

STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION

IN THE MATTER OF THE HEARING CALLED
BY THE OIL CONSERVATION DIVISION FOR
THE PURPOSE OF CONSIDERING:

ORIGINAL

APPLICATION OF COG OPERATING, LLC
FOR A NONSTANDARD SPACING AND
PRORATION UNIT AND COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO.

CASE NO. 15760

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

July 20, 2017

Santa Fe, New Mexico

BEFORE: WILLIAM V. JONES, CHIEF EXAMINER
DAVID K. BROOKS, LEGAL EXAMINER

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This matter came on for hearing before the
New Mexico Oil Conservation Division, William V. Jones,
Chief Examiner, and David K. Brooks, Legal Examiner, on
Thursday, July 20, 2017, at the New Mexico Energy,
Minerals and Natural Resources Department, Wendell Chino
Building, 1220 South St. Francis Drive, Porter Hall,
Room 102, Santa Fe, New Mexico.

REPORTED BY: Mary C. Hankins, CCR, RPR
New Mexico CCR #20
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APPEARANCES

FOR APPLICANT COG OPERATING, LLC:

JORDAN L. KESSLER, ESQ.
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1 (8:49 a.m.)

2 EXAMINER JONES: Call Case Number 15760,
3 application of COG Operating, LLC for a nonstandard
4 spacing and proration unit and compulsory pooling in
5 Eddy County, New Mexico.

6 Invite appearances.

7 MS. KESSLER: Jordan Kessler, from the
8 Santa Fe office of Holland and Hart, on behalf of the
9 Applicant.

10 EXAMINER JONES: Any other appearances?

11 MS. KESSLER: Two witnesses today,
12 Mr. Examiner.

13 EXAMINER JONES: Will the court reporter
14 please swear the witnesses?

15 Will the witnesses please stand?

16 (Mr. Dirks and Ms. Pettijohn sworn.)

17 MS. KESSLER: I'll call my first witness.

18 STUART DIRKS,
19 after having been first duly sworn under oath, was
20 questioned and testified as follows:

21 MS. KESSLER: May I proceed?

22 EXAMINER JONES: Mr. Dirks.

23 THE WITNESS: How are you?

24

25

DIRECT EXAMINATION

1
2 BY MS. KESSLER:

3 Q. Please state your name for the record and tell
4 the Examiners by whom you are employed and in what
5 capacity?

6 A. Stuart Dirks, and I'm employed by COG
7 Operating, LLC as a landman.

8 Q. Have you previously testified before the
9 Division?

10 A. Yes, I have.

11 Q. Were your credentials as a petroleum landman
12 accepted and made a matter of record?

13 A. Yes, they were.

14 Q. Are you familiar with the application that's
15 been filed in this case?

16 A. Yes, I am.

17 Q. And are you familiar with the status of the
18 lands in the subject area?

19 A. Yes, I am.

20 MS. KESSLER: Mr. Examiners, I would tender
21 Mr. Dirks as an expert in petroleum land matters.

22 EXAMINER JONES: He is so qualified.

23 Q. (BY MS. KESSLER) Mr. Dirks, will you please
24 turn to Exhibit 1 and explain what COG is seeking by
25 this application?

1 A. Exhibit 1 is our C-102 for our proposed Bone
2 Yard 11 Fee #16H well. We seek the formation of a
3 240-acre nonstandard spacing and proration unit for the
4 drilling of our well comprising the east half of the
5 west half of Section 11 and the east half of the
6 southwest quarter of Section 2 in 20 South, 25 East.

7 And we seek the pooling of mineral
8 interests within the North Seven Rivers-Glorieta-Yeso
9 Pool in our proposed unit, and we ask that COG
10 Operating, LLC be operator.

11 **Q. Is the pool that you mentioned in the Seven**
12 **Rivers --**

13 EXAMINER BROOKS: I'm sorry. I'm having
14 trouble getting the right paper. Is this Case 15760?

15 MS. KESSLER: Yes.

16 EXAMINER BROOKS: Okay. Good. I'm not as
17 stupid as I thought.

18 **Q. (BY MS. KESSLER) Mr. Dirks, is the N. Seven**
19 **Rivers-Glorieta-Yeso Pool governed by Division statewide**
20 **setbacks?**

21 A. Yes.

22 **Q. And Division rules for oil wells; is that**
23 **correct?**

24 A. Yes.

25 **Q. Will this well comply with the 330-foot setback**

1 **requirement?**

2 A. Not as planned, not as currently planned.

3 **Q. Did COG apply for approval of an unorthodox**
4 **location administratively?**

5 A. Yes, we did.

6 **Q. And that application is pending approval,**
7 **correct?**

8 A. That's correct. It's past the notification
9 period, and no objections have been filed.

10 **Q. Has an APD been filed for this well?**

11 A. Yes, it has.

12 **Q. And is the API number noted on this C-102?**

13 A. Yes, it is.

14 **Q. What is the character of these lands?**

15 A. They are all fee.

16 **Q. Are there any depth severances in this pool?**

17 A. No, there are not.

18 **Q. Let's look at Exhibit 2. What is this exhibit?**

19 A. The first page of the exhibit is a plat showing
20 our proposed spacing unit, and then the second page is a
21 breakdown of the mineral ownership. The top half is by
22 tract, and the bottom half is unit interest.

23 **Q. What interests do you seek to pool through this**
24 **exhibit?**

25 A. We seek to pool the unmarketable title and the

1 noncommitted owners.

2 Q. And can you please explain why you seek to pool
3 unmarketable title?

4 A. We have two owners with unmarketable title.
5 There is no probate in New Mexico. That is why we seek
6 to pool them.

7 Q. Have you been able to identify the heirs that
8 you think own an interest in this spacing unit?

9 A. We have identified all the heirs that -- let me
10 rephrase. We think we have identified all the heirs.
11 Yes.

12 Q. And were you able to lease all the heirs that
13 you have identified as having an interest?

14 A. They were all leased to COG.

15 Q. And they were all locatable?

16 A. That's correct.

17 Q. So looking at Exhibit 2, it looks like you seek
18 to pool any interest that is either italicized or
19 bolded; is that correct?

20 A. That is correct.

21 Q. Is Exhibit 3 a copy of the well-proposal letter
22 that you sent to the working interest owners?

23 A. Yes, it is.

24 Q. On what date was this letter sent?

25 A. May 4th.

1 Q. Did it include an AFE?

2 A. Yes, it did.

3 Q. And are the costs on the AFE consistent with
4 what COG has incurred for drilling similar horizontal
5 wells?

6 A. Yes.

7 Q. What additional efforts did you undertake to
8 reach agreement with the parties that you seek to pool
9 on Exhibit 2?

10 A. We have contacted every owner. Some of them
11 wished to participate but have not yet signed our OA.
12 One wishes to participate under the pooling order. One
13 wishes to go nonconsent under the pooling order. One of
14 them has not yet made a decision, and the rest of them,
15 we are negotiating a term assignment. They want a term
16 assignment with us.

17 Q. And in the event that you reach agreement with
18 any of those parties, will you notify the Division?

19 A. Yes.

20 Q. Have you estimated the overhead and drilling
21 costs for drilling and producing this well?

22 A. Yes.

23 Q. What are those costs?

24 A. 7,000 a month while drilling, \$700 a month
25 while producing.

1 Q. Are those costs in line for what other
2 operators in the area charge for similar wells?

3 A. Yes, they are.

4 Q. Do you ask that those costs be incorporated
5 into any order resulting from this hearing?

6 A. Yes.

7 Q. Do you ask that the costs be adjusted in
8 accordance with the appropriate accounting procedures?

9 A. Yes.

10 Q. For uncommitted working interest owners, do you
11 request that the Division impose a 200 percent risk
12 penalty?

13 A. Yes.

14 Q. Let's look at Exhibit 4. Do you also seek to
15 pool nonparticipating royalty interest owners?

16 A. That is correct.

17 Q. Why is that?

18 A. So that we can adjust their interest in our
19 proposed unit in accordance with the surface acres that
20 they contribute to the unit.

21 Q. Does Exhibit 4 show NPRI owners by tract?

22 A. It shows it by tract and also by unit.

23 Q. And it looks like you've bolded, italicized or
24 underlined owners that you seek to pool. Can you please
25 explain how you put together this exhibit?

1 A. Italicized owners are uncommitted. Bolded is
2 unmarketable title, and then underlined are unlocatable.

3 **Q. And you seek to pool all of those?**

4 A. Yes. That is correct.

5 **Q. NPRI owners are not cost-bearing owners; is**
6 **that correct?**

7 A. That is correct.

8 **Q. So they will not be subject to a 200 percent**
9 **risk penalty?**

10 A. That is correct.

11 **Q. Did you send a letter to each of the NPRI**
12 **owners requesting that they ratify a lease --**

13 A. Yes. That's correct.

14 **Q. Is that included as Exhibit 5?**

15 A. Yes.

16 **Q. Were all of the NPRI owners locatable?**

17 A. No, they were not.

18 **Q. Can you please describe your efforts to locate**
19 **these parties?**

20 A. A check of the records, lots of phone calls and
21 Internet search.

22 **Q. And you reviewed the county in which -- the**
23 **county records in which the well is located?**

24 A. Yes. Yes. We actually have a title opinion.

25 **Q. And you said phone calls. Did you, in fact,**

1 get in touch with some family members who have referred
2 you to new phone numbers that you're addressing?

3 A. Correct.

4 Q. But most of these folks were just not
5 locatable?

6 A. Correct.

7 Q. In your opinion, did you conduct a diligent
8 search to locate NPRI owners who were unlocatable?

9 A. Yes, we did.

10 Q. Is Exhibit 5 -- I'm sorry -- Exhibit 6 an
11 affidavit prepared by my office, with attached letters,
12 providing notice of the hearing to the parties that you
13 seek to pool, as well as the offset operators or lessees
14 of record?

15 A. Yes.

16 Q. And did you publish notice directing to
17 unlocatable parties?

18 A. Yes.

19 Q. Is that included as Exhibit 7?

20 A. Yes.

21 Q. Were Exhibits 1 through 5 prepared by you or
22 compiled under your direction and supervision?

23 A. Yes, they were.

24 MS. KESSLER: Mr. Examiners, I'd move
25 admission of Exhibits 1 through 7, which include my two

1 affidavits.

2 EXAMINER JONES: Exhibits 1 through 5 and
3 Exhibits 6 and 7 are admitted.

4 (COG Operating, LLC Exhibit Numbers 1
5 through 7 are offered and admitted into
6 evidence.)

7 CROSS-EXAMINATION

8 BY EXAMINER JONES:

9 Q. Okay. So these what you call NPRI's, are they
10 people that -- either overriding royalties, or are they
11 people that have leases without pooling clauses or
12 something?

13 A. They are a royalty that's been severed out.
14 They don't have executive rights. They don't get paid
15 bonus or anything, so they're subject to the lease that
16 is executed by the person with executive rights.

17 Q. Okay.

18 CROSS-EXAMINATION

19 BY EXAMINER BROOKS:

20 Q. Looking at Exhibit 3 -- or is it 2? I don't
21 know if I'm behind or in front of the -- I got a bit
22 blind. So it's Exhibit 2, the owners listing. Are
23 these people owners of -- well, the unknown heirs, I
24 assume they're probably unleased mineral interests.
25 Would that be accurate? They don't own anything or even

1 **exist?**

2 A. We believe we've identified the heirs, and we
3 have leased those people.

4 Q. **Yeah. So that's just a precautionary thing?**

5 A. Yes. That's correct.

6 Q. **But these estates would own unleased mineral
7 interests or interests in the lease?**

8 A. We believe that -- that we would have the
9 leasehold interest under our leases, unless -- unless
10 there is an heir out there we don't know about. And
11 that's why we force pool.

12 Q. **Well, what I'm trying to clarify is all the
13 people you're seeking to force pool, are they owners of
14 undivided interests in leases, or are they unleased
15 mineral owners?**

16 A. The heirs and devisees in Tracts 2, 3 and 4?

17 Q. **Yeah. All the people you're trying to pool.**

18 A. Oh, everybody? Oh, other than the heirs?

19 Q. **Yeah.**

20 A. I'm sorry.

21 Q. **You said that -- and I was unable to hear for
22 sure exactly what abbreviation you said, NPRI, which you
23 said -- I assume that means nonparticipating royalty
24 interests, and I know what that is in principle. So
25 they would not own any interest -- they would be neither**

1 **unleased mineral owners nor -- nor owners of lease**
2 **interests, and they would not be -- they would be pooled**
3 **royalty interests and not pooled working interests. And**
4 **there are some of those in here, right?**

5 A. They're all listed on Exhibit 4.

6 Q. **Exhibit 4?**

7 A. Yes, sir.

8 Q. **Well, there, again, I'm confused by -- now,**
9 **Exhibit 4 looks like it's just -- oh, yeah, Exhibit 4.**
10 **Yeah.**

11 EXAMINER JONES: So can you say again
12 which -- you know, you've got bold, and you've got
13 underlined. And you said that on the record. So --

14 THE WITNESS: Yes, sir. At the bottom of
15 the last page, I've got that notated.

16 EXAMINER JONES: Oh, okay. Thank you.
17 There are multiple pages.

18 Q. **(BY EXAMINER BROOKS) This is -- in other words,**
19 **the list on page 2 of Exhibit 2 is not a full list of**
20 **the parties being pooled, right?**

21 A. Exhibit 2, page 2?

22 Q. **Yeah.**

23 A. That's the leasehold owners I'm trying to force
24 pool, plus the unmarketable title.

25 Q. **Okay. So all the people listed on Exhibit 2,**

1 page 2 are owners of undivided interests in the leases?

2 A. Yes, sir.

3 Q. Okay. Now, then, go on to Exhibit 4 -- Exhibit
4 4, page 2. The people on Exhibit 4, are they all
5 nonparticipating royalty interests, or are some of
6 them --

7 A. They are all nonparticipating royalty
8 interests.

9 Q. There are no mineral interests on the tract?

10 A. No, sir.

11 Q. That you know of anyway?

12 A. That we know of.

13 Q. Okay. Now, from the complexity of the
14 ownership, I'm assuming this is all fee acreage; is that
15 correct?

16 A. Yes, sir. That's correct.

17 Q. And there are no depth severances within the
18 Glorieta-Yeso interval?

19 A. That's correct.

20 Q. Okay. And everybody that you haven't been able
21 to find, you've served by publication, correct?

22 A. Yes, sir.

23 Q. And which exhibit is -- oh, 7 is your Affidavit
24 of Notice -- is your publication, right?

25 A. Yes.

1 NPRI owners?

2 THE WITNESS: Yes. Yes.

3 MS. KESSLER: Were you also asking the
4 question, Mr. Examiner, about the other interest owners?

5 EXAMINER JONES: Yes.

6 THE WITNESS: Oh, I'm sorry.

7 Back on Exhibit 2 --

8 EXAMINER JONES: Yes.

9 THE WITNESS: -- those people, we asked
10 them to join in the well or offered to take a term
11 assignment from them.

12 EXAMINER BROOKS: Offered to take term
13 assignments, did you say?

14 THE WITNESS: Yes, sir.

15 EXAMINER BROOKS: From all of those people
16 who owned interest in the leases but who did not -- who
17 were not otherwise committed?

18 THE WITNESS: Yes, sir.

19 EXAMINER BROOKS: Did not elect to
20 participate under the JOA?

21 THE WITNESS: Yes, sir.

22 EXAMINER JONES: That's a lot of work for a
23 Paddock well (laughter).

24

25

CONTINUED RECROSS EXAMINATION

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BY EXAMINER JONES:

Q. So how much of a rush are you for this one?

A. It's on our drilling schedule for October 2nd.

Q. Okay. And what about the NSL? Is there a problem with it or --

A. We do not foresee a problem. The notice period is over, and nobody objected. So we're just waiting for the administrative approval.

Q. Nobody's contacted you about an issue with it?

A. Nobody has.

Q. I've got a note that there is an issue with the permitting in Artesia, and I'm not -- I'm sorry, I didn't write down exactly what's going on. But they need to update something in our records there, so you might check it and see -- see if they have the right well locations and the right acreage location.

A. Mr. Examiner, originally, our application was for a one-mile lateral.

Q. Okay.

A. And we filed a sundry for one-and-a-half, so it might be related to that.

Q. Okay. But it's in the same Paddock interval?

A. Yes.

Q. So it should be in the same pool, so it

1 shouldn't require a new C-101. It should require just a
2 sundry, I would think.

3 Now, there are rules that bar you from
4 extending the drilling.

5 So, anyway, it's easy to go on our site and
6 check it out.

7 That's it.

8 MS. KESSLER: I'll call our geologist.

9 EXAMINER JONES: Okay.

10 THE WITNESS: Thank you.

11 EXAMINER JONES: Thank you.

12 CANDICE PETTIJOHN,
13 after having been previously sworn under oath, was
14 questioned and testified as follows:

15 DIRECT EXAMINATION

16 BY MS. KESSLER:

17 Q. Please state your name for the record and tell
18 the Examiners by whom you're employed and in what
19 capacity?

20 A. My name is Candice Pettijohn, and I'm employed
21 by COG Operating, LLC as a geologist.

22 Q. Have you previously testified before the
23 Division?

24 A. Yes.

25 Q. Were your credentials as a petroleum geologist

1 **accepted and made a matter of record?**

2 A. Yes.

3 **Q. Are you familiar with the application that's**
4 **been filed in this case?**

5 A. Yes.

6 **Q. And have you conducted a geologic study of the**
7 **lands that are the subject of this application?**

8 A. Yes.

9 MS. KESSLER: Mr. Examiners, I would tender
10 Ms. Pettijohn as an expert in petroleum geology.

11 EXAMINER JONES: Okay. Thank you. She is
12 so qualified.

13 **Q. (BY MS. KESSLER) Let's look at Exhibit 8. Will**
14 **you please identify this exhibit for the Examiners?**

15 A. Okay. This is a subsea structure map of the
16 top of the Paddock contoured on the interval of 100
17 feet, and it shows the structure dipping from the
18 northwest to the southeast. In yellow is the proposed
19 spacing unit for this well, and then in red is the well
20 in question. And it's a lateral Paddock well.

21 **Q. Have you also identified Paddock producers and**
22 **Blinebry producers in the area?**

23 A. Yeah. The red and blue dots indicate Paddock
24 and Blinebry production.

25 **Q. Have you found any structural or geologic**

1 **impediments to drilling horizontal wells?**

2 A. No. There is no faulting, no stratigraphic
3 pinch-outs and no geologic impediments for horizontal
4 drilling.

5 **Q. What is Exhibit 9?**

6 A. This map indicates the wells that will be on
7 the following cross section. These three wells are
8 representative of the spacing unit.

9 **Q. These three wells for the cross-section**
10 **exhibit?**

11 A. Correct.

12 **Q. And Exhibit 10 is your corresponding**
13 **cross-section exhibit?**

14 A. Yes.

15 **Q. Can you please walk us through this exhibit?**

16 A. Yeah. In yellow is the Glorieta Formation. In
17 green is the Paddock. This cross section is flattened
18 on the Paddock, so that's the datum. In red, off to the
19 left, is the proposed lateral interval for the well.
20 The Paddock here has a continuous thickness indicating
21 there is no faulting or geologic impediments.

22 **Q. No major thickening or thinning in the**
23 **formation where the lateral is planned?**

24 A. Correct.

25 **Q. Based on your geologic study, I believe you**

1 previously said that you identified any geologic
2 impediments to developing this area with horizontal
3 wells?

4 A. Yes.

5 Q. In your opinion, can this area be efficiently
6 and economically developed by horizontal wells?

7 A. Yes.

8 Q. Do you believe that each tract in the proposed
9 nonstandard spacing unit will contribute more or less
10 equally to the production of the well?

11 A. Yes.

12 Q. And in your opinion, will the granting of COG's
13 application be in the best interest of conservation, for
14 the prevention of waste and the protection of
15 correlative rights?

16 A. Yes.

17 Q. Were Exhibits 8 through 10 prepared by you?

18 A. Yes.

19 MS. KESSLER: Mr. Examiner, I would move
20 admission of Exhibits 8 through 10.

21 EXAMINER JONES: Exhibits 8 through 10 are
22 admitted.

23 (COG Operating, LLC Exhibit Numbers 8
24 through 10 are offered and admitted
25 into evidence.)

CROSS-EXAMINATION

1
2 BY EXAMINER JONES:

3 Q. Why a mile-and-a-half?

4 A. We had some issues with the surface. We
5 couldn't go on lease because there are navigable waters
6 at the north end and south end of the lease, and going
7 off lease to the north, we couldn't come to an agreement
8 with the surface owner. And then to the south -- I
9 don't remember why, but -- oh, yeah, because we would
10 have to put our facilities underneath the navigable
11 waters, which was not -- uneconomic. And the next best
12 option was a mile-and-half. And the TVD here is not
13 adequate enough to drill a two-mile lateral.

14 Q. Otherwise, you might have drilled longer, then?

15 A. Yeah.

16 Q. Okay. Are there any markers in this Paddock
17 that is -- that the industry geologists have a name for
18 or anything? In other words, any little anhydrite
19 members or anything that -- there is nothing?

20 A. No.

21 Q. What's -- what's the usual thickness of the
22 Paddock out here?

23 A. In this area of the shelf, it's around 700
24 feet.

25 Q. 700.

1 A. Uh-huh.

2 Q. So a few years ago, there were debates about
3 vertical versus horizontal wells in the Paddock. Is
4 that still debated?

5 A. No.

6 Q. Not anymore?

7 A. No.

8 Q. It's all horizontal now?

9 A. Yes. I don't think a vertical well has been
10 drilled here for a couple of years.

11 Q. Do you drill any pilot holes?

12 A. We haven't recently, but we have in the past.

13 Q. Do you recommend any more to delineate any of
14 your acreage?

15 A. Yeah. If economically feasible, I would.

16 Q. I can't imagine a geologist not wanting a pilot
17 hole.

18 A. Me neither.

19 Q. Good log and a core and all that.

20 I don't have any more questions.

21 CROSS-EXAMINATION

22 BY MR. BROOKS:

23 Q. You used some initials, as people always do
24 these days. The TVD, did you say, was not adequate for
25 a two-mile well. What does that stand for?

1 A. True vertical depth.

2 Q. What exactly do you mean by saying that was not
3 adequate?

4 A. You need enough depth to get your casing to the
5 bottom of the hole.

6 Q. Okay. So what you're saying is the well -- the
7 distance from the surface to the landing zone was not
8 sufficient to get everything in that you needed to get
9 for a two-mile lateral?

10 A. Yes.

11 Q. Okay. Thank you.

12 A. Uh-huh.

13 EXAMINER JONES: Okay.

14 MS. KESSLER: Ask this case be taken under
15 advisement.

16 EXAMINER JONES: Okay. Thank you both for
17 coming.

18 And we'll take Case Number 15760 under
19 advisement.

20 Let's go on a brief break, and then we'll
21 start on Matador.

22 (Case Number 15760 concludes, 9:14 a.m.)

23 (Recess, 9:14 a.m. to 9:31 a.m.)

24 I hereby certify that the foregoing is
a complete record of the proceedings in
the Examiner hearing of Case No. _____
25 heard by me on _____.

1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

3

4 CERTIFICATE OF COURT REPORTER

5 I, MARY C. HANKINS, Certified Court
6 Reporter, New Mexico Certified Court Reporter No. 20,
7 and Registered Professional Reporter, do hereby certify
8 that I reported the foregoing proceedings in
9 stenographic shorthand and that the foregoing pages are
10 a true and correct transcript of those proceedings that
11 were reduced to printed form by me to the best of my
12 ability.

13 I FURTHER CERTIFY that the Reporter's
14 Record of the proceedings truly and accurately reflects
15 the exhibits, if any, offered by the respective parties.

16 I FURTHER CERTIFY that I am neither
17 employed by nor related to any of the parties or
18 attorneys in this case and that I have no interest in
19 the final disposition of this case.

20

21

Mary C. Hankins
MARY C. HANKINS, CCR, RPR
Certified Court Reporter
New Mexico CCR No. 20
Date of CCR Expiration: 12/31/2017
Paul Baca Professional Court Reporters

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