

**STAFF REPORT  
C51**

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04/19/18  
PRC 8164.1  
J. Toy

**ACCEPTANCE OF A LEASE QUITCLAIM DEED AND  
ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE**

**LESSEE:**

Marie C. Straube formerly known as Marie Antoinette Clough, as Trustee of the Marie Antoinette Clough Revocable Living Trust, dated January 11, 1989; Adam J. Landsdorf, Trustee of the Adam Jay Landsdorf Revocable Living Trust, dated July 29, 2004; and Dana R. Stone, Trustee of the Dana Rae Stone Revocable Trust, dated July 30, 2004

**APPLICANT:**

Adam J. Landsdorf, Trustee of the Adam Jay Landsdorf Revocable Trust, dated July 29, 2004; and Dana R. Stone, Trustee of the Dana R. Stone Revocable Trust, dated June 20, 2013

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in Lake Tahoe, adjacent to 8765 Rubicon Drive, near Rubicon Bay, El Dorado County.

*AUTHORIZED USE:*

Continued use and maintenance of an existing pier, boat lift, and two mooring buoys.

*LEASE TERM:*

10 years, beginning February 27, 2018.

*CONSIDERATION:*

\$1,819 per year, with an annual Consumer Price Index adjustment. Lessee may elect to pay rent for the entire 10-year term of the lease in the amount of \$18,190 at the time of the first annual payment. Lessee's option to pay the entire amount of rent is not valid for subsequent years.

*SPECIFIC LEASE PROVISIONS:*

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.

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2. Lessee shall not store any personal items or construct any improvements in the Public Trust easement that may impair the public uses of access, navigation, fishing, and lake-related recreational uses.
3. If Lessee does not have a valid Tahoe Regional Planning Agency (TRPA) buoy permit, Lessee is required to obtain such authorization for the mooring buoys within 2 years after the certification of a Final Environmental Impact Statement for the Lake Tahoe Shorezone Ordinance Amendments and approval of the amended ordinances. If the Lessee is unable to obtain such authorization within the time limit, they may be required to remove the buoys.
4. Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from TRPA or any other regulatory agency for the improvements authorized by the Commission.

### **STAFF ANALYSIS AND RECOMMENDATION:**

#### **Authority:**

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, and 6503.5; California Code of Regulations, title 2, sections 2000 and 2003.

#### **Public Trust and State's Best Interests Analysis:**

On December 5, 2012, the Commission authorized a General Lease – Recreational Use for an existing pier, boat lift, and two mooring buoys to Marie C. Straube formerly known as Marie Antoinette Clough, as Trustee of the Marie Antoinette Clough Revocable Living Trust, dated January 11, 1989; Adam J. Landsdorf, Trustee of the Adam Jay Landsdorf Revocable Living Trust, dated July 29, 2004; and Dana R. Stone, Trustee of the Dana Rae Stone Revocable Trust, dated July 30, 2004 ([Item C20, December 5, 2012](#)). That lease will expire on August 31, 2022.

On July 18, 2017, the ownership of the upland property held by Dana R. Stone, Trustee of the Dana Rae Stone Revocable Trust, dated July 30, 2004, was transferred to Dana R. Stone, Trustee of the Dana R. Stone Revocable Trust, dated June 20, 2013. On July 24, 2017, the ownership of the upland property held by Marie C. Straube formerly known as Marie Antoinette Clough, as Trustee of the Marie Antoinette Clough Revocable Living Trust, dated January 11, 1989, was transferred to Adam Landsdorf and Dana Stone, Trustees of the Marie C. Straube Qualified Personal Residence Trust dated July 29, 2004. On August 21, 2017, the ownership

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of the upland property held by Adam Landsdorf and Dana Stone, Trustees of the Marie C. Straube Qualified Personal Residence Trust dated July 29, 2004, was transferred to Adam J. Landsdorf, Trustee of the Adam Jay Landsdorf Revocable Trust, dated July 29, 2004, and Dana R. Stone, Trustee of the Dana R. Stone Revocable Trust, dated June 20, 2013.

The Applicant is applying for issuance of a new lease for the continued use and maintenance of the existing pier, boat lift, and two mooring buoys. The Lessee executed a lease quitclaim deed releasing their interest in the lease. Staff recommends acceptance of the lease quitclaim deed and issuance of a new lease.

The Lessee paid the current annual rent in the amount of \$3,011 through August 31, 2018. Staff recommends issuance of a new lease beginning February 27, 2018. Therefore, the rent paid will be prorated, with a portion applied to the period preceding the new lease and the remainder credited towards future rental payments.

The Applicant owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained. The pier, boat lift, and two mooring buoys are used for the docking and mooring of boats and facilitate recreational boating. Recreational boating is a water dependent use that is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

The subject facilities have existed for many years at this location. The pier is built on pilings, which allows the public to navigate or walk next to and, at lower water levels, under the pier. The immediate area of the existing pier is covered with sand and boulders. A low-lying concrete rock wall has also existed for many years at this location, extending just below the ordinary high-water mark in the Public Trust easement, but does not obstruct the public's ability to navigate or walk along the shore. The two buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements from State land.

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The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred because of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine and in the best interests of the State.

**OTHER PERTINENT INFORMATION:**

1. The proposed lease was previously scheduled for Commission consideration at the February 27, 2018 meeting. At that meeting, the Commission considered updates to the Lake Tahoe benchmarks ([Item C90, February 27, 2018](#)). The Commission deferred action on revising the existing Lake Tahoe benchmark and directed staff to identify funding options to conduct a thorough evaluation of the various methodologies available to the Commission to assess rent for piers, buoys and other structures located on state property in Lake Tahoe. The Commission further directed staff to continue applying the 2012 Lake Tahoe benchmarks for the next 5 years. Consequently, this item was removed from the February agenda, revised to reflect the current benchmark rates, and rescheduled for the Commission's consideration at the Commission's April meeting.
2. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction, and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
3. Acceptance of a lease quitclaim deed is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

4. Staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

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Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

**EXHIBITS:**

- A. Land Description
- B. Site and Location Map

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

**PUBLIC TRUST AND STATE'S BEST INTERESTS:**

Find that the acceptance of a lease quitclaim deed and issuance of the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

**AUTHORIZATION:**

1. Authorize acceptance of a lease quitclaim deed, effective February 26, 2018, of Lease No. PRC 8164.1, a General Lease – Recreational Use, issued to Marie C. Straube formerly known as Marie Antoinette Clough, as Trustee of the Marie Antoinette Clough Revocable Living Trust, dated January 11, 1989; Adam J. Landsdorf, Trustee of the Adam Jay Landsdorf Revocable Living Trust, dated July 29, 2004; and Dana R. Stone, Trustee of the Dana Rae Stone Revocable Trust, dated July 30, 2004.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning February 27, 2018, for a term of 10 years, for the continued use and maintenance of an existing pier, boat lift, and two mooring buoys as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$1,819, with an annual Consumer Price Index adjustment, or rent for the entire 10-year term of the lease in the amount of \$18,190 at the time of the

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first annual payment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**PRC 8164.1**

**LAND DESCRIPTION**

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 32, Township 14 North, Range 17 East, MDM., as shown on Official Government Township Plat approved July 29, 1880, County Of El Dorado, State of California, and more particularly described as follows:

**PARCEL 1— PIER**

All those lands underlying an existing pier, catwalk and boat lift lying adjacent to that Parcel as described in Exhibit "A" of that Trust Transfer Deed recorded July 18, 2017 in Document Number 2017-0029312-00 in Official Records of said County.

TOGETHER WITH any applicable impact area.

EXCEPTING THEREFROM any portion(s) lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

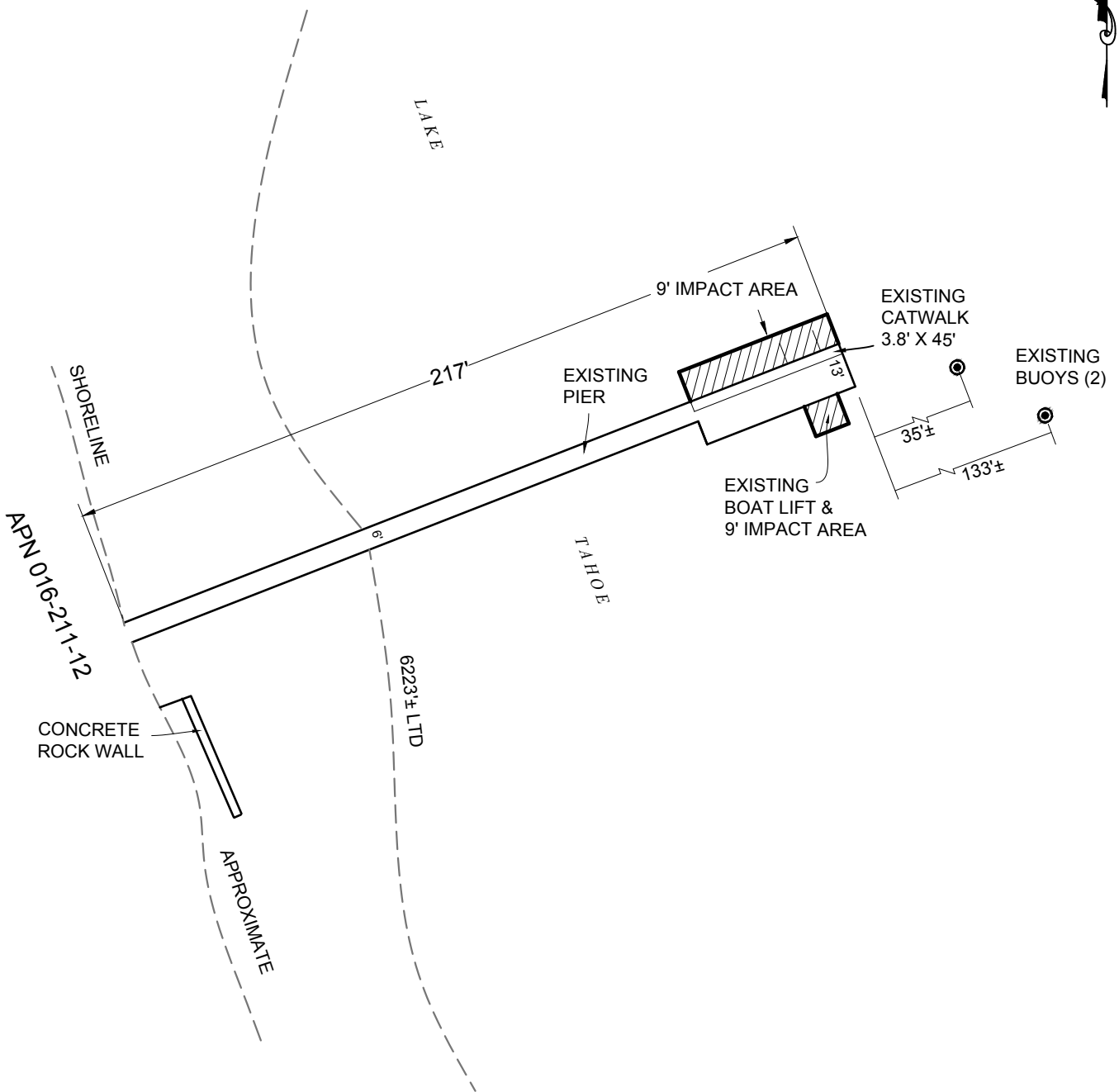
**PARCELS 3 & 4 — BUOYS**

Two (2) circular parcels of land, each being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to that Parcel as described in said Trust Transfer Deed.

Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared December 7, 2017 by the California State Lands Commission Boundary Unit.



# EXHIBIT A

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LAND DESCRIPTION PLAT  
 PRC 8164.1, LANDSDORF TRUST, ET AL.  
 EL DORADO COUNTY

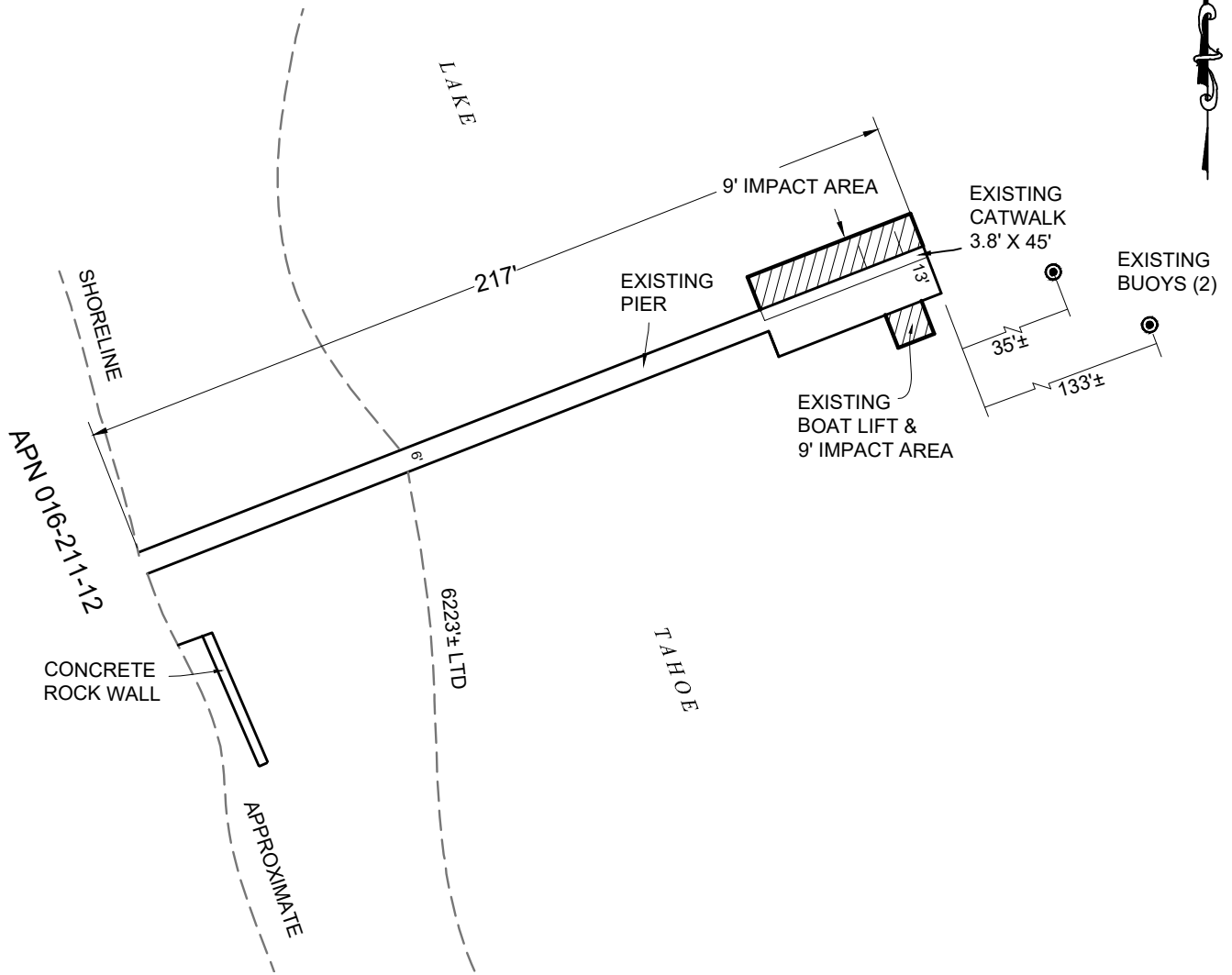
CALIFORNIA STATE  
 LANDS COMMISSION





NO SCALE

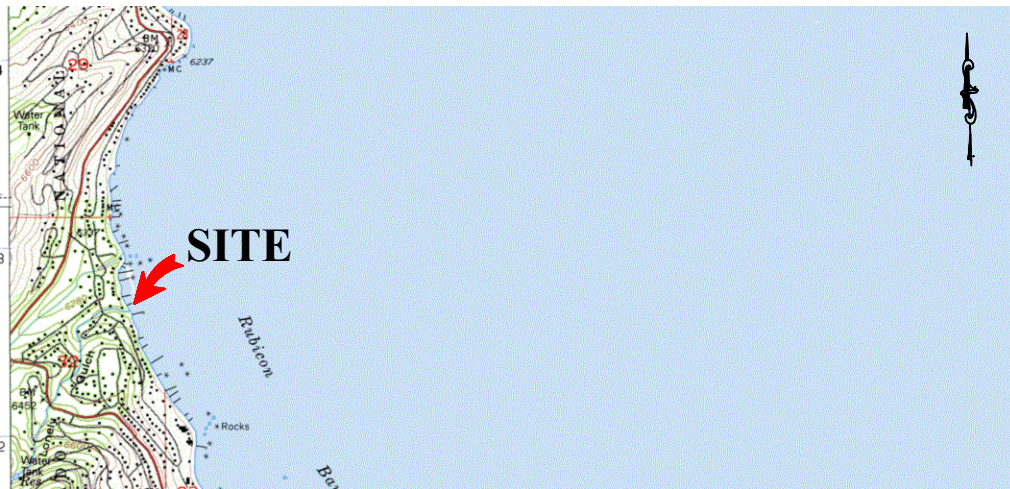
# SITE



8765 RUBICON DRIVE, NEAR RUBICON BAY

NO SCALE

# LOCATION

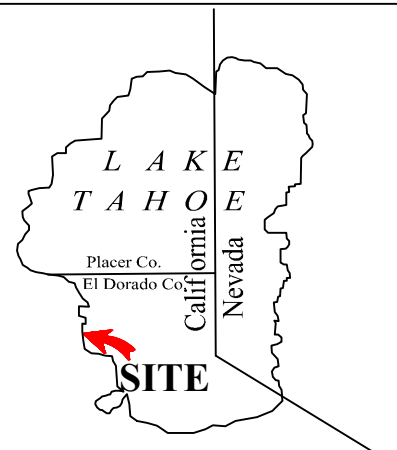


MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

## Exhibit B

PRC 8164.1  
 LANDSDORF TRUST, ET AL.  
 APN 016-211-12  
 GENERAL LEASE -  
 RECREATIONAL USE  
 EL DORADO COUNTY



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