ENVIRONMENTAL ASSESSMENT

On an Application for an

OPENCUT MINING PERMIT

The Montana Department of Environmental Quality (DEQ) prepared this Environmental Assessment (EA) in accordance with requirements of the Montana Environmental Policy Act (MEPA). An EA functions to identify, disclose, and analyze the impacts of a proposed action. This document may disclose impacts that have no legislatively required mitigation measures, or over which there is no regulatory authority.

The state law that regulates gravel mining operations in Montana is the Opencut Mining Act. This law and the rules adopted thereunder place operational guidance and limitations on a project during its lifetime, and provide for the reclamation of land affected by opencut mining operations.

Local governments and other state agencies may have authority over different resources and activities under their regulations. Approval or denial of this Opencut Application will be based on a determination of whether or not the proposed operation complies with the Opencut Mining Act and the rules adopted thereunder. The DEQ approval of this application would not relieve the operator from the obligation to comply with any other applicable federal, state, or county statutes, regulations, or ordinances. The operator is responsible for obtaining any other permits, licenses, approvals, etc. that are required for any part of the proposed operation.

APPLICANT: MK Weeden Construction, Inc. **COUNTY:** Fallon

SITE NAME: Wenz **DATE:** April 2016

LOCATION: Section 7, T9 N, R60 E

PROPOSAL: The applicant proposes to permit a new, short-term gravel pit to mine, screen, crush, stockpile, and transport 80,000 cubic yards of gravel from a 32.2-acre site located 13 miles north of Baker, Montana. The site is located in General Sage Grouse Habitat, as identified in Executive Orders (EO) 12-2015 and 21-2015. Ephemeral drainages and wetland areas are located adjacent to the northeast and southwest boundaries. A petroleum pipeline is located 75 feet outside the southeast site boundary.

A reclamation bond would be held by DEQ to ensure that final reclamation of the site to rangeland and cropland/hayland would be completed by October 2025. This application contains all items required by the Opencut Mining Act and its implementing rules. Proponent commits to properly conducting opencut operations and would be legally bound by the permit.

IMPACTS ON THE PHYSICAL ENVIRONMENT	
RESOURCE	**POTENTIAL IMPACTS AND MITIGATION MEASURES**
1. TOPOGRAPHY, GEOLOGY AND SOIL QUALITY, STABILITY AND MOISTURE:	The site is located in the West Fork Beaver Creek watershed, and consists of relatively flat cropland/rangeland rising to hills to the north, and sloping south and southeast. The onsite soils consist of Pachel loam and clay loam with 0 to 4 percent slopes. The operator would replace 20 inches of soil and 14 inches of overburden. The site receives approximately 12 to 17 inches of precipitation per year. *Impacts:* An irreversible and irretrievable removal of gravel from the site would occur. A small impact to the quantity and quality of soils from salvaging, stockpiling, and resoiling activities also would occur, but this would not impair the capacity of the soils to support full reclamation. There are no unusual topographic, geologic, soil, or special reclamation considerations that would prevent reclamation success.

IMPACTS ON THE PHYSICAL ENVIRONMENT	
RESOURCE	**POTENTIAL IMPACTS AND MITIGATION MEASURES**
2. WATER QUALITY, QUANTITY AND DISTRIBUTION	An ephemeral drainage is approximately 90 feet to the southwest, and a second drainage is approximately 100 feet to northeast. The area around the second drainage is identified as palustrine emergent wetland by the National Wetlands Inventory. Water obtained from a location more than 300 feet from the site would be used for dust control and pug milling. *Impacts:* The proposed activities would have a minimal effect on the quantity and quality of the surface and groundwater resources. *Cumulative:* Cumulative impacts to the resource would be negligible.
3. AIR QUALITY	Air quality standards are based upon the Clean Air Act of Montana and pursuant rules and are administered by the DEQ Air Resources Management Bureau (ARMB). Its program is approved by the Environmental Protection Agency (EPA). These rules and standards are designed to be protective of human health and the environment. Air quality permits would be required on the processing equipment before installment. Machinery, such as generators, crushers and asphalt plants, are individually permitted for allowable emissions. Best Available Control Technology (BACT) is the usual standard applied. Fugitive dust is that which blows off the pit floor, stockpiles, gravel roads, farm fields, etc. It is considered to be a nuisance but not harmful to health. *Impacts:* Air quality standards as set by the federal government and enforced by the ARMB would allow minimal detrimental air impacts.
4. VEGETATION COVER, QUANTITY AND QUALITY	There are no known rare or sensitive plants or cover types present in the site area. Onsite vegetation consists of crop, smooth brome, needle-and-thread grass, sage brush, fringed sage wort, purple coneflower, cudweed sagewort, prairie sunflower and other grasses and forbs, and provides over 90% cover in undisturbed or uncultivated areas. The vegetation would be removed as soil is stripped and the site would be replanted with plant species compatible with the proposed reclaimed use. *Impacts:* No long term detrimental impacts to the vegetation would occur.
5. TERRESTRIAL, AVIAN AND AQUATIC LIFE AND HABITATS:	Although the area is used primarily for rangeland and cropland, it also supports populations of antelope, deer, rodents, song birds, coyotes, foxes, raptors, waterfowl, insects and various other animal species. Population numbers for these species are not known. *Impacts:* The proposed mine is expected to temporarily displace some individual species and it is likely that the site would be re-inhabited following reclamation to similar habitat.
6. UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES:	The Montana Natural Heritage Program (MNHP) lists the following one species of concern in the vicinity of the site: **Gray Comma** *(Polyonia progne)* is a medium sized butterfly roughly 1 5/8 - 2 1/2 inches. Upperside is bright orange-brown with a wide dark border; winter form has a border covering only about 1/4 of the wing, both enclosing a few small yellow spots. Underside is charcoal gray with fine dark striations; forewing with 3-4 light chevrons in a dark border. Silver mark in center of hindwing is small, slender, and L-shaped.

IMPACTS ON THE PHYSICAL ENVIRONMENT	
RESOURCE	**POTENTIAL IMPACTS AND MITIGATION MEASURES**
	Impacts: The listed species has not been found on this site. Even if suitable habitat did exist on this site, the disturbance area would be small and large areas of similar or identical habitat surrounds the site. The possible impact to this species would be minimal.
7. HISTORICAL AND ARCHAEOLOGICAL SITES	The Montana State Historic Preservation Office (SHPO) was notified of the application. It reported that no sites have been discovered previously within the designated search locale. A pedestrian survey of the area by DEQ personnel did not reveal any artifacts or signs of occupation. SHPO does not feel that a cultural resource inventory is warranted at this site at this time. *Impacts:* If during operations resources were to be discovered, activities would be temporarily moved to another area or halted until SHPO was contacted and the importance of the resources was determined.
8. SAGE GROUSE EXECUTIVE ORDER	The project would be in general sage grouse habitat, as designated by the Sage Grouse Habitat Conservation Program (Program) at: **http://sagegrouse.mt.gov.** The applicant attached documentation from the Program showing compliance with Executive Order 12-2015 and the Program's recommendations to this EA.
9. DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AIR OR ENERGY	There are no unusual demands on land, water, air or energy anticipated as a result of this project. *Impacts:* Negligible impacts to land, water, air, or energy would occur.

IMPACTS ON THE HUMAN POPULATION	
RESOURCE	**POTENTIAL IMPACTS AND MITIGATION MEASURES**
10. LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS	Fallon County zoning clearance has been obtained. The site is not zoned.
11. DENSITY AND DISTRIBUTION OF POPULATION AND HOUSING	As seen on the aerial photo of the surrounding area, one residence is located approximately 1,000 feet northeast of the site. *Impact:* This commercial pit is being sited in this area because of the location of the resource, and to provide resources for an MDT project.
12. AESTHETICS	The site is located in a common rangeland and cropland area. There would be a temporary alteration of aesthetics while mining is under way. However, reclamation would return the area to a visually acceptable landscape. This project is considered to be short-term, i.e., planned to take 9 years to complete. The Operator would mitigate impacts on the neighboring property by restricting hours of operation, imposing speed limits on haul traffic, and mitigating dust.
13. QUANTITY/ DISTRIBUTION OF EMPLOYMENT	Existing employees would mainly be utilized for this operation. There is low potential that this project would create a significant number of new jobs. *Impacts:* New employment opportunities would be limited.

IMPACTS ON THE HUMAN POPULATION	
RESOURCE	**POTENTIAL IMPACTS AND MITIGATION MEASURES**
14. INDUSTRIAL, COMMERCIAL, AGRICULTURAL ACTIVITIES AND PRODUCTION	The acreage listed in the proposal would be taken out of agricultural and rangeland use. Upon completion of mining, the land would be reclaimed to agricultural and rangeland use. *Impacts:* Agricultural and rangeland production would be reduced as soil stripping and operations progress across the site. When the entire site is opened up for mining and mine-related activities, all agricultural and rangeland activities would cease, but would be restored as the site is reclaimed.
15. LOCAL, STATE TAX BASE AND TAX REVENUES, PERSONAL AND COMMUNITY INCOME	Local, state and federal governments would be responsible for appraising the property, setting tax rates, collecting taxes, etc., from the companies, employees, or landowners benefitting from this operation. Following reclamation, it is assumed the tax base would revert to pre-mine levels.
16. DEMAND FOR GOVERNMENT SERVICES	Limited oversight by DEQ Opencut Program personnel would be conducted in concert with other area activity when in the vicinity.
17. HUMAN HEALTH AND SAFETY	Any industrial activity would increase the opportunities for accidental injury. There are agencies that require the Operator to implement specific safety measures. If followed there is no reason to believe that significant safety issues would be present.
18. ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES	This activity would not inhibit the use of the identified resources.
19. NATIVE CULTURAL CONCERNS	*Impacts:* None identified.

20. Alternatives Considered:

A. Denial Alternative: The Department would deny an application that does not comply with the Act and Rules. No impacts to the natural or human environment would occur.

B. Approval Alternative: The Department would approve an application that complies with the Act and Rules. Impacts of this application are addressed in the body of the EA.

21. Public Involvement, Agencies, Groups or Individuals contacted: Montana State Historic Preservation Office, Montana Natural Heritage Program, and the Montana Sage Grouse Habitat Conservation Program.

22. Other Governmental Agencies which May Have Overlapping or Sole Jurisdiction include, but may not be limited to: Fallon County Commission or County Planning Department (zoning), Fallon County Weed Control Board, MSHA and OSHA (worker safety), DEQ ARMB (air quality) and Water Protection Bureau (groundwater and surface water discharge; stormwater), DNRC (water rights), MDT (road access), and the Montana Sage Grouse Habitat Conservation Program.

23. Regulatory Impact on Private Property: The analysis done in response to the Private Property Assessment Act indicates no impact. The Department does not plan to deny the application or impose conditions that would restrict the use of private property so as to constitute a taking.

24. Magnitude and Significance of Potential Impacts: This proposal is not likely to create impacts of significance due to mitigation, restrictions, and oversight mandated by the Opencut Mining Act and pursuant rules and the Montana Clean Air Act.

25. Recommendation for Further Environmental Analysis: [ ] EIS [X] No Further Analysis

EA Prepared By: Colleen Owen — Opencut Mining Program Environmental Specialist
Name — Title

EA Reviewed By: Chris Cronin — Opencut Mining Program Supervisor
Name — Title

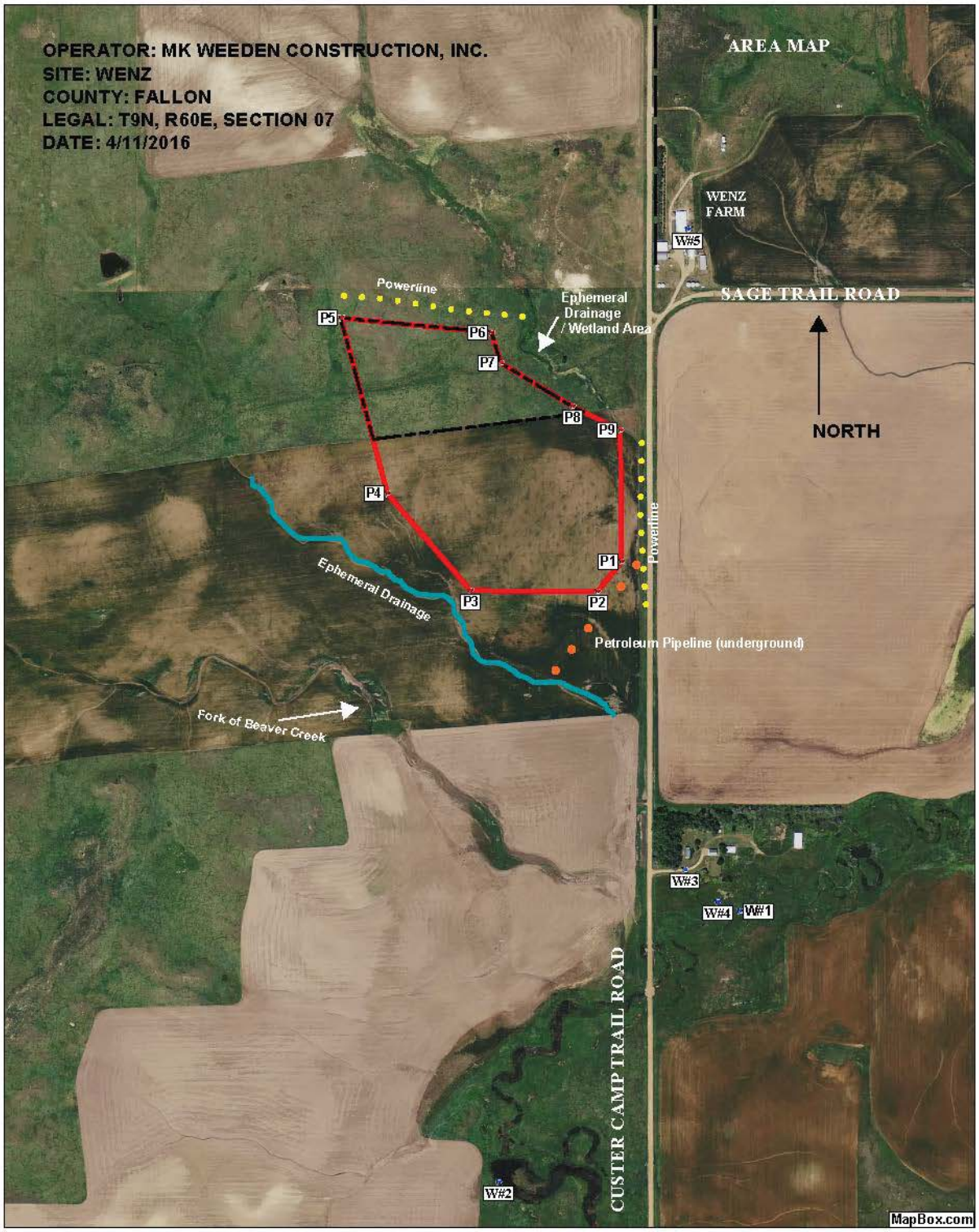
PRIVATE PROPERTY ASSESSMENT ACT (PPAA) CHECKLIST

DOES THE PROPOSED AGENCY ACTION HAVE TAKINGS IMPLICATIONS UNDER THE PPAA?

YES	NO	
X		1. Does the action pertain to land or water management or environmental regulation affecting private real property or water rights?
	X	2. Does the action result in either a permanent or indefinite physical occupation of private property?
	X	3. Does the action deprive the owner of all economically viable uses of the property?
	X	4. Does the action deny a fundamental attribute of ownership?
	X	5. Does the action require a property owner to dedicate a portion of property or to grant an easement? (If answer is NO, skip questions 5a and 5b and continue with question 6.)
		5a. Is there a reasonable, specific connection between the government requirement and legitimate state interests?
		5b. Is the government requirement roughly proportional to the impact of the proposed use of the property?
	X	6. Does the action have a severe impact on the value of the property?
	X	7. Does the action damage the property by causing some physical disturbance with respect to the property in excess of that sustained by the public generally? (If the answer is NO, skip questions 7a-7c)
		7a. Is the impact of government action direct, peculiar, and significant?
		7b. Has the government action resulted in the property becoming practically inaccessible, waterlogged, or flooded?
		7c. Has the government action diminished property values by more than 30% and necessitated the physical taking of adjacent property or property across a public way from the property in question?

Taking or damaging implications exist if YES is checked in response to question 1 and also to any one or more of the following questions: 2, 3, 4, 6, 7a, 7b, 7c; or if NO is checked in response to questions 5a or 5b.

If taking or damaging implications exist, the agency must comply with § 5 of the Private Property Assessment Act, to include the preparation of a taking or damaging impact assessment. Normally, the preparation of an impact assessment will require consultation with agency legal staff.



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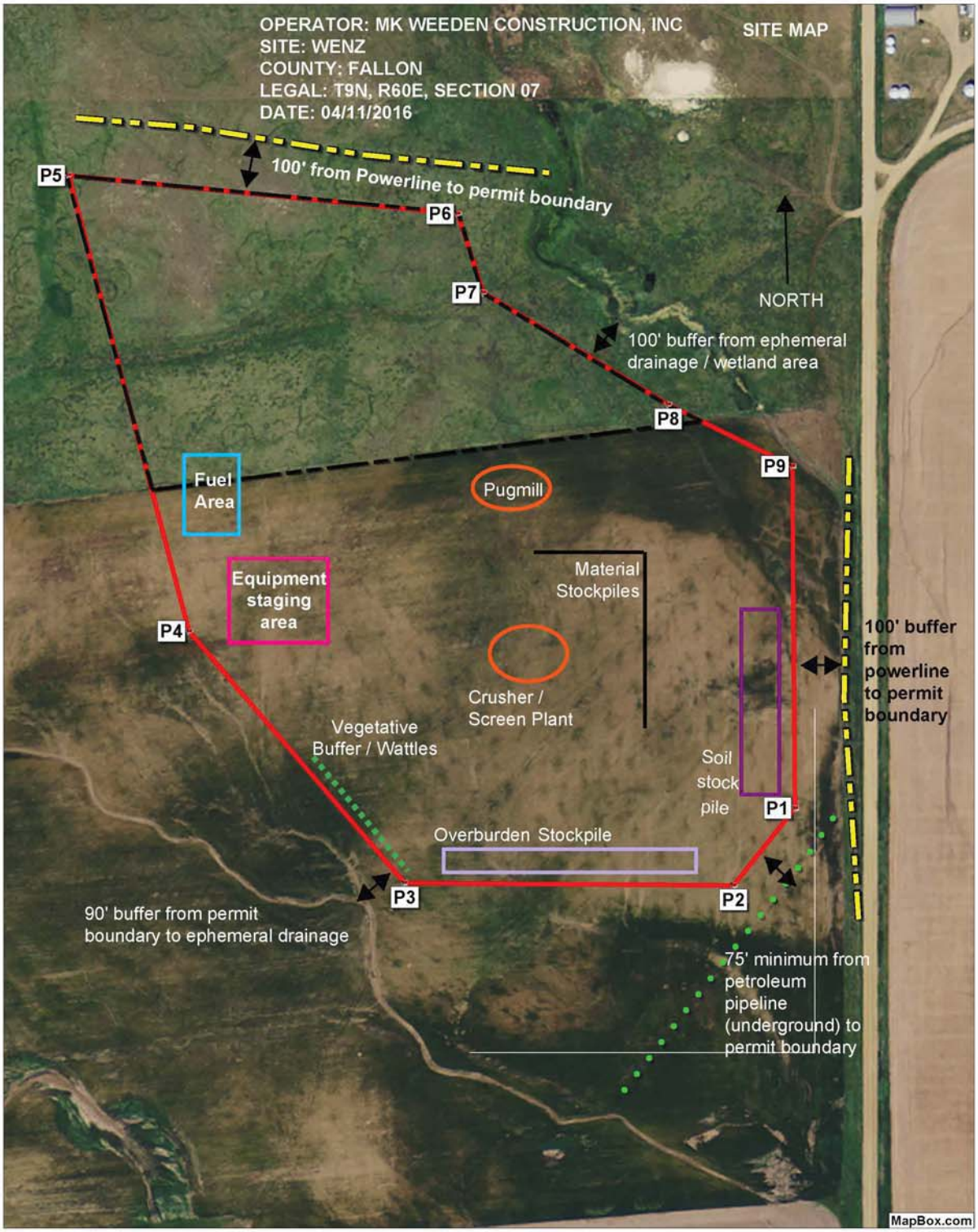

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