File NR S4-33060
WR Doc ID 5202620

DEPARTMENT OF ECOLOGY
State of Washington

State of Washington
Department of Ecology
Office Of Columbia River
Report of Examination

PRIORITY DATE
4/3/2012

APPLICATION NUMBER
S4-33060

MAILING ADDRESS
Public Utility District No. 2 of Grant County
PO Box 878
Ephrata, WA 98823-0878

SITE ADDRESS (IF DIFFERENT)
210 Getty's Cove Road
Vantage, WA 98823

Quantity Authorized for Diversion

DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
0.74	CFS	54 (Non-Additive)

Purpose

PURPOSE	DIVERSION RATE ADDITIVE	DIVERSION RATE NON-ADDITIVE	UNITS	ANNUAL QUANTITY (AF/YR) ADDITIVE	ANNUAL QUANTITY (AF/YR) NON-ADDITIVE	PERIOD OF USE (mm/dd)
Municipal Irrigation	0.74		CFS		54	04/01 - 10/31

REMARKS
Additive in Qi only to S4-30375C.

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
Kittitas	Columbia River	Pacific Ocean	40-Alkali-Squilchuck

SOURCE FACILITY/DEVICE	PARCEL	WELL TAG	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
Columbia River	664833		16N	23E.W.M.	18	S½ NE		

Datum: NAD83

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)
664833, 953822, 564833, 674833

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE
SE¼ NW¼ and S½ NE¼ , Section 18, T. 16 N., R. 23 E.W.M.

Proposed Works

Renovation of an existing surface water diversion and associated distribution system.

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Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
Started	April 1, 2020	October 31, 2022

Measurement of Water Use

How often must water use be measured?	Weekly
How often must water use data be reported to Ecology?	Upon Request by Ecology
What volume should be reported?	Total Annual Volume
What rate should be reported?	Annual Peak Rate of Withdrawal (cfs)

Provisions

Measurements, Monitoring, Metering and Reporting
An approved measuring device must be installed and maintained for each of the sources identified by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use", WAC 173-173, which describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition the Department of Ecology for modifications to some of the requirements.

Department of Fish and Wildlife Requirement(s)
The intake(s) shall be screened in accordance with Department of Fish and Wildlife screening criteria (pursuant to RCW 77.57.010, RCW 77.57.070, and RCW 77.57.040). Contact the Department of Fish and Wildlife, 600 Capitol Way N, Olympia, WA 98501-1091. Attention: Habitat Program, Phone: (360) 902-2534 if you have questions about screening criteria. http://wdfw.wa.gov/about/contact/

No dam or weir shall be constructed in connection with this diversion.

Easement and Right-of-Way
The water source and/or water transmission facilities are not wholly located upon land owned by the applicant. Issuance of a water right change authorization by this department does not convey a right of access to, or other right to use, land which the applicant does not legally possess. Obtaining such a right is a private matter between applicant and owner of that land.

Water Use Efficiency
The water right holder is required to maintain efficient water delivery systems and use of up-to-date water conservation practices consistent with RCW 90.03.005.

Schedule and Inspections
Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the project location, and to inspect at reasonable times, records of water use, wells, diversions, measuring devices and associated distribution systems for compliance with water law.

Your Right To Appeal

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

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To appeal you must do the following within 30 days of the date of receipt of the Order.

File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.

- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

- You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	**Department of Ecology** Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel RD SW Ste 301 Tumwater, WA 98501	**Pollution Control Hearings Board** PO Box 40903 Olympia, WA 98504-0903

For additional information visit the Environmental Hearings Office Website: http://www.eho.wa.gov. To find laws and agency rules visit the Washington State Legislature Website: http://www1.leg.wa.gov/CodeReviser.

Signed at Yakima, Washington, this day of 2012.

Mark C. Schuppe
Operations Manager
Office of Columbia River

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INVESTIGATOR'S REPORT
Application for Water Right -- Grant County PUD 2
Water Right Control Number S4-33060
Thomas Perkow, Department of Ecology

BACKGROUND

Description and Purpose of Proposed Application

On April 3, 2012, the Washington State Department of Ecology (Ecology) accepted Water Right Application Number S4-33060 submitted by Public Utility District No. 2 of Grant County (Grant PUD). Attributes of the application are presented below in Tables 1 and 2.

Lands covered by the proposed place of use and point of diversion are owned by Grant PUD.

The proposed water use is associated with the irrigation of an existing campground owned by Grant PUD. Water right certificate S4-30375C already authorizes a sufficient annual quantity (Qa) for the irrigation of the campground. This application proposes an increase in the instantaneous rate of withdrawal (Qi) only.

Table 1: Application Summary

Name	Public Utility No. 2 of Grant County
Priority Date	4/3/2012
Instantaneous Rate	0.72 cfs, amended to 0.74 cfs
Annual Quantity	0 af/yr
Purpose(s) of Use	Municipal irrigation
Period of Use	April 1 – October 31
Place of Use	SE¼ NW¼ and S½ NE¼ , Section 18, T. 16 N., R. 23 E.W.M.

Table 2: Proposed Source of Diversion

Source Name	Parcel	WellTag	Twp	Rng	Sec	QQ Q	Latitude	Longitude
Columbia River	664833, 953822	N/A	16N	23E	18	S½ NE	46.87966	-119.98917

Legal Requirements for Approval of Appropriation of Water

Chapters 90.03 and 90.44 RCW authorize the appropriation of public water for beneficial use and describe the process for obtaining water rights. Laws governing the water right permitting process are contained in RCW 90.03.250 through 90.03.340 and RCW 90.44.050. In accordance with RCW 90.03.290, determinations must be made on the following four criteria in order for an application for a water right to be approved:

- Water must be available

- There must be no impairment of existing rights
- The water use must be beneficial
- The water use must not be detrimental to the public interest

Public Notice

RCW 90.03.280 requires that notice of a water right application be published once a week, for two consecutive weeks, in a newspaper of general circulation in the county or counties where the water is to be stored, diverted and used. Notice of this application was published, as amended in Qi value, in The Daily Record during the weeks of June 14 and June 21, 2012.

Consultation with the Washington Department of Fish and Wildlife

Ecology must give notice to the Washington Department of Fish and Wildlife (WDFW) of applications to divert, withdraw or store water (RCW 77.57.020). On August 20, 2012, a copy of the application was sent to WDFW for comment. A response was not received.

Under WAC 173-563-020(4), consultation is required before issuance of any new water right permits from the Columbia River:

> *The instream flows established and implemented by this chapter for instream and out-of-stream uses, and the average weekly flows applied by this chapter to out-of-stream uses do not apply to any application for water from the main stem Columbia River on which a decision is made by the department of ecology on or after July 27, 1997. Any water right application considered for approval or denial after that date will be evaluated for possible impacts on fish and existing water rights. The department will consult with appropriate local, state, and federal agencies and Indian tribes in making this evaluation. Any permit which is then approved for the use of such waters will be, if deemed necessary, subjected to instream flow protection or mitigation conditions determined on a case-by-case basis through the evaluation conducted with the agencies and tribes.*

On July 19, 2012, letters requesting consultation were sent to relevant agencies and tribes pursuant to WAC 173-563-020. On August 10, 2012, two responses were received. One was from the US Fish and Wildlife Service and the other from the Upper Columbia Salmon Recovery Board (UCSRB). The US Fish and Wildlife commented that they had no comments and found "...the proposed action to be of little consequence to listed species..." The UCSRB noted that the proposal has a neutral impact on the Columbia River. Neither entity opposed the approval of the application.

State Environmental Policy Act (SEPA)

A water right application is subject to a SEPA threshold determination (i.e. an evaluation whether there are likely to be significant adverse environmental impacts) if any one of the following conditions are met.

- It is a surface water right application for more than 1 cubic foot per second (cfs). If the project is for agricultural irrigation, the threshold is increased to 50 cfs, so long as the project will not receive public subsidies;
- It is a groundwater right application for more than 2,250 gallons per minute (gpm);
- It is an application combined with other water right applications for the same project and exceeds the amounts above;

- It is a part of a larger proposal that is subject to SEPA for other reasons (e.g. the need to obtain other permits that are not exempt from SEPA);
- It is part of a series of exempt actions that, considered together, trigger the need to do a threshold determination, as defined under WAC 197-11-305.

Because this application does not meet any of these conditions, it is categorically exempt from SEPA and a threshold determination is not required. Note that the original campground was constructed prior to the enaction of SEPA.

INVESTIGATION

Water Availability

For water to be available for appropriation, it must be both legally and physically available.

Legal Availability

Certificate S4-30375C issued in June, 2012, with an August 8, 1990, priority date. Application S4-33060 proposes additional Qi additive to S4-30375C. No additional Qa is proposed under S4-33060. The proposed increase in Qi only would not increase the consumptive and non-consumptive portions of S4-30375C. As such, this Qi-only proposal is considered water budget neutral; no mitigation water would be required. Note that the original 0.72 cfs applied for was amended to 0.74 cfs due to a lower than anticipated instantaneous rate allotted to S4-30375C (0.26 cfs) during its certification process. Grant County PUD expects to divert 1.0 cfs once all upgrades are completed (0.26 cfs + 0.74 cfs). The amended value was published under the Public Notice requirement.

Physical Availability

The subject application proposes diversion of the Columbia River surface water from the Wanapum Pool. A reasonable expectation is that the heavily regulated Columbia River will continue to be managed such that surface water levels will remain within normal pool operating elevations to the extent possible. As such, water would be physically available.

Impairment Considerations

An investigation of a water right application includes an analysis of whether the proposed water use will impair other existing water rights. The impairment analysis involves identifying how the proposed water use may impact the current water rights regime. As discussed above, this proposal is considered water budget neutral; no impairment is expected.

Water Rights, Permits, and Claims in the Vicinity

As shown in Table 3 below, there are three other water right documents in the immediate area. Two of these, a right and a permit, are owned by Grant PUD. The right (a certificate) diverts from the Columbia River for non-agricultural irrigation and the permit withdraws groundwater for continuous multiple domestic (campground) use.

The remaining document is a surface water certificate (S4-28921C) with a May 1, 1986, priority date. The source is Johnson Creek, which discharges to the Columbia River. This certificate issued to Margaret Bottoms and authorized the use of 0.01 cfs and up to 0.64 ac-ft per year for the irrigation of 0.16 acres from April 1 to October 31.

Table 3: Other Water Right Documents in the Area

File Number	Applicant	Document	Type	Priority Date	Purpose	Qi/Units	Qa (Ac-ft/yr)
S4-30375C	Grant PUD	Certificate	Surface	August 8, 1990	Non-agricultural Irrigation	0.26 cfs	54
G4-31780P	Grant PUD	Permit	Ground	June 16, 1993; May 16, 1938	Multiple Domestic	100 gpm	11.06
S4-28921C	Margaret Bottoms	Certificate	Surface	May 1, 1986	Irrigation	0.01 cfs	0.64

Beneficial Use

The use of water for irrigation purposes is defined in statute as a beneficial use (RCW 90.54.020(1)). Beneficial use encompasses two principal elements of a water right:

1. Beneficial use refers to the purpose for which water may be used.
2. Beneficial use determines the measure of a water right. The owner of a water right is entitled to the amount of water necessary for the purpose to which it has been used.

To determine the amount of water necessary for a beneficial use, courts have developed the principle of "reasonable use". Reasonable use of water is determined by analysis of the factors of water duty and waste.

As discussed above, Grant PUD holds two other water right documents (a certificate and a permit) in this area. The certificate is for non-agricultural irrigation (S4-30375C), while the permit is for continuous multiple domestic (campground) uses. The subject application proposes to be additive in Qi only to S4-30375C. As there is no increase in annual quantity (Qa) proposed, the water duty is not altered and waste is not expected.

Application S4-33060 proposes municipal irrigation additive to S4-30375C, which authorizes the use of water for non-agricultural irrigation. The purpose of use of S4-30375C has not yet been changed to municipal use (i.e. municipal irrigation of campground lawns, shade trees, and landscaping), though it appears such a change may be applied for in the near future. The applicant of S4-33060, a PUD, is one of the six entities that may qualify as municipal listed in RCW 90.03.015(4), and the use qualifies as municipal water supply purposes under the same RCW. As such, and even recognizing that S4-30375C does not include municipal irrigation as a purpose of use, the purpose of use of S4-33060 would be the same as applied for: municipal irrigation.

Public Interest Considerations

Analysis of whether this application meets the requirements of RCW 90.03.290, that the proposed use of water will not be detrimental to the public welfare, involves investigation of how the approval of the proposed use of water will affect the range of values that are encompassed by the public interest.

Several sections of statute list the legislative policies that guide the consideration of the public interest during the allocation of water, including sections of the 1971 Water Resources Act (Chapter 90.54 RCW) and Chapter 90.90 RCW titled "Columbia River Basin Water Supply".

The public interests are specifically cited in several sections of Chapter 90.90 RCW.

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- RCW 90.90.005(1) states "The legislature finds that a key priority of water resource management in the Columbia river basin is the development of new water supplies that includes storage and conservation in order to meet the economic and community development needs of people and the instream flow needs of fish".

- RCW 90.90.005(2) directs Ecology to "aggressively pursue the development of water supplies to benefit both instream and out-of-stream uses".

- RCW 90.90.020(3)(b) instructs Ecology to focus on "Sources of water supply for pending water right applications".

- RCW 90.90.020(3)(d) instructs Ecology to focus on "New municipal, domestic, industrial, and irrigation water needs within the Columbia river basin".

If the subject application is approved, the public welfare may be affected in several ways:

- Economic activity is likely to result from the use of water for commercial/industrial purposes, as the associated construction and operation activities generate increased economic and social opportunities.

- The Qi-only use of water for non-agricultural irrigation purposes at a campground is not expected to affect local cultural, recreational, or environmental resources.

Consideration of Protests and Comments

No protests were received during the 30-day protest period, which expired July 23, 2012. No other comments were received either.

Conclusions

Beneficial Use
The proposed use of water for municipal irrigation is considered to be a beneficial use.

Water Availability
The analysis provided above demonstrates that water is physically and legally available for the proposed increase in Qi only.

Impairment
The proposed increase in Qi will not impair any existing water rights.

Public Interest
The proposed use of water would not be detrimental to the public welfare.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that this request for a water right be approved in the amounts and within the limitations listed below and subject to the provisions listed above.

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Purpose of Use and Authorized Quantities

The amount of water recommended is a maximum limit and the water user may only use that amount of water within the specified limit that is reasonable and beneficial:

0.72 cfs (Additive to S4-30375C)
54 ac-ft per year (Non-Additive to S4-30375C)
for the purpose of municipal irrigation of campground lawns, shade trees, and landscaping.

Point of Diversion

S½ NE¼, Section 18, T. 16 N., R. 23 E.W.M.

Place of Use

SE¼ NW¼, and S½ NE¼, Section 18, T. 16 N., R. 23 E.W.M.

Report Writer *Date*

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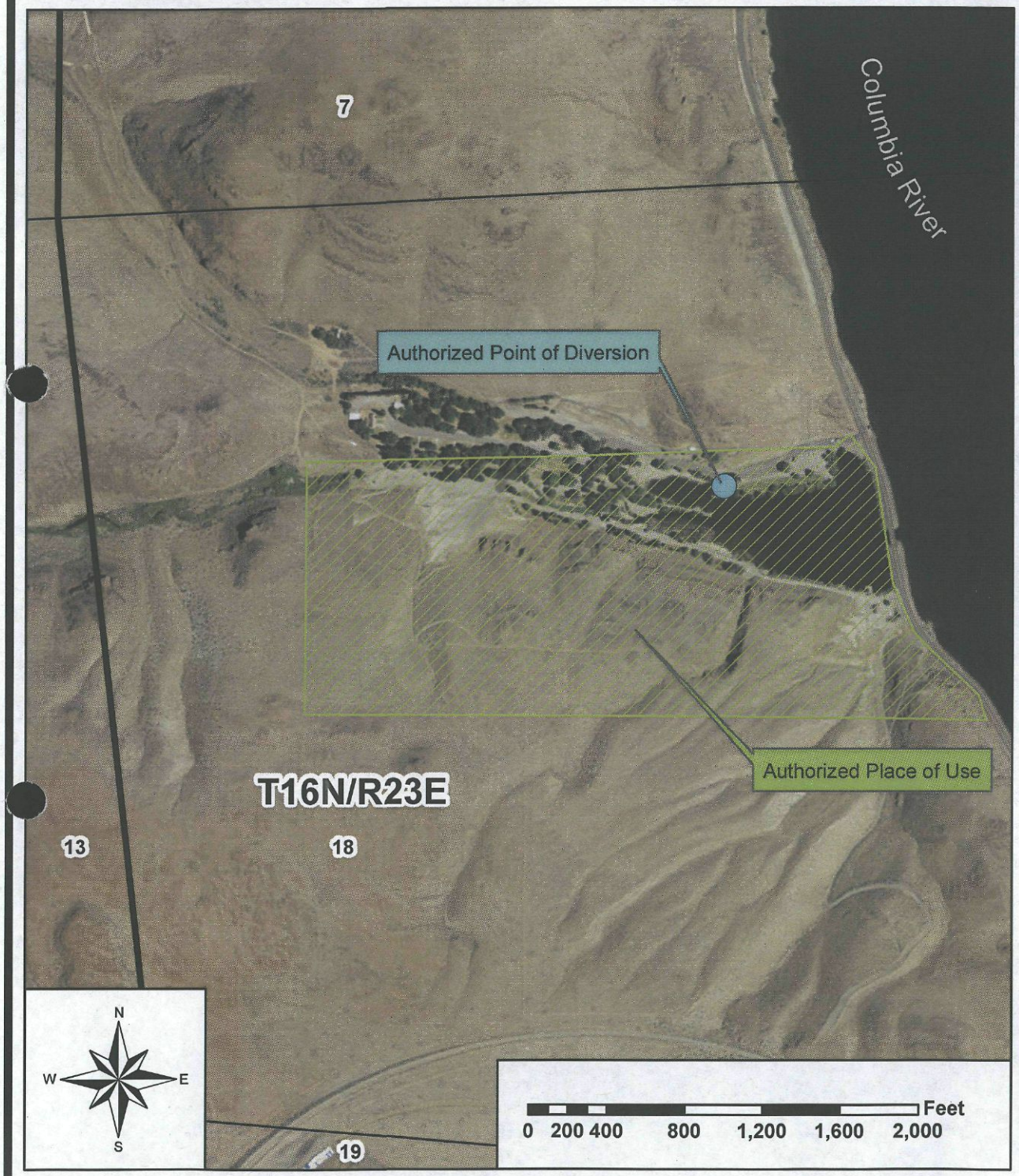
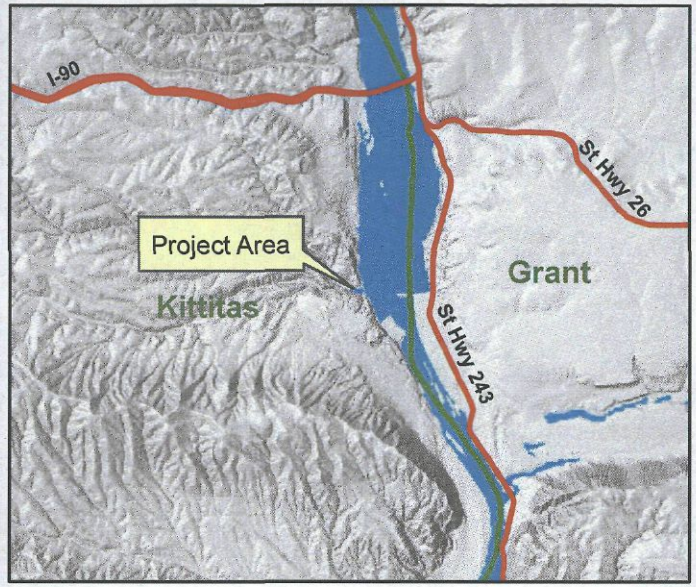
Grant County PUD
Application Number G4-33060
Section 18, T. 16 N., R. 23 E.W.M.
WRIA 40 - Kittitas County

DEPARTMENT OF ECOLOGY
State of Washington





POD S4-33060
POU S4-33060
Sections
Townships

Comments:
Map is for reference only. Place of use and point of withdrawal are as defined on the cover sheet of the Report of Examination.

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