



January 13, 2016

Via Electronic Delivery (NMleasesalecomments@blm.gov)

Amy Lueders
State Director
New Mexico Field Office
301 Dinosaur Trail
Santa Fe, NM 87508

Re: Comments on the Environmental Assessment for the New Mexico April 20, 2016 Lease Sale

Dear Director Lueders:

The Center for Biological Diversity (“CBD”) writes, and the Houston Regional Group and Lone Star Chapter of the Sierra Club join in this letter, to supplement CBD’s comment on the Environmental Assessment (“EA”) for the New Mexico State Office’s April 20, 2016 lease sale, which omitted vital information from the public’s review and comment, in violation of the National Environmental Policy Act (“NEPA”). Specifically, the EA fails to take a “hard look” at site-specific impacts for any of the parcels, including utterly failing to analyze the environmental impacts of developing one of the forty-three parcels offered for sale, Parcel NM-201604-016 (“Parcel 16” or “Walker County Parcel”), totaling 2,298.160 acres in the Sam Houston National Forest in Walker County (“SHNF”), Texas. BLM should defer the lease sale at least until an EA reviewing the potential environmental impacts of the sale and development of the parcels is properly performed. *See* 40 C.F.R. § 1508.9 (EA serves to “[b]riefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact”).

The cursory treatment of Parcel 16 is particularly stark. Section 2.2 Alternative B - Proposed Action lists Parcel 16 as one of the forty-three lease parcels offered for sale. EA at 9; *see also* Table 1, EA at 12. The EA lacks any discussion of Parcel 16 in the remainder of the document. For instance, the parcel was not described in Section 3.0 “Description of Affected Environment” (EA at 20-23), nor was it analyzed in any of the following sections:

- 3.1.1 Air Quality omits from discussion the Walker County parcel, which is about 75 miles northwest of the Houston-Galveston-Brazoria ozone non-attainment area. EA at 24.
- 3.1.2 Climate, Table 6 (“Summary of climate components that could affect air quality in the region”) omits any mention of Walker County or Parcel 16’s climate. EA at 28 - 29.
- 3.6 Non-Native Invasive Species, Texas, Table 14 (“Invasive and Non-Native Species documented in Proposed Lease Parcel Counties”) omits discussion of non-native species found around Parcel 16 or within Walker County. EA at 37 - 38. Water Hyacinth, Chinese Tallowtree, Alligatorweed, Giant Reed, and Hydrilla are non-natives that can be found in Walker County.
- 3.7 Vegetation, Table 9 (“Ecoregions of the proposed lease parcels”) lists the Ecoregions for all parcels except Parcel 16. EA at 38 - 40.
- 4.3.8.1 Wildlife, Threatened and Endangered Species, discusses endangered, threatened, proposed, and candidate species for each county in Texas except for those in Walker County. EA at 64. The red cockaded woodpecker, [and any others] are all listed species that are found within or near Parcel 16 and within Walker County.

Without identifying Parcel 16’s baseline environmental conditions, BLM cannot possibly evaluate the potential impacts of developing this parcel. For example, the failure to identify the Houston-Galveston-Brazoria ozone non-attainment area’s proximity to Parcel 16, as well as local climate conditions affecting air quality, precludes any understanding of the potential for increased construction, drilling, traffic, and pipeline activity to exacerbate poor air quality within this airshed. Indeed, this issue is not at all addressed in the EA. Likewise BLM cannot appreciate the disastrous impact on biodiversity that development on Parcel 16 could result in, without assessing the existing non-native species found around Parcel 16 or within Walker County. Such species may include Water Hyacinth, Chinese Tallowtree, Alligatorweed, Giant Reed, and Hydrilla, which is identified on the Federal Noxious Weeds list. Furthermore, BLM failed to account for the endangered, threatened, proposed, and candidate species which occur or have the potential for occurrence in Walker County. As a result, the public cannot determine whether BLM has taken necessary steps to protect such species and to prevent the destruction or adverse modification of designated or proposed critical habitat.

The potential fracking of oil and gas underlying more than 2,000 acres of national forest is of central importance to the public interest. A brief glance at several maps of Parcel 16 (attached as Exhibit A to this letter), which were also excluded from the EA and which we independently

obtained from BLM as well as other sources, shows that the Walker County Parcel encompasses streams and other potentially sensitive habitat, including but not limited to: Smith Branch and Brown Branch, both of which are intermittent or perennial streams with riparian fringe; part of Lake Conroe, a drinking water source for Southern Montgomery County; as well as a number of Red-cockaded Woodpecker clusters (homesites), foraging habitat, and recruitment and replacement stands. Considering the grave impacts of fossil fuel development on human health, climate change, seismicity, surrounding water resources, sensitive wildlife, and air quality, the failure to review the potential impacts of gas and oil development on the Parcel violates NEPA. *S. Utah Wilderness All. v. Norton*, 457 F. Supp. 2d 1253, 1262 (D. Utah 2006) (BLM violated NEPA because it sold leases without first preparing an adequate EIS or EA).

BLM is required under NEPA to take a “hard look” at the environmental consequences of gas and oil development within every parcel offered in this lease sale. *See* 42 U.S.C. § 4332(2)(C); *United States v. Garfield Cty.*, 122 F. Supp. 2d 1201, 1245 (D. Utah 2000) (permitting development prior to completing adequate environmental assessment frustrates NEPA policy because the agency does not have the opportunity to determine if a significant impact on the environment exists and if so, to consider adverse effects which cannot be avoided should the proposed action go forward). “Agencies are to perform this hard look before committing themselves irretrievably to a given course of action, so that the action can be shaped to account for environmental values. Action of an irreversible nature, taken before an assessment has been prepared, frustrates the agency’s ability to carry out the duties and responsibilities assigned to it by Congress.” *Id.*

In this case, BLM failed to take the requisite hard look at the site-specific environmental impacts pertaining to the sale and development of any of the 43 parcels, and in fact does not appear to have taken *any* look at said impacts to Parcel 16. BLM is therefore also required under NEPA to supplement the EA to include a review of such impacts. *S. Utah Wilderness All.*, 457 F. Supp. 2d

at 1264 (“NEPA’s duty to supplement applies equally to environmental impact statements and environmental assessments.”). BLM should formally withdraw all parcels from the sale until a proper EA is performed.

Please contact us if you have any questions.

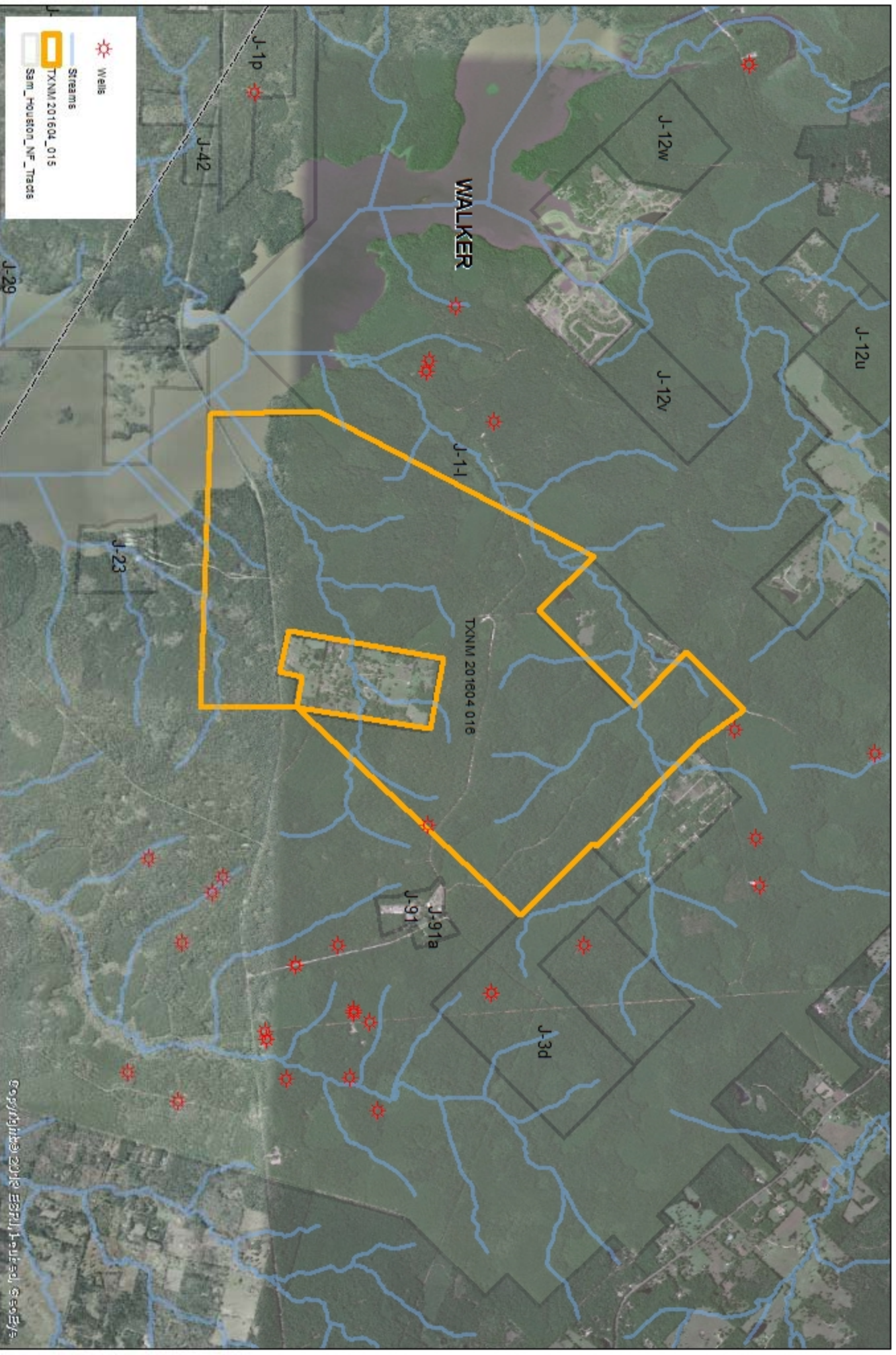
Sincerely

A handwritten signature in black ink, appearing to read "My-Linh Le". The signature is fluid and cursive, with the first name "My-Linh" written in a larger, more prominent script than the last name "Le".

My-Linh Le
Legal Fellow

Brandt Mannchen
Houston Regional Group of the Sierra Club
Lone Star Chapter of the Sierra Club

EXHIBIT A



 Wells
 Streams
 TXNM 201604_016
 Sam_Houston_NF_Tracts

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Nominated Lease Sale Parcel
TXNM 201604 016
Walker County, TX



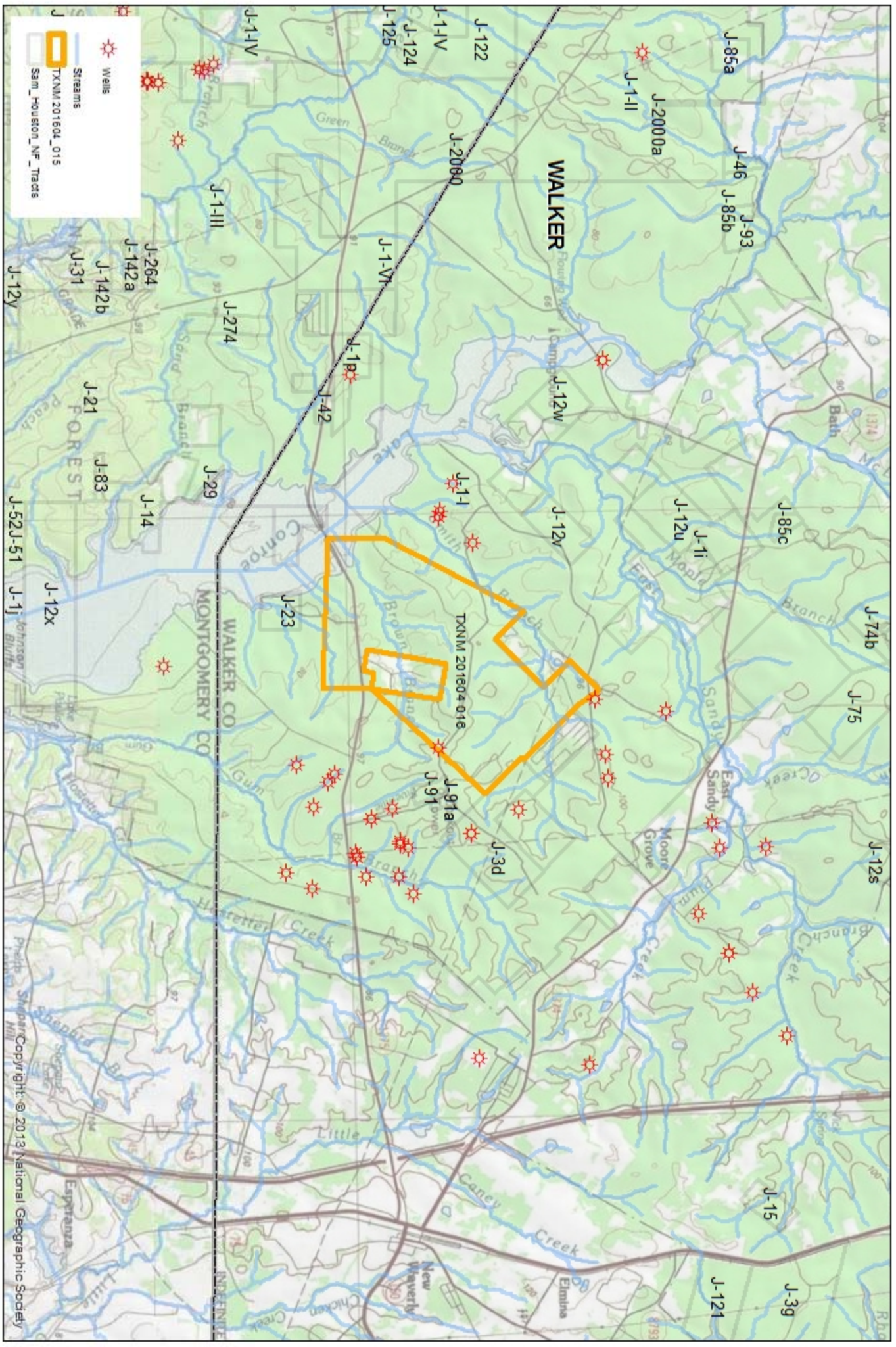
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Bureau of Land Management
 Oklahoma Field Office
 7906 East 39rd Street, Suite 101
 Tulsa, OK 74145



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Walker County, TX



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