lake Corpus Christi) (Segment 2103).[4]

The subcommittee's recommendations were considered and adopted by the Coastal Bend Region on December 12, 2024.

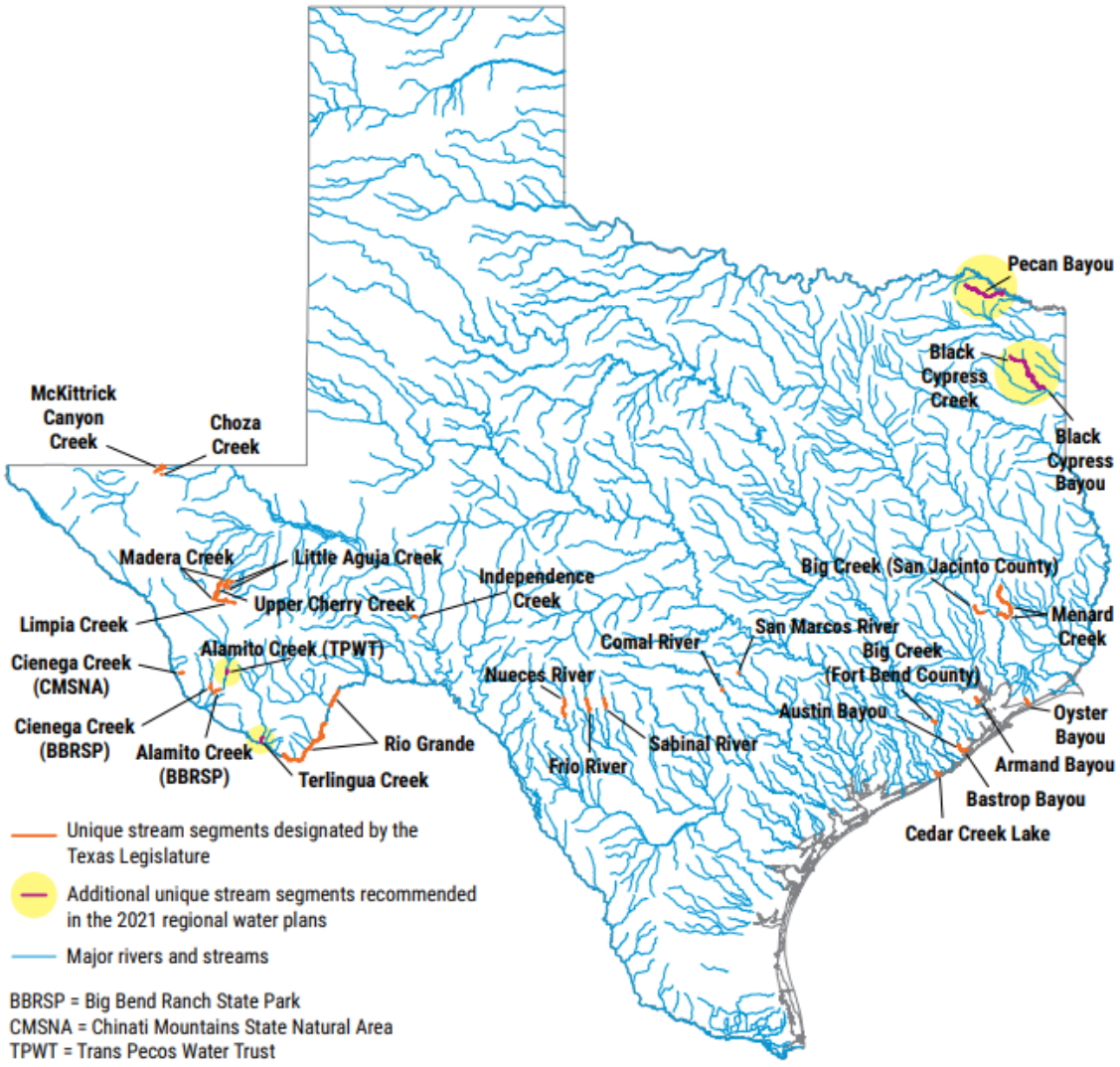
On December 12, 2024, the Coastal Bend Region considered and adopted the subcommittee's recommendations that no river or stream segments within the Coastal Bend Region be identified at this time. The unique stream segments of unique ecological value for protection recommended in the 2022 State Water Plan and designated by the Texas Legislature are presented in Figure 8.1. There are no river or stream segments in the Coastal Bend Region area designated by the 2022 State Water Plan or Texas Legislature as having unique ecological value.

[1] 31 Texas Administrative Code Chapter 358.2

[2] The subcommittee consisted of Carl Crull, Dr. Pancho Hubert, Lonnie Stewart, and Esteban Ramos.

[3] Additional attendees on the call included Michele Foss (TWDB), Brian Williams (SPMWD) and Travis Pruski (Nueces River Authority).

[4] Texas Parks and Wildlife, Ecologically Significant River and Stream Segments of Coastal Bend Water Planning Area (Region N), August 2002.



Source: TWDB, Water for Texas 2022 State Water Plan.

Figure 8.1.
2022 State Water Plan - Designated and Recommended Unique Stream Segments

8.3 Identification of Sites Uniquely Suited for Reservoirs

Planning groups may recommend a site as unique for reservoir construction if: 1) site-specific reservoir development is recommended as a specific water management strategy or an alternative scenario in an adopted regional water plan; or 2) the site is uniquely suited to provide water supply for the current planning period or beyond 50-years. The TWDB considers planning group recommendations of unique sites for reservoir construction from adopted regional water plans when developing the State Water Plan.

According to Texas Water Code, Section 16.051, the State Water Plan is to include TWDB recommendations to the legislature for unique reservoir sites. If the legislature designates a site of unique value for the construction of a reservoir, a state agency or political subdivision of the

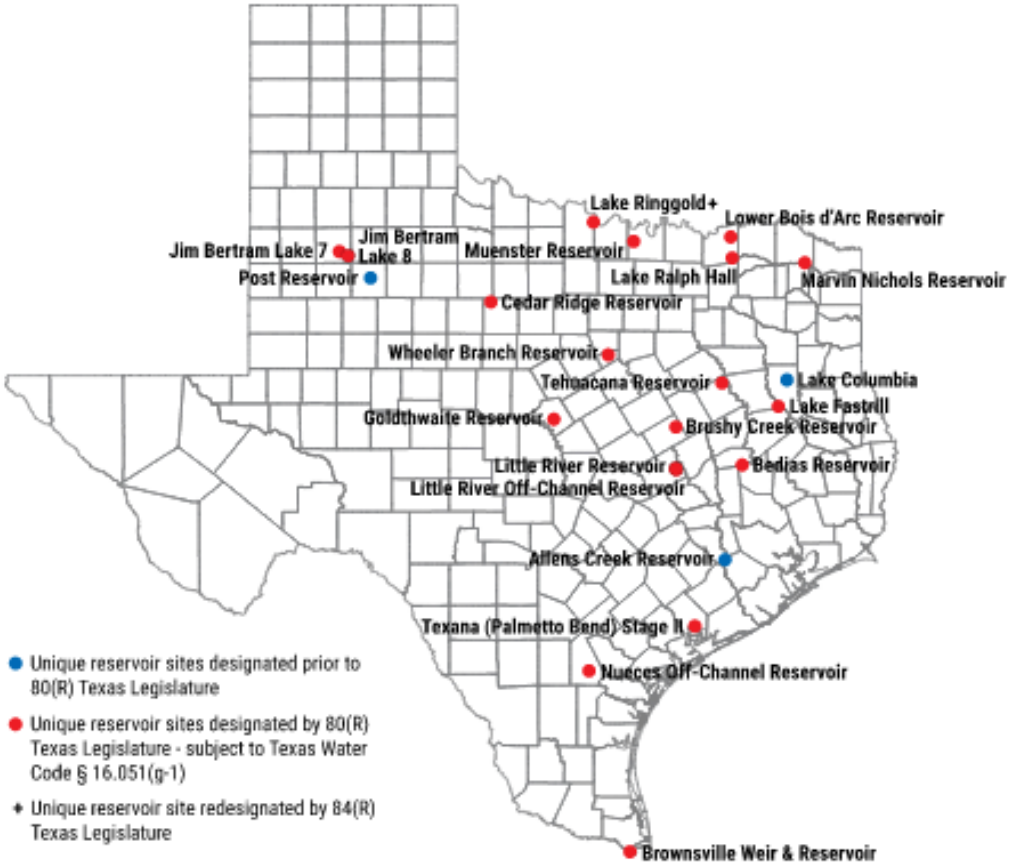
state may not obtain a fee title or an easement that would significantly prevent the construction of a reservoir on a designated site.

The CBRWPG formed a subcommittee[5] at an open meeting on October 17, 2024, to consider designation of reservoir sites of unique value for construction. The subcommittee met on November 14, 2024, to discuss previous designations by the Texas Legislature of reservoirs within or related to the Coastal Bend and prepare recommendations[6] for CBRWPG consideration. Furthermore, the City of Corpus Christi provided feedback that they have no active plans to develop new reservoir supplies in the future. On December 12, 2024, the Coastal Bend Region considered and adopted the subcommittee's recommendations that no unique reservoir sites in the Coastal Bend Region be identified at this time.

A map showing the 2022 State Water Plan recommended unique reservoir sites and those previously designated by the Texas Legislature as sites of unique value for reservoir construction is shown in Figure 8.2. Of these, 2 of the 26 sites were shown in the *2011 Coastal Bend Regional Water Plan* as recommended or alternative water management strategies to provide future supplies to the Coastal Bend Region: Nueces off-channel reservoir and Texana (Palmetto Bend) Stage II. Since publication of the *2011 Coastal Bend Regional Water Plan*, both reservoirs have been removed from active study and future water supply for the Coastal Bend Region.

[5] The subcommittee consisted of Carl Crull, Dr. Pancho Hubert, Lonnie Stewart, and Esteban Ramos.

[6] Additional attendees on the call included Michele Foss (TWDB), Brian Williams (SPMWD) and Travis Pruski (Nueces River Authority).



Source: TWDB, Water for Texas 2022 State Water Plan.

Figure 8.2.
2022 State Water Plan - Designated and Recommended Unique Reservoir Sites

The Lavaca Navidad River Authority previously considered an off-channel variation of Stage II Lake Texana (Palmetto Bend) that was included in the *2016 Coastal Bend Regional Water Plan* but removed from active study since then. The Coastal Bend Region supports initiatives by Region P and Lavaca Navidad River Authority for development of their future water supplies. However, the Coastal Bend Region does not recommend specific tracts of land for the Lavaca Off-Channel Reservoir Project and encourages those wishing to pursue such options to discuss with property owners and mediate, if necessary, prior to federal, state, or local recommendation of specific location(s).

8.4 Interregional Planning Council (IPC) Recommendations

The CBRWPG formed a subcommittee[7] at an open meeting on October 17, 2024, to consider Interregional Planning Council (IPC) recommendations from their March 4, 2024 report[8].

The subcommittee met on November 14, 2024, to discuss IPC recommendations[9]. On December 12, 2024, at a regular public meeting of the CBRWPG the planning group confirmed their support of IPC report findings for inclusion in the *2026 Coastal Bend Regional Water Plan*.

8.4.1 Recommendations to the Legislature:

As relates to all three legislative charges, the Council recommends that the legislature appropriate additional funds to the planning process specifically to:

1. support a required task of the regional water planning groups to identify and facilitate interregional coordination;
2. accommodate tasks associated with long-range, visionary planning;
3. fund better methods of disseminating information for the regional water planning process; and
4. accommodate labor costs for administering regional water planning groups rather than permitting a reallocation of existing planning resources, as that would reduce the funding required to meet other required planning tasks.

As relates to Legislative Charge 2, the Council recommends that the legislature:

1. provide financial incentives for local sponsorship of innovative, visionary, multi-benefit projects;
2. provide initial sponsorship of projects by the State without guarantees from local sponsors; and
3. establish a process for coordination amongst state agencies, at the state level, related to installation of infrastructure during planning and construction of large-scale projects.

As relates to Legislative Charge 3, the Council recommends that the legislature:

1. amend the language in Texas Water Code Section 16.053(i) to strike simplified planning from the statute; and
2. authorize the use of one-way conferencing or webinars.

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[7] The subcommittee consisted of Carl Crull, Dr. Pancho Hubert, Lonnie Stewart, and Esteban Ramos.

[8] Source: https://www.twdb.texas.gov/waterplanning/rwp/ipc/docs/2024_02_08_mtg/IPC_FinalReport_030424.pdf

[9] Additional attendees on the call included Michele Foss (TWDB), Brian Williams (SPMWD) and Travis Pruski (Nueces River Authority).

8.4.2 Recommendations to the Texas Water Development Board

As relates to Legislative Charge 3, the Council recommends that the TWDB develop protocols to incorporate annual discussions to evaluate and document best practices for regional water planning in Chairs' conference calls.

8.4.3 Recommendations to Future Interregional Planning Councils

The Council recommends that future Interregional Planning Councils:

1. monitor the effectiveness of enhanced efforts to promote interregional coordination and review how best to utilize interregional liaisons in the development or use of shared water resources;
2. utilize state agencies' expertise to assist regions in developing a vision of planning resources for the state as a whole;
3. consider holding work sessions as needed to "deep dive" into more complicated topics;
4. review materials and meeting notes from the TWDB's "lessons learned" technical meetings with regional water planning group consultants; and
5. review progress on all recommendations in the 2027 State Water Plan Council's report and submit its assessment to the TWDB.

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