

MINUTES OF THE HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE

The meeting was called to order by Vice Chairman Rocky Fund at 3:30 p.m. on February 9, 2010, in Room 783 of the Docking State Office Building.

All members were present except:

Representative Johnson - Excused  
Representative Light - Excused  
Representative Palmer - Excused

Committee staff present:

Jason Thompson, Office of the Revisor of Statutes  
Daniel Yoza, Office of the Revisor of Statutes  
Corey Carnahan, Kansas Legislative Research Department  
Raney Gilliland, Kansas Legislative Research Department  
Pat Matzek, Committee Assistant

Conferees appearing before the Committee:

Representative Pat George  
Joshua Hobbs, Manager, Horse Thief Reservoir  
Ed Klumpp, Chief of Police, Retired, Kansas Association of Chiefs of Police and Kansas Peace Officers' Association  
Representative Richard Carlson  
J. Michael Hayden, Secretary, Kansas Department of Wildlife and Parks

Others attending:

See attached list.

Vice Chairman Fund began the meeting with the hearing on **HB 2606** - Tuttle Creek Dam river pond area, entrance to remain open.

**Hearing on HB 2606:**

**PROPONENT:**

Representative Richard Carlson spoke in favor of **HB 2606** (Attachment 1), stating this bill is short and to the point concerning the closure of the west entrance to the Tuttle Creek pond and recreation area, and after being open for many years, the Kansas Department of Wildlife and Parks (KDWP) decided to keep the west entrance closed after the work on the dam was completed. Representative Carlson further added it will take very limited and negligible resources to keep both entrances open as they have been for forty years, and that park accessibility should be at the convenience of the people, not at the convenience of the KDWP.

Representative Sydney Carlin also spoke in favor of **HB 2606** (no testimony provided).

**OPPONENT:**

J. Michael Hayden, Secretary, Kansas Department of Wildlife and Parks, presented testimony in opposition of **HB 2606** (Attachment 2), commenting the KDWP determined last fall to not re-open the entrance as it had been in the past as it meets two clear objectives of the Park's Division; one, to reduce the number of entrances to all State Parks to one for enforcement and safety purposes, and two, to reduce the costs for the Park's Division. Secretary Hayden further added crime statistics for the park show that thefts, property crimes and burglary are all down in the park after going to one entrance and vehicle permit violations are half of what they were in 2007. The KDWP estimates that keeping the west entrance closed will result in an annual savings of nearly \$50,000 which is an important factor since the state general fund allocations to the Parks Division have been cut by \$3.2 million since FY 2008.

After questions were asked by members of the Committee, the hearing was closed on **HB 2606**.

## CONTINUATION SHEET

Minutes of the House Agriculture and Natural Resources Committee at 3:30 p.m. on February 9, 2010, in Room 783 of the Docking State Office Building.

Chairman Powell opened the hearing on **HB 2638** - Horse thief reservoir water district employees granted law enforcement powers; requiring trained at the law enforcement training center.

### Hearing on HB 2638:

#### **PROPONENTS:**

Representative Pat George provided testimony in support of **HB 2638** (Attachment 3), stating that as a resident of the Horse Thief Reservoir Benefit District, this project promises to benefit all Kansans and that plans are to open the park for public use sometime between late May and early July, 2010. Representative George further added that with the influx of visitors will come the need for law enforcement and a mechanism to insure public safety, and that **HB 2638** addresses that need.

Joshua Hobbs, Manager, Horse Thief Reservoir and its facilities in Hodgeman County, spoke in favor of **HB 2638** (Attachment 4), commenting that based on other parks in the region, Horse Thief Reservoir plans on providing recreational opportunities for up to 150,000 visitors per year and with that many potential park patrons, there is a need for law enforcement capabilities to ensure the safety of the users. Mr. Hobbs further stated that to insure that emergency situations will be attended to in a timely manner, **HB 2638** is needed to spell out the requirements and limitations that the law enforcement personnel at the park has and needs.

#### Opponent Written Testimony:

Sheriff Ronald Ridley, Hodgeman County Sheriff's Office (Attachment 5)

#### **NEUTRAL:**

Ed Klumpp, Chief of Police, Retired, Kansas Association of Chiefs of Police and Kansas Peace Officers' Association, provided neutral testimony on **HB 2638** (Attachment 6), testifying that the purpose of his testimony is to provide information based on experience with two prior legislated authorizations for non-traditional law enforcement agencies and the importance to get it right in the statutes. Mr. Klumpp added that this bill mandates the Hodgeman County Sheriff's Office provide firearms certification and training to the officer's of the new agency. No other law enforcement agency in Kansas has such a mandate to train another agency nor does any other agency enjoy this type of free training mandate placed by statute on another agency. Secondly, Mr. Klumpp states this bill fails to address the provisions of K.S.A. 22-2401a., the statute wherein jurisdictional authority is defined for every other law enforcement agency in Kansas. This statute and appropriate amendments need to be added to this bill. Other non-traditional law enforcement agencies, such as railroad police, etc., are required to pay tuition for Kansas Law Enforcement Training Center and strongly recommends an amendment to statute K.S.A. 74-5609a(a) be included in this bill to include the Horse Thief Reservoir Benefit District law enforcement agency.

After questions were asked by members of the Committee, the hearing was closed on **HB 2638**.

The next meeting is scheduled for February 10, 2010.

The meeting was adjourned at 4:33 p.m.

# AG. & NATURAL RESOURCES COMMITTEE GUEST LIST

DATE: 2-9-10

NAME	REPRESENTING
Ed Kemp	KACP / KPOA / KSA
Mike Haydon	KDW P
Josh Hobbs	Horse Thief Reservoir
Ken Suter	KARA
KDW P	Diet / Growth

CHAIRMAN: TAXATION

MEMBER: FEDERAL AND STATE AFFAIRS

MEMBER: EDUCATION BUDGET



TOPEKA

HOUSE OF REPRESENTATIVES

February 8, 2010

RICHARD CARLSON

REPRESENTATIVE, 61ST DISTRICT

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Chairman Powell  
Agriculture and Natural Resources Committee  
Docking Room 711

Testimony in support of HB 2606

Chairman Powell and members of the committee thank you for the opportunity to speak today in favor of HB 2606.

HB 2606 is a short and to the point bill concerning the closure of the west entrance to the Tuttle Creek pond and recreation area. After being open for many, many years, Wildlife and Parks decided to keep the West entrance closed after the work on the dam was completed.

A public hearing was held on November 16 and the many area residents and users were all in favor of keeping the West entrance open.

Visitation and revenue have increased at the park not because the West entrance has been closed, but because all the re-construction on the dam is finished.

It will take very limited and negligible resources to keep both entrances open as they have been for over forty years. Park accessibility should be at the convenience of the people, not at the convenience of Wildlife and Parks Department. The West entrance is next to Manhattan where accessibility is important.

There have been accessibility problems for the elder population in the fishing area in the past so this is not a new problem concerning the River Pond Area.

Just before the public hearing on November 16, I read an internal email distributed by Wildlife and Parks encouraging Wildlife and Parks personnel to attend the public hearing and to be in support of closing the entrance, because the public just didn't understand the problem. I respectfully submit that the public does understand the problem. The problem is a bureaucratic decision that doesn't consider the public's need for access.

Ag & Natural Resources Committee

Date 2-24-10

Attachment 1

Thank you. I will gladly stand for questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Carlson", with a long horizontal flourish extending to the right.

Richard Carlson  
State Representative, 61<sup>st</sup> Dist.



DEPARTMENT OF WILDLIFE AND PARKS

Mark Parkinson, Governor  
J. Michael Hayden, Secretary

www.kdwp.state.ks.us

**Testimony on HB 2606 regarding Tuttle Creek State Park  
To  
The House Committee on Agriculture and Natural Resources**

**By J. Michael Hayden  
Secretary  
Kansas Department of Wildlife and Parks**

**February 9, 2010**

<sup>2606</sup> HB ~~2609~~ seeks to create a statute related to the entrances of Tuttle Creek State Park. The provisions of the bill would be effective on publication in the statute book. **The Department opposes the provisions contained in the bill.**

Tuttle Creek State Park is a 1,250 acre park located on Tuttle Creek Reservoir, the State's second largest impoundment, and is near Manhattan, Kansas. The park consists of four areas and electric, water, and sewer hookups, a swimming beach, boat ramps courtesy docks and over 500 primitive campsites.

The west entrance to Tuttle Creek State Park was closed in 2007 in response to Corps of Engineers renovation of the dam. The Corps of Engineers is doing renovation to the dam over concerns of potential damage that could occur to the dam during an earthquake, as the dam is located near a fault line. The Department determined last fall to not re-open the entrance as it had been in the past as it meets two clear objectives of the Parks division. The first objective is to reduce the number of entrances to all State Parks to one for enforcement and safety purposes. It is much easier and efficient to police one entrance. Crime statistics for the park show that thefts, property crimes and burglary are all down in the park after going to one entrance and vehicle permit violations are half of what they were in 2007. The second objective is to reduce costs for the Parks Division. The Parks Division is funded by a mixture of park fee funds and state general funds and state general fund allocations to the Parks Division have been cut by \$3.2 million since FY 2008. The Department estimates that keeping the west entrance closed will result in an annual savings of nearly \$50,000.

**The Department appreciates the opportunity to address the bill and the support of the Committee in opposing the bill.**

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Ag & Natural Resources Committee  
Date 2-24-10  
Attachment 2

**PAT GEORGE**

REPRESENTATIVE 119TH DISTRICT  
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DODGE CITY, KANSAS 67801  
620-227-2012

OFFICE ADDRESS: STATE CAPITOL  
TOPEKA, KANSAS 66612  
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TOPEKA

HOUSE OF  
REPRESENTATIVES

Testimony on Behalf of HB 2638  
House Ag and Natural Resources Committee  
February 9, 2009

Chairperson Powell and members of the committee, thank you for the opportunity to appear before you to express my support of HB 2638. As a member of the Kansas House, and a resident of the HorseThief Reservoir Benefit District, I want to thank you for your support over the past several years for a project that promises to benefit all Kansans.


The dam at HorseThief was completed in late August of last year, and after final state inspection, the gate was closed on September 8. Due to timely rains, the Reservoir is now 1/3 full, and continues to slowly rise due to upstream spring flow.

Park facilities are also under construction, albeit at a slower pace than had been hoped, due to a colder and wetter winter than anticipated. The water distribution system is nearly complete, primary electrical is well underway, and the park road system should be completed with another three weeks of favorable weather. Bids for the boat ramp parking area and two campgrounds will be let next week.

Plans are to open the park for public use sometime between late May and early July.

With the influx of visitors will come the need for law enforcement and a mechanism to insure public safety. HB 2638 addresses that need, and I urge your support for it.

I thank you for your attention and will stand for your questions.

  
Rep. Pat George

Ag & Natural Resources Committee  
Date 2-24-10  
Attachment 3

# HORSETHIEF RESERVOIR

*A Joint Project of  
PAWNEE WATERSHED JOINT DISTRICT NO. 81  
and HORSETHIEF RESERVOIR BENEFIT DISTRICT*

514 W. Highway 156 • Jetmore, Kansas 67854 • 620-357-6420 • email: horsethiefres@hotmail.com

February 9, 2010

Chairman Powell and members of the committee:

I am Joshua Hobbs, manager of HorseThief Reservoir and its facilities in Hodgeman County.

I want to thank you for the opportunity to give brief testimony today on House Bill 2638, dealing with law enforcement capabilities with in the park. As you can see from the attached picture the reservoir is well on its way to filling. With the completion of roads, utilities and park facilities the project should open to the public in late spring or early summer. An exact open date has not been set due to the wet and colder than normal winter which has slowed our construction projects.

Based on other parks in our region we plan on eventually providing recreational opportunities for up to 150,000 visitors per year, providing family friendly outdoor recreation. Meade State Park and Scott State Park which are actually smaller in acreage average 135,000 visitors per year. So we should far exceed there annual visitors and recreational opportunities. With that many potential park patrons there is a need for law enforcement capabilities to ensure the safety of the users. Researching and visiting with other park managers has indicated that safety is the primary reason for families to continue to use parks. The basic reason is people want a safe place that they can go and not worry about there wellbeing and the wellbeing of there children.

With 150,000 visitors per year it is obvious that law enforcement presence will be required as with all state parks. How the law enforcement will take place and personnel trained is addressed with HB 2638.

As we transition from construction to usable facilities we have contracted with the Hodgeman County Sheriff for law enforcement. The one year contract with the sheriff allows the county to provide a deputy that will spend 75 percent of his time at HorseThief Reservoir for a law enforcement presence. The other 25 percent of his time could be anywhere within Hodgeman County.

Ag & Natural Resources Committee  
Date 2-24-10  
Attachment 4



As we grow into our full capacity of 150,000 park users we foresee the need to have additional law enforcement capabilities at the park to provide law enforcement 100 percent of the time. This will help insure that emergency situations will be attended to in a timely manner. This is where the HB 2638 is needed. HB 2638 spells out the requirements and limitations that the law enforcement persons at the park has and needs. The manager and other employees that will be functioning as law enforcement must “successfully complete the required course of instruction for law enforcement officers approved by the Kansas law enforcement training center...”

With the safety and wellbeing of all the visitors and employees of HorseThief Reservoir at the forefront of our plans, it is necessary to have all means available to keep our visitors, property and community as safe as possible.

In conclusion, the time has come to start law enforcement capabilities at our park. We are only a short time from opening the facility; with your help and support of HB 2638, the opportunity to provide safety for our park and patrons will be available.

Please read the attached testimonial from Jerry Schmitt a retired park ranger and park manager.

Thank you for your time and the opportunity to provide testimony and facts. I would be glad to answer questions you may have.



Dear Committee Members,

This letter is a testimonial for House Bill 2638 which covers law enforcement authority for certain employees of the Horsethief Reservoir Benefit District.

My name is Jerry Schmidt. I am working with the Horsethief Reservoir Benefit District Board of Directors and Manager as a consultant reference the development of the park for quality recreational activities. My background includes 14 years of service as a Park Ranger and Park Manager for the old Kansas Park Authority and then 17 years as a Park Manager with the Kansas Department of Wildlife and Parks-Parks Division. My entire career was at Cheney State Park which is one of the largest State Parks in the State in terms of land area(2,000 acres), visitation(500,000+/year), and revenue intake.

All Park Managers and Park Rangers for the State of Kansas are law enforcement certified. Cheney State Park is a small city on weekends and the same type of laws have to be enforced along with the Park's rules and regulations. Problems which are handled by Park law enforcement include DUI's, drug use, traffic violations, thefts, domestic disputes, assaults, etc. **These enforcement efforts create a safe park where visitors can bring their families and feel safe while enjoying all the recreational activities at the park and lake.** Without law enforcement certified Wildlife and Park personnel this would not be possible because County law enforcement just do not have enough personnel to handle this constant influx of visitors and the incidents which occur along with the influx.

HorseThief Reservoir will not have the visitation of a Cheney State Park but they will eventually have the visitation of a Meade, Scott, Webster, Crawford or Prairie Dog State Parks. All of these parks have a Manager and Park Ranger who are law enforcement certified and take care of the majority of problems which occur within those parks. It is important that this House Bill be approved for HorseThief Reservoir so that the Park Manager and eventual Park Ranger will be law enforcement certified for the following reasons:

- So that State Laws and Park Rules and Regulations can be enforced in a quick and timely manner.
- Hodgeman County is responsible for all law enforcement in the county but are limited on staff. The Sheriff's office and Park personnel need to work hand in hand to enforce laws and handle problems within the park as they arise.
- Emergency situations will arise and need to be addressed and handled in a professional and efficient manner.
- For the safety of park visitors.
- For the safety of park employees.

If this park is going to be successful in regard to being a safe park and water recreation area for its visitors then the park personnel need to be law enforcement certified. Please consider adopting House Bill 2638.

Sincerely,  
Jerry W. Schmidt



# Hodgeman County Sheriff's Office

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House Agriculture & Natural Resources Committee  
 Kansas House of Representatives  
 State Capitol Building  
 Topeka, Kansas

Chairman Powell & Members of the Committee,

As the House Agriculture & Natural Resources Committee will be hearing a bill presented by Representatives Whitham & George in regards to the creation of a separate and distinct law enforcement agency for HorseThief Reservoir, I'd like to express some concerns and provide some input about the bill in its current form.

My most serious concern is that the language in the working bill has the Sheriff of Hodgeman County providing instruction and training in the use of firearms to the HTR police officers, which creates undue liability for the Sheriff. Since the bill would create a separate and distinct agency, the responsibility for any and all instruction & training should fall to the person designated as the Chief of Police for that agency. Additionally, no statutory authority currently exists to direct or require the Sheriff to provide that training as the Sheriff is an elected official and a Constitutional Officer whose authority is derived from Chapter 19.

As the Sheriff of Hodgeman County it is my belief that I should not be exposed to vicarious liability for an officer whom I did not screen or employ and cannot supervise or discipline. Use of force and wrongful death suits following an officer-involved shooting typically ask for damages well in excess of \$1,000,000.00, and I believe it is unreasonable to expose the Sheriff, the Sheriff's Office and Hodgeman County to that type of liability through this legislation.

I would like to point out to the Committee that throughout my tenure as Sheriff I have worked with the Pawnee Watershed District and the HorseThief Reservoir Benefit in an effort to craft a workable cost-effective solution to the policing issues at HTR and I currently have an annual contract in place to provide protection at HTR. This contract provides a Deputy Sheriff who will be primarily assigned to the Park, and provides that the Sheriff's Office will respond to any calls for service when that officer is off-duty in the same manner as if he were on site. The contract is definitely a win/win situation for both the Sheriff's Office and HorseThief and I'm truly excited about the prospects for the future with this incredible new recreational facility becoming available to the citizens of Southwest Kansas.

Currently, I provide law enforcement protection for the entire county, including Jetmore and Hanston; with both communities having a policing contract with me. The Sheriff's Office has provided law enforcement protection for the entire county since the cities dissolved their law enforcement agencies in the 1970s. This continues to be the trend as the State encourages the

*Ronald D. Ridley, MS, CPM ♦ 31<sup>st</sup> Sheriff of Hodgeman County ♦ ronridley@hodgemansheriff.us*

Ag & Natural Resources Committee

Date 2-24-10

Attachment 5

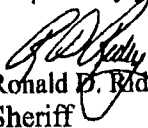
consolidation of services across the state and in many respects western Kansas is well ahead of the curve in consolidating law enforcement services. For instance, in the 24<sup>th</sup> Judicial District, which encompasses six counties (Edwards, Pawnee, Rush, Hodgeman, Ness & Lane) there are now only two independent police departments in existence; Larned (4,200) and LaCrosse (1,500). Just recently, Kinsley disbanded their police department and contracted with the Edwards County Sheriff for law enforcement services beginning in 2009. Typically contract law enforcement with a Sheriff's Office provides necessary law enforcement services at a substantial cost savings to the contracting entity (as does my current contract with HTR).

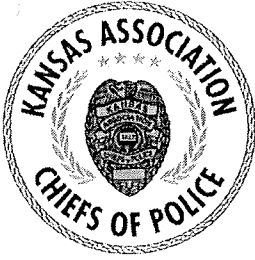
Members of the Committee, I certainly understand the Benefit District's desires to pursue their own agency from the standpoint of control over personnel and the policing methods utilized, and I respect their intent. Concerns have also been raised about the continuity of service should any subsequent Sheriff decide that they no longer want to participate in the contract, and I also appreciate their uneasiness about what impact that might have on their ability to provide adequate protection for their facility and their visitors. My goal in writing to you is not to oppose the wishes of the Benefit District, but to insure that they fully understand the many obstacles & pitfalls that may be ahead of them. I have tried to educate the involved parties about the substantial costs, the many liabilities, and the awesome responsibilities connected with creating and administering a law enforcement agency, and I've asked them to seek out the advice and counsel of leaders in the Kansas law enforcement community. I've encouraged Representative Whitham and Park Manager Josh Hobbs to visit with Director Ed Pavey of Kansas Law Enforcement Training Center; Director Steve Culp of the Kansas Commission on Peace Officer Standards & Training; and Sheriffs across the state for their input on this proposed legislation.

In conclusion, I feel that I have a terrific relationship with the HorseThief Reservoir Benefit District and the Pawnee Watershed and I certainly want that to continue; however I also believe that I have a duty and a responsibility to insure that all parties are fully informed, that the statutory authority of the Office of Sheriff remains intact, and that no undue liability is created for myself, my agency and my community and these are the factors which drives my current concerns about bill in its present form.

Thank you for your time and consideration.

Respectfully yours,

  
Ronald D. Ridley, MS, CPM  
Sheriff



**Kansas Association of Chiefs of Police**  
 PO Box 780603, Wichita, KS 67278 (316)733-7301



**Kansas Peace Officers Association**  
 PO Box 2592, Wichita, KS 67201 (316)722-8433

**Neutral Testimony to the House Agriculture and Natural Resources Committee  
 Regarding HB2638**

**Authorizing the Horsethief Reservoir Benefit District Law Enforcement Agency**

February 9, 2010

Mr. Chairman and Committee Members,

The Kansas Association of Chiefs of Police and the Kansas Peace Officers Association neither supports nor opposes the authorization to allow the Horsethief Reservoir Benefit District to establish an independent law enforcement agency. The purpose of this testimony is to provide information based on our experience with two prior legislated authorizations for non-traditional law enforcement agencies. We have learned from past experience how important it is to get this right in the statutes if it is to be done. Our intent is to share with you the lessons learned from those experiences.

First, this bill mandates the Hodgeman County Sheriff's Office provide firearms certification and training to the officer's of the new agency. No other law enforcement agency in Kansas has such a mandate to train another agency nor does any other agency enjoy this type of free training mandate placed by statute on another agency. No other law enforcement agency is placed under such rigid restrictions of where or how they obtain their training. The liability factor for firearms training and certification is not a minor issue. This arrangement will place undo liability on Hodgeman County and on the current and future Hodgeman county sheriffs. We assume the current sheriff has agreed to accept this mandate or it would not be in the bill. But that doesn't mean the next sheriff will be willing to accept this unique and unusual statutory mandate. We strongly recommend this mandate be removed from the bill and the new law enforcement agency train their officers as all other law enforcement agencies in this state do without legislated mandates. Training and certification requirements should follow the language used in other statutes, such as "Those members of the adjutant general's department who are appointed as law enforcement officers must meet the requirements of the Kansas law enforcement training act, K.S.A. 74-5601 through 74-5623 and amendments thereto" from K.S.A. 48-204.

Second, this bill fails to address the provisions of K.S.A. 22-2401a. K.S.A. 22-2401a is the statute where jurisdictional authority is defined for every other law enforcement agency in Kansas. This statute and appropriate amendments need to be added to this bill.

Third, this bill provides for free training from the Kansas Law Enforcement Training Center (KLETC). Other non-traditional law enforcement agencies, such as railroad police, tribal police and school police are required by K.S.A 74-5609a(a) to pay tuition for KLETC training. We strongly recommend an amendment to this statute be included in this bill to add the Horsethief Reservoir Benefit District law enforcement agency.

Fourth, we have learned that jurisdictional issues are critical in these non-traditional law enforcement agencies. This is an issue that must be resolved to assure officer safety and agency efficiencies. Most non-traditional law enforcement agencies are required by statute to restrict their jurisdiction to the property their parent agency controls, in the case the Horsethief Reservoir Benefit District lake and park and the roadways immediately adjacent to that area. Jurisdictional authority beyond that for other non-traditional agencies is only allowed by statute by a memorandum of understanding between the agency and the law enforcement agency with authority over the other areas for which jurisdiction is sought. For this reason we strongly recommend the authority for a Horsethief Reservoir Benefit District law enforcement agency follow the legislative directives of the adjutant general police

Ag & Natural Resources Committee  
 Date 2-24-10  
 Attachment 6

Implemented a few years ago. These jurisdictional provisions were included in their authorizing statutes.

Again our associations are neither supporting nor opposing this legislation. But we feel obligated to point out how the bill as drafted is deficient in several areas, proposes policy decisions directly contradictory to any other law enforcement agency in Kansas, leaves gaps potentially creating problems in law enforcement operations for the new agency, and potentially jeopardizing effective, efficient, and safe law enforcement operations.



Ed Klumpp  
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