

## APPENDIX F

### BIOLOGICAL ASSESSMENT JUDITH VALLEY PHILLIPS RESOURCE MANAGEMENT PLAN AND ENVIRONMENTAL IMPACT STATEMENT

#### INTRODUCTION

This biological assessment of threatened and endangered wildlife species evaluates impacts associated with resource management proposals which are part of the Judith Valley Phillips Resource Management Plan and Environmental Impact Statement (RMP/EIS). The assessment is in response to the requirements of Section 7(c) of the Endangered Species Act (ESA) as amended.

This assessment is a summary of the Final RMP/EIS and detailed descriptions of alternatives and other factors put forth in the RMP/EIS will not be extensively duplicated here. The Draft RMP will be used as a prototype for the final when referring to various sections of the Final RMP/EIS. If a section of the Final is revised, it will be discussed in this document, otherwise the draft will become the final document. The wildlife values affected are described in Chapter 3, pages 123 to 130 of the Draft RMP/EIS and anticipated effects are given on pages 177 to 188 in Chapter 4.

The planning area (Figure 1.1, page 2, in the Draft RMP/EIS) includes the Judith Resource Area (RA) (Fergus, Petroleum, Judith Basin and the southern half of Chouteau County), the Valley RA (Valley County) and the Phillips RA (Phillips County). A small portion of the Judith and Phillips RAs are included in the Upper Missouri National Wild and Scenic River (UMNWSR) Corridor and management of these lands is addressed in the West Hi-line RMP/EIS. The planning area encompasses 11,934,041 acres, of which 2,806,157 surface acres (24%) and 3,387,687 acres of mineral estate (28%) are administered by the Bureau of Land Management (BLM). The majority of landownership is private. Other significant landownership includes the Fort Belknap Indian Reservation, the State of Montana and the U.S. Forest Service.

The Judith Valley Phillips RMP/EIS provides a comprehensive plan for managing land and resources administered by BLM. The RMP/EIS is primarily focused on resolving nine resource management issues. These issues are:

1. Land Acquisition and Disposal
2. Access to BLM Land
3. Off-Road Vehicles
4. Oil and Gas Leasing and Development
5. Hardrock Mining
6. Riparian and Wetland Management of Watersheds
7. Elk and Bighorn Sheep Habitat Management
8. Prairie Dog and Black-footed Ferret Management
9. Areas of Critical Environmental Concern (ACEC)
  - a. Judith Mountains Scenic Area
  - b. Acid Shale-Pine Forest
  - c. Square Butte Outstanding Natural Area
  - d. Collar Gulch
  - e. Azure Cave
  - f. Big Bend of the Milk River

Five alternatives are presented for analysis within the RMP/EIS to resolve the nine issues. Alternative A represents No Action or Current Management; Alternative B would generally provide the maximum opportunity for exploration, development and production of BLM land and resources with minimum restrictions; Alternative C provides for balanced consumptive and non-consumptive uses of public land resources; Alternative D emphasizes resource protection; and Alternative E balances the demands of resource development and the protection of sensitive areas and resources.

Management Common to All Alternatives (pages 9-31 of the Draft RMP/EIS) discusses BLM management of non-issue resources. Each alternative combined with the Management Common to All Alternatives section will provide management direction for all resources.

## AFFECTED SPECIES

According to a letter from the U. S. Fish and Wildlife Service (FWS), March 15, 1991, the following listed threatened and endangered (T&E) species may be present in the planning area.

<u>Listed Species</u>	<u>Status</u>	<u>Expected Occurrence</u>
Bald eagle ( <u>Haliaeetus leucocephalus</u> )	Endangered	Year-round resident, winter resident, migrant
Peregrine falcon ( <u>Falco peregrinus</u> )	Endangered	Summer resident, migrant
Black-footed ferret ( <u>Mustela nigripes</u> )	Endangered	Potential resident in prairie dog ( <u>Clomys sp.</u> ) towns
Piping plover ( <u>Charadrius melodus</u> )	Threatened	Summer resident, nesting

<u>Proposed Species</u>	<u>Status</u>	<u>Expected Occurrence</u>
None		

A description of the occurrence of these species can be found on pages 123 and 124 in the Draft RMP/EIS. A summary of that information follows:

Bald eagles are fairly common migrant and wintering birds. They occur throughout the planning area following the fall and spring waterfowl migration. Wintering eagles have been observed primarily along major rivers where open water provides fish and waterfowl as food sources. No eagle nesting is known to occur on BLM land in the planning area. However, potential nesting habitat is present along the Missouri and Milk Rivers.

Peregrine falcons have been sighted during spring and fall migrations in the planning area. No known historical eries exist in the area. However, potential nesting sites are present along the Missouri River, particularly in the Larb Hills and in the isolated mountain ranges of the planning area. Prairie falcons and golden eagles occupy many of the potential peregrine falcon nesting sites.

No black-footed ferrets are known to occur in the planning area. Approximately, 250 black-tailed prairie dog towns have been identified in the planning area (Table 3.20, page 127, in the Draft RMP/EIS). Towns in the Phillips RA are large and numerous. Most of these towns form a large complex ideal for black-footed ferret reintroduction. This 7km complex is known as the North Central Montana Complex (NCMC). The NCMC complex has been identified by the Montana Department of Fish, Wildlife and Parks (MDFWP) and FWS as Montana's best reintroduction area. This area ranks as one of the three best ferret reintroduction areas in the United States. The towns in the Judith and Valley RAs are small and isolated and do not occur in complexes and lack an adequate prey base for even an isolated ferret population.

The piping plover was listed in January 1986, as threatened in the planning area. Although an intensive inventory has not been completed as yet; no sightings have been made within the planning area on BLM land. This species could be a resident, occurring on lake shorelines or on gravel bars or sandy beaches along major rivers. Sightings and nesting of the piping plover have occurred at Fort Peck Reservoir, Bowdoin National Wildlife Refuge, and Nelson Reservoir within the planning area.

## MANAGEMENT COMMON TO ALL ALTERNATIVES

This section of the RMP provides guidance for management practices and will be combined with the selected alternative to form the RMP for the entire planning area. This guidance is from previous planning efforts which include the Belt Management Framework Plan (MFP), Fergus MFP, Petroleum MFP, Little Rockies MFP, Phillips MFP, UL Bend-Zortman

MFP, Valley and Willow Creek MFP, Carpenter Creek-Craig Coulee MFP Amendment, Bitter Creek Wilderness EIS, Missouri Breaks Wilderness EIS, Prairie Potholes Vegetation Allocation EIS, Missouri Breaks Grazing EIS, Containment/Eradication of Selected Noxious Plants Programmatic Environmental Assessment (EA), Willow Creek Interdisciplinary Watershed Activity Plan EA, Wildlife Habitat Improvement Project Programmatic EA, and Small Sales of Forest Products Programmatic EA. Guidance which pertains directly to T&E species can be found on pages 16 and 17 in Chapter 2 of the Draft RMP/EIS. This guidance will be used to manage actions taken on BLM land such as vegetation manipulation, reservoir construction, etc. This guidance can be summarized as follows:

1. BLM will maintain and enhance suitable habitat for all species of wildlife. The emphasis for habitat maintenance and development will be on present and potential habitat for sensitive, threatened and/or endangered species, nesting waterfowl, crucial winter ranges, non-game habitat and fisheries.
2. BLM will consult with the FWS when any action may effect a threatened or endangered species or its habitat.
3. No action will be initiated on BLM land which will jeopardize any candidate or federally listed threatened and endangered (T&E) plant or animal. Impacts to state designated species of special interest will be evaluated and applicable mitigation developed prior to the initiation of any action on BLM land.
4. BLM will cooperate with the FWS to recover threatened and endangered species, including reintroduction efforts. The federal T&E species presently are the bald eagle, peregrine falcon, black-footed ferret, and piping plover. Federal candidate species are the ferruginous hawk, mountain plover, and long-billed curlew. BLM will cooperate with MDFWP to manage Species of Special Concern. Table 2.1, page 16, in the Draft RMP/EIS lists these species for the planning area. This table has been expanded by additional data received during the comment period.
5. Currently there are no known bald eagle, peregrine falcon, or piping plover nesting sites or black-footed ferrets on BLM land in this planning area. However, if a nesting site were discovered or a reintroduction proposed, BLM will adhere to the species specific approved recovery plan and guidance.

#### Decision - Positive May Effect

Rationale - These five factors provide for enhancing habitats; mitigation of negative impacts including those actions on BLM land such as vegetation manipulation, reservoir construction, habitat improvement, etc.; consultations with the FWS per the ESA; and guidance given in recovery plans. This management guidance provides the necessary habitats and/or protection for T&E species, federal candidate species and Montana Species of Special Concern.

#### ISSUE ANALYSIS

This analysis will be divided into 9 issue areas as they are presented in the Preferred Alternative, pages 78 to 90, of the Draft RMP/EIS.

#### LAND ACQUISITION AND DISPOSAL

Proposed Action: BLM would pursue acquisitions as opportunities arise through exchange or purchase with willing proponents and/or sellers. BLM would not use condemnation for land acquisition under this component of the land use plan. Acquisitions could include private, state, or other land that would meet the objectives of the State Director's Guidance on Land Pattern Review and Land Adjustment (1984) (see Appendix A). Lands meeting the criteria in Appendix A would be in conformance with the land use plan. The main objective would be to attain a BLM land pattern which balances multiple resource values and brings about better manageability. Lands acquired would have multiple resource values such as access, riparian-wetland areas, ACECs, recreation and wildlife habitat. All of the identified lands that meet acquisition criteria, tables and maps have been dropped.

A total of 161,968 acres of BLM land would be available for disposal to meet the acquisition objectives (see Table 2.40, Appendix A and Map 1 in the back of this document). The lands identified for disposal would be available for exchange. These lands may also be available for sale to facilitate an individual land exchange. For purposes of sale these lands meet FLPMA disposal criteria Sec. 203(a) (1). BLM land identified for disposal would be subject to further site specific evaluation and if significant value are found they may be retained under BLM management. An environmental analysis and Notice of

Realty Action would be completed for each disposal action. For the areas not identified for disposal the underlying philosophy is long term public ownership. However, minor adjustments involving primarily land exchange may occur if the public interest and plan objectives are served.

There will be no overall net gain in BLM land over the life of this plan.

Decision: Positive May Effect

Rationale: All land adjustments require that an EA be prepared. This assessment will evaluate the resource values gained and/or lost. This requires that an assessment of the T&E habitat be prepared. The impacts of the action could require an informal consultation with the FWS to evaluate an exchange. Existing or potential habitat for federal T&E species, federal candidate species, or Montana Species of Special Concern would be a priority for acquisition. Priority areas could include bald eagle historic nesting sites with continuing potential, active nesting sites, and documented roosting and wintering areas; peregrine falcon nest sites or suitable hacking sites; piping plover nest sites; or black-tailed prairie dog towns necessary for a black-footed ferret reintroduction; habitat for future listed species, etc. Any acquired T&E habitat would be a positive benefit to species recovery.

#### ACCESS TO BLM LAND

Proposed Action: BLM would pursue new legal public access to 71,793 acres of BLM land and additional public access to 1,126,858 acres in the planning area. This also includes preserving and improving access to, through and from BLM land. This would provide for improved public land management and use by the general public for hunting, camping, picnicking, and other recreational activities. BLM would support the public road network leading to BLM land by cooperating with the respective counties to assure access. Some BLM roads or trails would be extended and/or upgraded to reflect public access needs. Additional areas for access and road extension or upgrading could be identified in the future based on transportation planning.

BLM would use existing laws, regulations and guidelines. During activity planning and/or route analysis, access may be defined as foot, horse, trail or road.

Decision: No Effect

Rationale: New and additional access could be controlled if needed to protect various resources such as T&E species. However, at this time there is no known T&E species habitat that would be impacted nor need restrictions because of public access.

#### OFF-ROAD VEHICLES

Proposed Action: BLM would designate 1,990,501 acres open, 813,709 acres limited and 1,947 acres closed to off-road vehicles. These restrictions would protect resource values in ACECs, WSAs, maintain or improve watersheds, reduce user conflicts, and reduce wildlife harassment and provide habitat security. A 40 acre intensive ORV area would be available north of Glasgow. Those roads not designated open within limited areas would be closed from September 1 through December 1. BLM would allow game retrieval in most areas, but would limit it to specific time periods in other areas. BLM would also allow off-road travel to administer any lease.

Decision: No Effect

Rationale: The restrictions placed on ORV use are designed to protect a variety of resource values, including wildlife and T&E species. The 40 acre designated intensive use area was selected after consideration of resource impacts including T&E. Should any additional areas be designated for intensive ORV use, T&E species habitat would be protected from disturbance. Current and expected ORV use in the planning area would be a minor impact to T&E species. Should ORV use become a problem in areas sensitive to T&E species, protective restrictions would be placed on further use. If this does not eliminate the problem, the FWS would be formally consulted on possible alternatives.

## OIL AND GAS LEASING AND DEVELOPMENT

**Proposed Action:** BLM would lease 1,474,481 acres with standard terms only, 1,760,426 acres with stipulations, 34,818 acres with No Surface Occupancy and close 117,962 acres within the planning area. This would provide for oil and gas exploration and development while protecting other resource values. Where these values cannot be protected the areas would be closed.

Oil and Gas leasing would be allowed with Controlled Surface Use Stipulations on all prairie dog towns within the 7km Complex. When an oil and gas activity is proposed, the authorized officer of the BLM is responsible for applying conditions of approval to prevent adverse effects on the reintroduction and recover of black-footed ferrets. The "Draft Guidelines for Oil and Gas Activities in Prairie Dog Ecosystems Managed for Black-footed Ferret Recovery," FWS, 1990, will guide the development of appropriate conditions of approval for the proposed activity.

Waivers, exceptions, and modifications to these stipulations would be allowed that are determined to have no adverse effect on the integrity of ferret habitat for purposes of reintroducing and recovering black-footed ferrets. The BLM authorized officer will coordinate with the Montana Black -footed Ferret Coordination Committee (MBFCC) before making a final decision on waiving, excepting, or modifying the stipulation.

**Decision:** Positive May Effect

**Rationale:** The various stipulations (Appendix B, pages 269-312, in the Draft RMP/EIS and the above black-footed ferret stipulation) would be placed on oil and gas leases to protect wildlife values including T&E species. Each oil and gas lease would be evaluated as to location to see what impact it will have on the wildlife resource. Stipulations would be added to the oil and gas lease to protect specific habitat. These stipulations would protect T&E species, however, at this time there are no known T&E species present on BLM land in the planning area. The stipulations, however, would protect T&E species habitat if it did occur on BLM land. Standard terms of moving the activity 200 m or delaying it for 60 days would also be available to protect less sensitive areas and may be all that is necessary to protect other wildlife habitat.

## HARDROCK MINING

**Proposed Action:** BLM would provide for hardrock mineral development while protecting other resources of exceptional value through withdrawal from mineral entry or with special management prescriptions. BLM would continue the Azure Cave mineral withdrawal. The South Moccasin Mountains would be removed from the South Moccasin-Judith Mountains Scenic Area ACEC.

**Decision:** Positive May Effect

**Rationale:** Mining activities are very visible in the planning area but very small in distribution and size. Hardrock mining exploration and development does have an impact on wildlife habitat, animal harassment, and animal loss, however it is very localized. The various protective withdrawals, the reclamation that must take place on the mining areas that mitigate wildlife impacts and the amount of actual surface disturbance (less than 10%) would not have a significant impact on the wildlife resource. T&E species are considered during exploration and development pre-mining activities. If habitat is present in or near the mining area, mitigation is developed to protect any T&E species. However, no T&E habitat is known to occur on or near the present or potential mining activities.

## RIPARIAN AND WETLAND MANAGEMENT OF WATERSHEDS

**Proposed Action:** BLM would maintain and/or improve the riparian-wetland areas in exiting, proposed, and potential Allotment Management Plans (AMPs) along with wetlands in non-AMP areas on a ranking basis based on proper functioning condition and vegetation types. Ranking would be based on potential as determined by intensive inventories in the Prairie Potholes and Norther Great Plains Regions (Appendix H, pages 369 to 380 in the Draft RMP/EIS). The ranking may change as intensive inventories are completed in the planning area. Some allotments may be recategorized because of riparian-wetland values.

The final RMP would clarify the definition of riparian-wetland areas according to the Montana Riparian Association.

The objectives would be to improve or maintain riparian-wetland areas to proper functioning condition and late seral or

potential natural community. These objectives would be met by grazing methods. When trend is substantially improving, the prescribed grazing method would be continued. If grazing methods are not successful in meeting management objectives, BLM would take the necessary action to achieve those objectives. This could include, but is not limited to fencing riparian-wetland areas, reducing livestock numbers and use and rehabilitating degraded riparian areas.

Decision: Positive May Effect

Rationale: Riparian-wetland management would be implemented through an AMP. Threatened and Endangered species would be considered during the AMP process. Riparian wetland management would have little or no impact on the presently known T&E species. Developments for waterfowl production could provide some additional habitat for piping plovers. Sandy and gravelly beaches would be programmed into the larger waterfowl projects.

#### ELK AND BIGHORN SHEEP HABITAT MANAGEMENT

Proposed Action: BLM would provide habitat to maintain and/or allow for the expansion of elk and bighorn sheep in the planning area. This habitat consists of 593,980 rather than 660,140 acres for elk and 156,930 acres for bighorn sheep. BLM would provide habitat for elk dependent on landowner tolerance and the MDFWP elk management plan for these areas. BLM would pursue land exchanges and identify areas for lure crops to manage elk and bighorn sheep habitat. Domestic sheep grazing would not be allowed to overlap bighorn sheep habitat to ensure no contact between domestic and bighorn sheep.

Decision: No Effect

Rationale: BLM would provide habitat for elk and bighorn sheep. This action would not effect T&E habitat within the planning unit.

#### PRAIRIE DOG AND BLACK-FOOTED FERRET MANAGEMENT

Proposed Action: BLM would provide prairie dog habitat for black-footed ferret reintroduction and long-term ferret recovery; associate species (mountain plover, burrowing owl and ferruginous hawk); recreational viewing; and prairie dog shooting. BLM land identified for reintroduction of the black-footed ferret would be designated an ACEC. This habitat may also help prevent the need for listing of the mountain plover, burrowing owl and ferruginous hawk as threatened or endangered. If one of these species would become listed, BLM would consult with the FWS to assure this RMP meets the habitat needs. If this plan would not meet those needs, BLM would amend this RMP.

BLM, in cooperation with the FWS and MDFWP, would maintain the existing prairie dog habitat and distribution on BLM land within the 7km Complex based on the 1988 survey. BLM would also support maintaining prairie dog towns on CMR, DSL and private land within the 7km Complex. The 7km Complex contains approximately 26,000 acres of prairie dog towns (12,346 BLM acres, 5,800 CMR acres, 2,012 DSL acres and 5,821 private acres). Management actions would be directed to cooperatively maintain this amount of prairie dog habitat.

A Cooperative Black-footed Ferret Reintroduction and Management Plan would be developed with the affected landowners, BLM, CMR, MDFWP, DSL and FWS. The 12,346 acres of prairie dog towns on BLM land may fluctuate in accordance with the guidelines in the plan.

Prairie dogs on BLM land outside the 7km Complex are non-essential to black-footed ferret recovery and would be maintained at the existing level (1988 survey) or controlled based on values other than the ferret.

Decision: Positive May Effect

Rationale: BLM would provide habitat for black-footed ferret reintroduction in south Phillips RA. The acreage and distribution of the existing prairie dog towns associated with the CMR, DSL and private landowners would provide an excellent opportunity to release and study reintroduction of the ferret back into the wild. A black-footed ferret reintroduction plan would be jointly prepared by the FWS and MDFWP with cooperation by BLM. The plan would address BLM concerns identified in the Draft RMP/EIS on page 87. This is a positive benefit to the reintroduction of the black-footed ferret.

## AREAS OF CRITICAL ENVIRONMENTAL CONCERN

### Now the JUDITH MOUNTAINS SCENIC AREA

Proposed Action: BLM would designate 3,702 rather than 4,566 BLM acres an ACEC to protect the scenic qualities of the visual resources in the Judith Mountains. This area would be managed to protect the visual resources from surface disturbing activities. Surface disturbing activities would not be allowed which could not be mitigated and reclaimed to natural conditions.

Decision: No Effect

Rationale: The Judith Mountains do not contain any known habitat for T&E species. This action would have no effect on T&E species.

### ACID SHALE-PINE FOREST

Proposed Action: BLM would designate two representative BLM tracts, War Horse (817 acres) and Briggs Coulee (1,646 acres), within an acid shale-pine forest ecosystem an ACEC to protect an endemic plant community unique to the area and a fragile watershed. The area would be a Research Natural Area where research would be allowed to determine the effects of grazing, fire, etc. on this type of plant community. BLM would allow research at War Horse and maintain Briggs Coulee as a control site.

Decision: No Effect

Rationale: The Acid Shale-Pine Forest ecosystem does not contain any known habitat for T&E species. This action would have no effect on T&E species.

### SQUARE BUTTE OUTSTANDING NATURAL AREA

Proposed Action: BLM would designate 1,947 BLM acres an ACEC to protect natural endemic systems, cultural sites, scenic qualities, rare geologic features unique to Montana and identify key wildlife viewing sites under the Watchable Wildlife Program. This area would be managed primarily for wildlife, cultural resources, and recreation.

Decision: No Effect

Rationale: Square Butte contains wildlife habitat for a number of species (mule deer, elk, mountain goat, prairie falcons, golden eagles, etc). However, the butte does not contain any known habitat for T&E species. This action would have no effect on T&E species.

### COLLAR GULCH

Proposed Action: BLM would not designate 1,618 BLM acres an ACEC and current management practices would continue. Current management would include the evaluation of alternate operating practices and mitigating measures during technical review and environmental analysis of individual Plans of Operations.

Decision: No Effect

Rationale: Mitigating measures would be evaluated during review of Plans of Operations to protect the westslope cutthroat trout. The area does not contain any known habitat for T&E species. This action would have no effect on T&E species.

### AZURE CAVE

Proposed Action: BLM would designate 140 BLM acres an ACEC to protect cave resources and potentially the northern most bat hibernaculum in the United States. The cave would be managed to protect bats during crucial periods and allow specific and general recreation use on a limited basis.

Decision: No Effect

Rationale: This action would protect the bat population of Azure Cave and the hibernaculum. There are no known T&E species associated with the cave. This action would have no effect on T&E species.

#### BIG BEND OF THE MILK RIVER

Proposed Action: BLM would designate 2,120 acres of BLM land within the Henry Smith and Beaucoup Sites an ACEC to protect archaeological resources representative of prehistoric occupations of the glaciated prairie in the northwestern plains. The Henry Smith Site would be managed for interpretation and the Beaucoup Site for research.

Decision: No Effect

Rationale: The Big Bend area does not contain any known habitat for T&E species. This action would have no effect on T&E species.

#### CUMULATIVE IMPACTS

The Judith Valley Phillips RMP/EIS provides necessary commitments by BLM to ensure that proposed site-specific actions covered by this plan are evaluated for impacts which "may effect" T&E species, including formal and informal consultation with the FWS whenever necessary. The actions considered in the RMP/EIS including other actions taken on BLM land such as vegetation manipulation, reservoir construction, weed control and those actions continuing or anticipated on private and state lands such as farming, timber harvest, and reservoir construction do not jeopardize any T&E species at this time.

This agency's opinion, considering the above nine issues and guidance for Management Common to All Alternatives, is that there is a "Positive May Effect" on T&E species for the proposed action.





# United States Department of the Interior



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IN REPLY REFER TO:

FWE-61130-Billings  
M.02-BLM JVP/RMP

May 21, 1992

## MEMORANDUM

**TO:** District Manager, Bureau of Land Management, Lewistown District,  
Lewistown, Montana

**FROM:** Montana State Supervisor, Fish and Wildlife Enhancement, USFWS,  
Helena, Montana

**SUBJECT:** Biological Assessment for Final Judith-Valley-Phillips Resource  
Management Plan and Environmental Impact Statement

The U.S. Fish and Wildlife Service (Service) finds, based on information in the biological assessment for the final Judith-Valley-Phillips Resource Management Plan, a "no adverse" affect for peregrine falcon, bald eagle and piping plover and concurs with the "positive may" affect finding for the black-footed ferret. Since the Resource Management Plan provides an adequate prairie dog habitat allocation for potential black-footed ferret reintroduction and no adverse affects to the ferret are identified in the biological assessment, the Service has determined, pursuant to S402.13(a) of 50 CFR, that formal consultation is not warranted.

DMC\jf

*Bill Olson*

cc: Area Manager, Bureau of Land Management, (Malta, MT)  
Billings Suboffice, USFWS, Fish & Wildlife Enhancement (Billings, MT)

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