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17  
18 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
19 FOR THE COUNTY OF SAN BERNARDINO

20 CHINO BASIN MUNICIPAL WATER  
21 DISTRICT,

22 Plaintiff,

23 v.

24 CITY OF CHINO, et al.,

25 Defendant.

Case No. RCV 51010

[Assigned for All Purposes to the Honorable  
STANFORD E. REICHERT]

AMENDMENT TO MOTION FOR COURT  
APPROVAL OF 2013 AMENDMENT TO  
2010 RECHARGE MASTER PLAN  
UPDATE

Date: December 13, 2013

Time: 1:30 p.m.

Dept.: R-6

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AMENDMENT TO MOTION FOR APPROVAL OF AMENDMENT TO RMPU

1 The Chino Basin Watermaster ("Watermaster") and the Inland Empire Utilities Agency  
2 ("IEUA") hereby amend their Motion for Court Approval of 2013 Amendment to 2010 Recharge  
3 Master Plan Update, filed November 4, 2013. On November 18, 2013, Watermaster and the City  
4 of Fontana ("City" or "Fontana") filed with the Court a stipulation, attached hereto as Attachment  
5 "A" ("Stipulation"), whereby they requested the continuance of the Court's hearing on Fontana's  
6 September 24, 2013 Motion to Revise Section 5 of the 2013 Recharge Master Plan Update and  
7 the Restated Judgment ("Fontana's Motion"), for a period of time during which Watermaster  
8 would convene a facilitated process for the potential resolution of the concerns underlying  
9 Fontana's Motion.<sup>1</sup> Pursuant to the Stipulation, Watermaster and IEUA withdraw from the  
10 Court's consideration their request for approval of Section 5 of the 2013 Amendment, and ask  
11 that the Court consider Section 5 for approval at the same time it considers Fontana's Motion.

12 Further, pursuant to the Stipulation, the requested approval of the 2013 Amendment, with  
13 the exception of Section 5 thereof, is subject to a continuing condition that Watermaster proceed  
14 in good faith to initiate and complete the facilitated process and to advise the Court of its  
15 continuing progress in accordance with the Schedule attached to the Stipulation as Exhibit "A,"  
16 and that the City reserves its rights to continue with its opposition to Section 5 of the 2013  
17 Amendment unless and until it may agree to the resolution of the Disputed Matters.

18 On this basis, Watermaster and IEUA request that the Court approve the 2013  
19 Amendment, with the exception of Section 5 thereof, subject to the conditions agreed to in the  
20 Stipulation, and that the Court defer approval of Section 5 of the 2013 Amendment until such  
21 time as it considers the resolution of Fontana's Motion.

22 ///

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27 <sup>1</sup> The concerns underlying Fontana's Motion, as well as Fontana's concerns regarding an  
28 anticipated recharge application for a project outside the 2013 Amendment are collectively  
referred to as the "Disputed Matters."

1 Dated: December 5, 2013

BROWNSTEIN HYATT FARBER  
SCHRECK, LLP

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4  
5 By: Bradley J. Herrema  
6 SCOTT S. SLATER  
7 BRADLEY J. HERREMA  
8 ATTORNEYS FOR  
CHINO BASIN WATERMASTER

9 Dated: December 5, 2013

CIHIGOYENETCHE GROSSBERG &  
CLOUSE

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12 By: Jean Cihigoyenetché  
13 JEAN CIHIGOYENETCHE  
14 ATTORNEYS FOR  
15 INLAND EMPIRE UTILITIES AGENCY  
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# ATTACHMENT A

FEE EXEMPT

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CHINO BASIN WATERMASTER

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN BERNARDINO

CHINO BASIN MUNICIPAL WATER  
DISTRICT,

Plaintiff,

v.

CITY OF CHINO, et al.,

Defendant.

Case No. RCV 51010

[Assigned for All Purposes to the Honorable  
STANFORD E. REICHERT]

STIPULATION REGARDING CITY OF  
FONTANA'S MOTION TO REVISE  
SECTION 5 OF THE 2013 RECHARGE  
MASTER PLAN UPDATE AND  
RESTATED JUDGMENT

Date: December 13, 2013  
Time: 1:30 p.m.  
Dept. R-6

WHEREAS, by Order of October 8, 2010, the Superior Court for the County of San Bernardino ("Court") approved Watermaster's 2010 Recharge Master Plan Update (2010 RMPU), ordering Watermaster to undertake further tasks in regard to the amendment of the 2010 RMPU;

WHEREAS, in order to ensure that the 2013 Amendment could be timely completed, the Watermaster Board approved a schedule pursuant to which individual sections of the 2013 Amendment would be approved prior to the completion of the entire document;

WHEREAS, on June 27, 2013, the Watermaster Board approved Section 5 of the 2013

1 Amendment to the 2010 Recharge Master Plan Update, titled "Monitoring, Reporting, and  
2 Accounting Practices to Estimate Long-Term Average Annual Net New Stormwater Recharge),  
3 which approval the City of Fontana ("City") opposed;

4 WHEREAS, on September 24, 2013 the City filed its Motion to Revise Section 5 of the  
5 2013 Recharge Master Plan Update and Restated Judgment ("Motion"), scheduled for hearing on  
6 October 25, 2013;

7 WHEREAS, on September 26, 2013, the Watermaster Board adopted Resolution No.  
8 2013-06, approving the 2013 Amendment in its entirety;

9 WHEREAS, on November 4, 2013 Watermaster filed its Motion for Court Approval of  
10 2013 Amendment to 2010 Recharge Master Plan Update ("Watermaster Motion");

11 WHEREAS, the Watermaster has previously expressed its continuing commitment to  
12 resolve concerns and disputes among stakeholders without the need for a contested hearing and  
13 desires to engage in good faith efforts, during the first quarter of 2014, to resolve the City of  
14 Fontana's concerns set forth in its Motion and regarding an anticipated recharge application for  
15 the Vulcan Pit project ("Disputed Matters"); and

16 WHEREAS, Watermaster and the City mutually desire to exercise good faith and  
17 reasonable efforts to attempt to resolve the Disputed Matters.

18 NOW THEREFORE, Watermaster and the City stipulate as follows:

19 1. Watermaster will convene a Watermaster facilitated process among stakeholders  
20 with the objective of obtaining a comprehensive resolution of the Disputed Matters in a timely  
21 manner. The process will commence no later than December 9, 2013.

22 2. The facilitated process described in paragraph 1, above, will endeavor to follow  
23 the schedule attached hereto as Exhibit "A".

24 3. Pursuant to this stipulation, the Parties jointly request the Court to continue the  
25 hearing on the City's Motion for 135 days, to a date to be set by the Court ("Continued Hearing  
26 Date"), in order to allow the Parties time to pursue a more comprehensive resolution to the City's

Concerns.

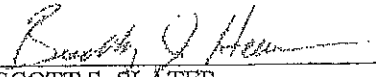
4. The deadline for filing and service of any opposition to the City's Motion shall be extended to a date three weeks prior to the Continued Hearing Date. The deadline for filing and service of for any reply to such opposition shall be extended to a date one week prior to the Continued Hearing Date.

5. Watermaster will amend the pending Watermaster Motion to provide that Watermaster's request for Court approval of the 2013 Amendment shall not include Section 5, and also be subject to a continuing condition that Watermaster proceed in good faith to initiate and complete the facilitated process and to advise the Court of its continuing progress in accordance with the Schedule attached hereto as Exhibit "A," and that the City reserves its rights to continue with its opposition to Section 5 of the 2013 Amendment unless and until it may agree to the resolution of the Disputed Matters. On this basis, Watermaster and the City agree that the hearing on such an amended Watermaster Motion may remain on calendar for December 13, 2013. Watermaster will prepare and file a new proposed order to reflect the fact that the Court is considering adoption of the 2013 Amendment to the 2010 Recharge Master Plan Update without Section 5. Section 5 shall be considered for approval at the same time the Court considers Fontana's Motion on the Continued Hearing Date.

6. If, at any time after Watermaster has convened the facilitated process, either Party determines, in its complete discretion, that a timely resolution of the Disputed Matters cannot be achieved, that Party may request that the Court set a new hearing date for the City's Motion, which hearing date may be set no earlier than four weeks following the request.

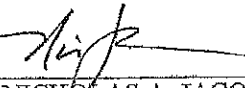
1 Dated: November 15, 2013

BROWNSTEIN HYATT FARBER  
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4 By:   
5 SCOTT S. SLATER  
6 BRADLEY J. HERREMA  
7 ATTORNEYS FOR  
8 CHINO BASIN WATERMASTER

9 Dated: November 15, 2013

SOMACH SIMMONS & DUNN

10  
11 By:   
12 NICHOLAS A. JACOBS  
13 ATTORNEY FOR  
14 CITY OF FONTANA

15  
16  
17 ORDER

18 Based on the foregoing stipulation of counsel, and good cause appearing thereof, the  
19 Court does hereby order same.

20 IT IS SO ORDERED.

21 Dated: November: \_\_\_\_\_, 2013

22 JUDGE STANFORD E. REICHERT



**Exhibit "A"**  
**Schedule for Facilitated Discussion of Disputed Matters**

<b>Deadline:</b>	<b>Obligation:</b>
December 9, 2013	First meeting of stakeholder group to establish ground rules and identify issues for facilitated discussion process; further meetings will be scheduled as necessary to allow future deadlines to be met.
December 13, 2013	Hearing on Watermaster Motion for Approval of 2013 Amendment; update to Court on status of facilitated discussion process
January 15, 2014	Update to Court on status of facilitated discussion process
February 13, 2014	Pool Committees consider draft resolution of Disputed Matters
February 14, 2014	Update to Court on status of facilitated discussion process
February 20, 2014	Advisory Committee considers draft resolution of Disputed Matters
February 27, 2014	Watermaster Board considers draft resolution of Disputed Matters
February 28, 2014	Fontana will file its recharge application for the Vulcan Pit project
March 4, 2014	Filing of motion for approval of resolution of Disputed Matters with the Court
April 4, 2014	Continued Hearing Date

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN BERNARDINO

CHINO BASIN MUNICIPAL WATER  
DISTRICT,

Plaintiff,

vs.

CITY OF CHINO, ET AL.,

Defendant.

Case No. RCV 51010

[Assigned for All Purposes to the Honorable  
STANFORD E. REICHERT]

**[PROPOSED] ORDER APPROVING  
WATERMASTER'S 2013 AMENDMENT  
TO 2010 UPDATE TO RECHARGE  
MASTER PLAN AND INTERVENTION OF  
TAMCO - AMENDED**

Date: December 13, 2013

Time: 1:30 p.m.

Dept.: R-6

Having read, reviewed and considered all pleadings filed in support and in response, if any,  
including the testimony presented at the December 13, 2013 hearing, and good cause appearing  
therefore:

**I. Recharge Master Plan Update**

**a. Background on Development of 2013 Amendment to the 2010 Recharge  
Master Plan Update**

On December 21, 2007, the Court issued its *Order Concerning Motion for Approval of  
Peace II Documents*. The Order required Watermaster to comply with nine conditions subsequent.  
Consistent with section 8.1 of the Peace II Agreement, condition subsequent number eight required  
Watermaster to submit for approval an updated Recharge Master Plan by July 1, 2010.

1 On June 30, 2010, Watermaster submitted its updated Recharge Master Plan, the 2010  
2 RMPU, to the Court in compliance with condition subsequent number eight. However, due to  
3 intervening state legislation enacted subsequent to the Court's December 2007 Order, a delay was  
4 required. The legislation, SB 7, extended the time for completion of 2010 Urban Water  
5 Management Plans ("UWMPs") until July 1, 2011. The UWMPs would provide important  
6 information about the projected Basin production by members of the Appropriative Pool. This  
7 information was critical to the 2010 RMPU and, because this information was not yet available in  
8 June 2010, the Inland Empire Utilities Agency ("IEUA") was not in a position to approve the  
9 updated RMP as required by the Peace II Agreement. IEUA deferred its right to approval of the  
10 2010 RMPU until after the completion of the parties' UWMPs, because IEUA believed that the  
11 water demand and production assumptions were overly conservative and should be re-evaluated  
12 with the completion of the parties' UWMPs to avoid unnecessary expense to the parties.

13 After Watermaster's submittal of the 2010 RMPU, the Court issued its October 8, 2010  
14 Order finding that the 2010 RMPU was responsive to the Court's December 21, 2007 Order,  
15 condition subsequent number eight, whereby Watermaster was ordered to convene a committee  
16 described in item 3 of section 7.1 of the 2010 RMPU "...to develop the monitoring, reporting, and  
17 accounting practices that will be required to estimate local project stormwater recharge and new  
18 yield." (October 8, 2010 Order, at 4:9-11.) The Court also ordered Watermaster "...to conduct  
19 further analyses as described in section 7.2 of the updated Recharge Master Plan of the Phase I  
20 through III projects to refine the projects, to develop a financing plan, and to develop an  
21 implementation plan." (October 8, 2010 Order, at 4:12-14.) The Court further ordered Watermaster  
22 to report to the Court on any changes to the 2010 RMPU necessitated by information received  
23 through the UWMPs by December 17, 2011, and to report on the status of IEUA's approval of the  
24 RMPU. (October 8, 2010 Order, at 4:15-18.)

25 On December 12, 2011 Watermaster filed an Ex Parte Motion to Request a 180-Day  
26 Extension of Time re Filing of Recharge Master Plan Status Report. The Court granted this request  
27 on December 16, 2011. On May 31, 2012, Watermaster filed a Recharge Master Plan Status  
28

1 Report, informing the Court of the progress made towards revising the 2010 Recharge Master Plan  
2 Update.

3 Using updated estimates of stakeholders' groundwater production and projections of  
4 replenishment obligations, Watermaster and the parties have evaluated changed circumstances  
5 (legislative, regulatory, etc.) that were not addressed in the 2010 RMPU and how these changes  
6 affect the Recharge Master Plan. For this purpose, a Recharge Master Plan Update Steering  
7 Committee was convened. Throughout 2012 and 2013, Watermaster staff and the parties have  
8 collaborated to finalize the 2013 Amendment to the 2010 RMPU.

9 Using these scenarios, Watermaster's hydrology consultant undertook modeling in order to  
10 project recharge needs within the Basin, based on modeled future groundwater levels, estimated  
11 Safe Yield, and the balance of recharge and discharge within the Basin. This analysis was  
12 predicated on updated pumping and replenishment projections, estimates of the locations and  
13 amounts of recharge required for groundwater production sustainability, and potential production  
14 forbearance.

15 As the modeling prior to the Amendment process had been based on the existing locations  
16 and capabilities of existing recharge facilities, the Steering Committee also had an inventory  
17 conducted of existing recharge facilities, which includes the characterization of recharge basins,  
18 recharge capacities and the factors controlling recharge performance. Other factors that have also  
19 been included in the analysis include the evaluation of impacts due to changes in recycled water  
20 recharge regulations on Watermaster's ability to recharge the same, the analysis of actual storm  
21 water recharge at existing facilities, storm water available for recharge at each facility, and what  
22 could be done to increase recharge at each, as well as the evaluation of availability of and ability to  
23 recharge supplemental water, and the possibility of in-lieu recharge within the Basin.

24 In order to finalize the Amendment, the Steering Committee identified the possible recharge  
25 options available to meet current and projected recharge and replenishment needs. This included  
26 the identification of areas within the Basin with the potential for production sustainability  
27 challenges and other water management challenges that can be addressed by recharge or production  
28

1 management, the identification of options ensuring production sustainability through the term of  
2 Peace Agreements, including increased recharge at existing facilities, new recharge facilities, new  
3 recharge sources, adjustments in production patterns, etc. Based on the Steering Committee's  
4 desire to evaluate as many recharge project options as could be identified, the Amendment analyzed  
5 suggested projects well beyond those for which the 2010 RMPU's prior analysis was required to be  
6 refined pursuant to the Court's October 2010 Order. The listing of projects was expanded  
7 intentionally to provide an opportunity to identify any and all known recharge opportunities at this  
8 time.

9 After the identification of the potential recharge projects, the Steering Committee developed  
10 the methods and criteria that would be used to evaluate and rank each of them. Project evaluation  
11 criteria include confidence in recharge estimate; location; expandability to include supplemental  
12 water recharge; cost; water quality challenges; and institutional challenges. Using these agreed  
13 upon methods and criteria, Watermaster's consultants conducted engineering and economic  
14 analyses of each. Based on these analyses, the Steering Committee reviewed and recommended  
15 implementation of the selected options, and developed recommended financing and implementation  
16 plans for these options.

17 IEUA, an active participant in the process, considered the proposed options and has  
18 indicated willingness to jointly fund certain of these projects that will facilitate the recharge of  
19 additional quantities of recycled water. IEUA's financial participation has been considered in the  
20 cost of the projects.

21 At its September 26, 2013 regular Board meeting, the Watermaster Board adopted  
22 Resolution 2013-06, approving the 2013 Amendment and finding that it fulfills the requirements of  
23 the Court's October 8, 2010 Order. At its October 16, 2013 regular Board meeting, the IEUA  
24 Board of Directors adopted Resolution 2013-10-1, approving the Amendment. No party has  
25 objected to 2013 Amendment's recommended projects or its implementation and financing plan.

26 **b. Section 5 of 2013 Amendment to the 2010 Recharge Master Plan Update**

27 As required by the Court's October 2010 Order, the Steering Committee also worked to  
28

1 develop the monitoring, reporting, and accounting practices required to estimate stormwater  
2 recharge and any resultant New Yield associated therewith, arising from compliance with the  
3 requirements of the Regional Water Quality Control Board's permit for Municipal Separate Storm  
4 Sewer Systems (MS4s). On June 27, 2013, the Watermaster Board approved Section 5 of the 2013  
5 Amendment, entitled "Monitoring, Reporting, and Accounting Practices to Estimate Long-Term  
6 Average Annual Net New Stormwater Recharge." Representatives of the City of Fontana  
7 ("Fontana") opposed the Board's approval of Section 5, based on Fontana's position that additional  
8 language regarding the allocation of credit for recharged stormwater should be included in the  
9 Section.

10 On September 24, 2013, Fontana filed its Motion to Revise Section 5 of the 2013 Recharge  
11 Master Plan Update and Restated Judgment. The Court set a briefing schedule for the consideration  
12 of Fontana's motion along with Watermaster and IEUA's motion for approval of the 2013  
13 Amendment. On November 18, 2013, Watermaster and Fontana filed with the Court a Stipulation,  
14 whereby they agreed to the continuance of the Court's hearing on Fontana's motion for a period of  
15 time during which Watermaster would convene a facilitated discussion of the concerns underlying  
16 Fontana's motion. Watermaster and IEUA have amended their pending Motion to provide that the  
17 request for Court approval of the 2013 Amendment shall not include Section 5, and also be subject  
18 to a continuing condition that Watermaster proceed in good faith to initiate and complete the  
19 facilitated process and to advise the Court of its continuing progress in accordance with the  
20 schedule attached to the Stipulation, and that the City reserves its rights to continue with its  
21 opposition to Section 5 of the 2013 Amendment unless and until it may agree to the resolution of  
22 the City of Fontana's concerns set forth in its September 24, 2013 Motion, as well as Fontana's  
23 concerns regarding an anticipated recharge application for a project outside the 2013 Amendment  
24 ("Disputed Matters".)

## 25 II. Intervention of TAMCO

26 Watermaster received a Petition to Intervene into the Judgment with placement under the  
27 Overlying (Non-Agricultural) Pool from TAMCO on July 17, 2013, based on TAMCO's agreement  
28

1 with Ameron, Inc. for a transfer of a portion of Ameron's production rights within the Overlying  
2 (Non-Agricultural) Pool. The requested intervention of TAMCO was approved unanimously by the  
3 Appropriate, Overlying (Agricultural) and Overlying (Non-Agricultural) Pools at their August 8,  
4 2013 meetings, was approved unanimously by the Advisory Committee at its August 15, 2013  
5 meeting, and was approved unanimously by the Board at its August 22, 2013 meeting. Watermaster  
6 and the Court know of no opposition to the intervention.

7 **III. Findings and Order**

8 On the basis of the above, the Court finds and Orders as follows:

9 (1) The Court finds that the 2013 Amendment to the 2010 RMPU, excepting Section 5  
10 thereof, is responsive to the Court's Order of October 8, 2010, specifically:

11 (a) The Court finds that Watermaster has satisfied the Court's order to report to  
12 the Court on any changes to the 2010 RMPU necessitated by information received through the  
13 UWMPs.

14 (b) The Court finds that Watermaster has satisfied the Court's order to conduct  
15 further analyses as described in section 7.2 of the updated Recharge Master Plan of the Phase I  
16 through III projects to refine the projects, to develop a financing plan, and to develop an  
17 implementation plan.

18 On this basis, the Court approves Watermaster proceeding with the 2013 Amendment,  
19 excepting Section 5 thereof, as the effective Recharge Master Plan, as updated. The Court will  
20 consider the approval of Section 5 of the 2013 Amendment at the same time it considers Fontana's  
21 motion or any resolution thereof.

22 The Court's approval is subject to the continuing condition that Watermaster proceed in  
23 good faith to initiate and complete the facilitated process and to advise the Court of its continuing  
24 progress in accordance with the schedule attached to the Stipulation and that the City reserves its  
25 rights to continue with its opposition to Section 5 of the 2013 Amendment unless and until it may  
26 agree to the resolution of the Disputed Matters.

27 (2) The Court hereby orders Watermaster to describe the progress made and activities  
28

1 undertaken pursuant to the 2013 Amendment's Implementation and Financing Plans as part of  
2 Watermaster's semi-annual Optimum Basin Management Program reports and orders Watermaster  
3 to file such reports with the Court for its information and review.

4 (3) The Court hereby approves the request of TAMCO for intervention as a party to the  
5 Judgment with placement within the Overlying (Non-Agricultural) Pool.

6  
7  
8 December \_\_, 2013

\_\_\_\_\_  
The Honorable Stanford E. Reichert



**CHINO BASIN WATERMASTER**  
**Case No. RCV 51010**  
**Chino Basin Municipal Water District v. The City of Chino**

**PROOF OF SERVICE**

I declare that:

I am employed in the County of San Bernardino, California. I am over the age of 18 years and not a party to the within action. My business address is Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, California 91730; telephone (909) 484-3888.

On December 5, 2013 I served the following:

1. **AMENDMENT TO MOTION FOR COURT APPROVAL OF 2013 AMENDMENT TO 2010 RECHARGE MASTER PLAN UPDATE**
2. **[PROPOSED] ORDER APPROVING WATERMASTER'S 2013 AMENDMENT TO 2010 UPDATE TO RECHARGE MASTER PLAN AND INTERVENTION OF TAMCO - AMENDED**

/X/ BY MAIL: in said cause, by placing a true copy thereof enclosed with postage thereon fully prepaid, for delivery by United States Postal Service mail at Rancho Cucamonga, California, addresses as follows:

**See attached service list: Mailing List 1**

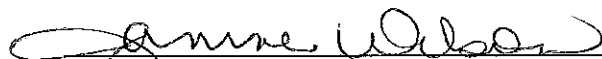
/ / BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the addressee.

/ / BY FACSIMILE: I transmitted said document by fax transmission from (909) 484-3890 to the fax number(s) indicated. The transmission was reported as complete on the transmission report, which was properly issued by the transmitting fax machine.

/X/ BY ELECTRONIC MAIL: I transmitted notice of availability of electronic documents by electronic transmission to the email address indicated. The transmission was reported as complete on the transmission report, which was properly issued by the transmitting electronic mail device.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on December 5, 2013 in Rancho Cucamonga, California.

  
By: Janine Wilson  
Chino Basin Watermaster

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