

ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
AMENDMENTS TO 35 ILL.) R18-30
ADM. CODE SUBTITLE O:) (Rulemaking - Right
RIGHT TO KNOW) to Know)

REPORT OF THE PROCEEDINGS held in the above
entitled cause before Hearing Officer Natalie
Winqvist, called by the Illinois Pollution Control
Board, taken by Kari Wiedenhaupt, CSR, for the
State of Illinois, 100 West Randolph Street,
Chicago, Illinois, on the 6th Day of December
2018, commencing at the hour of 2:02 p.m.

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A P P E A R A N C E S

MS. KATIE PAPADIMITRIU, Chairman

MS. BRENDA CARTER, Board Member

MS. CARRIE ZALEWSKI, Board Member

ALSO PRESENT:

MR. TIMOTHY FOX

MS. NATALIE WINQUIST

MS. MARIE TIPSORD

MR. MARTIN KLEIN

MS. TETYANA RABCZAK

MR. GABRIEL NEIBERGALL

MR. BRADLEY FROST

MS. JOANNE OLSON

MS. NANCY TIKALSKY

1 HEARING OFFICER WINQUIST: Good
2 afternoon. My name is Natalie Winquist. Welcome
3 to the Illinois Pollution Control Board hearing.
4 I'm the assigned hearing officer for this
5 rulemaking entitled: Amendments to 35 Illinois
6 Administrative Code Subtitle O: Right to Know.
7 The Board docket number in this rulemaking is
8 R18-30.

9 Also present today from the
10 Board we have Board Member Brenda Carter, in our
11 Springfield office, whose rulemaking this is, and
12 we also have Chairman Katie Papadimitriu, also in
13 the Springfield office. And I don't think you can
14 see her, but we also have general counsel, Marie
15 Tipsord.

16 Here in our Chicago office, to
17 my right, we have Board Member Carrie Zalewski,
18 and to my left, I have attorney advisor, Tim Fox.
19 And also present from the Board is Member
20 Zalewski's attorney advisor, Martin Klein, and
21 Chairman Papadimitriu's attorney advisor, Tetyana
22 Rabczak -- Rabczak. Excuse me.

23 All right. We are going to move
24 on to -- just to some housekeeping matters. This

1 hearing is governed by the Board's procedural
2 rules. All information that is relevant and that
3 is not repetitious or privileged will be admitted
4 into the record.

5 Please bear in mind that any
6 questions posed today by the Board or its staff
7 are intended solely to help develop a clear and
8 complete record for the Board's decision and do
9 not reflect any decision on the proposal,
10 testimony or other questions. For the sake of our
11 court reporter, should you wish to testify or
12 offer a public comment, please speak clearly, and
13 avoid speaking at the same time as another person
14 so that we can help produce a clear transcript.

15 A little background on this
16 rulemaking: On January 10th, 2018, the Illinois
17 Environmental Protection Agency filed a rulemaking
18 proposal under the governor's Executive Order
19 16-13. The governor's executive order directed
20 state agencies to review regulations and determine
21 those that are outdated, repetitive, confusing,
22 unnecessary and harmful to the economy -- to the
23 state's economy.

24 The order directed the agencies

1 to amend or repeal those regulations as necessary.
2 In response to that order, the IEPA filed its
3 rulemaking, which proposed numerous changes
4 throughout the Board's rules. However, the IEPA
5 did not propose amendments to the Board's Subtitle
6 0: Right to Know regulations, which are, of
7 course, the subject of this docket.

8 The Board had began its own
9 review of its rules. On March 22nd, 2018, the
10 Board opened this docket, R18-30, specifically to
11 consider amendments to the Subtitle 0: Right to
12 Know regulations. Subsequently, on June 21st,
13 2018, the Board adopted a proposal for public
14 comment, which requested comment both generally
15 and on eight specific matters related to the
16 proposed amendments. The Board's proposed
17 amendments remove redundant or unnecessary words
18 and phrases, replace outdated language and
19 reorganize sections and sentence structure for
20 clarity. Any proposed changes are intended to be
21 non-substantive.

22 Today we are holding the first
23 hearing in this rulemaking. On November 8th,
24 2018, the hearing officer, me, directed

1 participants intending to testify at this hearing
2 to pre-file their testimony by November 29th,
3 2008. The Board did not receive any pre-filed
4 testimony before that deadline.

5 For this video hearing, any
6 document to be offered as a hearing exhibit must
7 have been received by the Board clerk at least
8 24 hours before the scheduled start of the
9 hearing, which was yesterday, December 5th, at
10 2:00 p.m. The Board did not receive any hearing
11 exhibits before that deadline. However, I do want
12 to point out that the rules specifically allow
13 that a document not allowed as a hearing exhibit
14 can be filed later as a public comment.

15 As for the second hearing in
16 this docket, it's scheduled for Wednesday,
17 December 19th, 2018, at 2:00 p.m. And let's see
18 here.

19 Before we begin with any
20 comments, I just want to ask the IEPA if there are
21 any procedural matters that they would like to
22 address?

23 MS. CARTER: No.

24 MS. TIPSORD: No.

1 HEARING OFFICER WINQUIST: All
2 right. Thank you. And for the record, would the
3 agency like to identify who they are, please?

4 MS. OLSON: My name is Joanne Olson.
5 I am a deputy general counsel.

6 HEARING OFFICER WINQUIST: Okay.
7 Thank you. Is there anyone else?

8 MR. NEIBERGALL: Gabriel Neibergall,
9 assistant counsel.

10 HEARING OFFICER WINQUIST: Okay. Go
11 ahead.

12 MR. FROST: Bradley Frost, manager
13 of the Office of Community Relations.

14 HEARING OFFICER WINQUIST: Okay.
15 Thank you. Is there anyone else?

16 (No response.)

17 HEARING OFFICER WINQUIST: For
18 whatever reason, the camera is not panning over,
19 so I can't see anyone. I'm just letting you know.

20 All right. As I mentioned, the
21 Board did not receive any pre-filed testimony, and
22 I will just ask, is there anyone who did not
23 pre-file testimony that would like to testify
24 today?

1 (No response.)

2 HEARING OFFICER WINQUIST: I don't
3 see anyone here in Chicago. What about in
4 Springfield?

5 MS. CARTER: There is none.

6 HEARING OFFICER WINQUIST: No one to
7 testify. All right. Thank you.

8 Seeing that we don't have any
9 witnesses, I will move on to public comments. We
10 have Joanne Tikalsky from the Attorney General's
11 Office.

12 MS. TIKALSKY: Nancy.

13 HEARING OFFICER WINQUIST: Nancy.
14 I'm so sorry. Nancy Tikalsky from the Attorney
15 General's Office. Nancy, is there anything you
16 would like to comment on?

17 MS. TIKALSKY: Well, I just wanted
18 to -- and with the Illinois EPA I am happy to
19 communicate outside of here, but I just wanted to
20 make note that adding a definition, notice, they
21 don't really say where they received -- got this
22 definition. So I am just not sure if that's
23 considered substantive, because it's adding. It's
24 not revising language for clarity, per se.

1 I looked in the act. I didn't
2 see notice, but maybe there is someplace in the
3 act of where you got that definition of notice.
4 So I guess I would like some more clarification
5 about that.

6 HEARING OFFICER WINQUIST: Okay.
7 All right. Is there -- do you have any other
8 questions other than that?

9 MS. TIKALSKY: No. That was kind
10 of --

11 HEARING OFFICER WINQUIST: Okay.
12 Wonderful. Thank you. And I was just going to
13 say that any questions that you have, either the
14 Board -- the Board will address those comments in
15 any opinion and -- subsequent opinions and orders,
16 and the IEPA can also address those comments in
17 post-hearing comments or pre-filed testimony. So
18 thank you for that.

19 And is there anyone in
20 Springfield who would like to provide a comment?

21 MS. CARTER: No.

22 HEARING OFFICER WINQUIST: Okay. As
23 long as nobody minds, I think at this point we
24 will go off the record just for a few minutes to

1 allow anyone that might be running late who wants
2 to participate in this rulemaking. I think we
3 will give it five minutes, and then go back on at
4 about 2:15, if that works.

5 MS. PAPADIMITRIU: Sure.

6 HEARING OFFICER WINQUIST: All
7 right. We will go off the record. Thank you.

8 (Whereupon, a short break was
9 taken.)

10 HEARING OFFICER WINQUIST: During
11 that brief break we did not have anyone else here
12 in Springfield who wishes to offer a comment.

13 Ms. Tikalsky, is there anything
14 else you would like to add?

15 MS. TIKALSKY: No thank you.

16 HEARING OFFICER WINQUIST: Thank
17 you. Was there anyone in Springfield that showed
18 up that would like to offer comment?

19 Member Carter? Chairman
20 Papadimitriu?

21 MS. PAPADIMITRIU: No one.

22 MS. CARTER: No one.

23 HEARING OFFICER WINQUIST: Okay.

24 Thank you. All right. So I am just going to -- I

1 guess we can finish up here.

2 Just a reminder, the second
3 hearing is scheduled for Wednesday, December 19th,
4 at 2:00 p.m., and that will also be by video
5 conference between the Board's Chicago office and
6 the Springfield office again, with a deadline of
7 December 12th, 2018 to pre-file testimony.

8 I was just going to ask, is
9 Ms. Olson from the agency still there?

10 MS. OLSON: I am.

11 HEARING OFFICER WINQUIST: Okay. I
12 was just going to ask you if you think the
13 deadline to pre-file testimony or the post-hearing
14 comment period will be enough time for you to
15 adequately address Ms. Tikalsky's comment?

16 MS. OLSON: We probably will not be
17 filing anything at this time. We are not exactly
18 sure of the status of our comments that we filed.
19 So right now we consider the proposal before the
20 Board to be the one that was published by the
21 Board in June.

22 HEARING OFFICER WINQUIST: Okay.
23 Thank you.

24 MS. OLSON: So, I mean, I'm not sure

1 what benefit it would be to comment on a comment.

2 HEARING OFFICER WINQUIST: All
3 right. Thank you for that. And as I mentioned
4 earlier, any comments that were filed with the
5 Board or received today, the Board will address in
6 its subsequent opinion and order.

7 But for the video hearing --
8 back to the next hearing. For the video hearing
9 on December 19th, again, any document that's going
10 to be offered as a hearing exhibit just has to be
11 filed 24 hours before the scheduled start date of
12 the hearing.

13 The copies of the transcript of
14 today's hearing are expected to be available -- I
15 am guessing within the week or so. Is that
16 accurate?

17 THE COURT REPORTER: Yes.

18 HEARING OFFICER WINQUIST: So we can
19 expect those probably by Thursday, December 13th,
20 and then after the Board receives the transcript,
21 we will post it to COOL, and it can be viewed and
22 printed from there.

23 Are there any other matters or
24 anything anyone would like to discuss?

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(No response.)

HEARING OFFICER WINQUIST: All
right. Well, I think that's it. Thank you,
everyone who -- to everyone who participated, and
this first hearing is adjourned.

(END OF PROCEEDINGS.)

1 I, KARI WIEDENHAUPT, do hereby certify that
2 the foregoing was reported by stenographic and
3 mechanical means, which matter was held on the
4 date, and at the time and place set out on the
5 title page hereof and that the foregoing
6 constitutes a true and accurate transcript of
7 same.

8 I further certify that I am not related to
9 any of the parties, nor am I an employee of or
10 related to any of the attorneys representing the
11 parties, and I have no financial interest in the
12 outcome of this matter.

13 I have hereunder subscribed my hand on the
14 _____ day of _____, 2018.

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KARI WIEDENHAUPT, CSR

<p style="text-align: center;">A</p> <p>accurate 12:16 14:6 act 9:1,3 add 10:14 adding 8:20,23 address 6:22 9:14 9:16 11:15 12:5 adequately 11:15 adjourned 13:5 ADM 1:6 Administrative 3:6 admitted 4:3 adopted 5:13 advisor 3:18,20,21 afternoon 3:2 agencies 4:20,24 agency 4:17 7:3 11:9 ahead 7:11 allow 6:12 10:1 allowed 6:13 amend 5:1 amendments 1:5 3:5 5:5,11,16,17 assigned 3:4 assistant 7:9 attorney 3:18,20,21 8:10,14 attorneys 14:10 available 12:14 avoid 4:13</p> <hr/> <p style="text-align: center;">B</p> <p>back 10:3 12:8 background 4:15 bear 4:5 began 5:8 benefit 12:1 Board 1:2,11 2:3,4 3:3,7,10,10,17,19 4:6 5:8,10,13 6:3 6:7,10 7:21 9:14 9:14 11:20,21 12:5,5,20</p>	<p>Board's 4:1,8 5:4,5 5:16 11:5 Bradley 2:14 7:12 break 10:8,11 Brenda 2:3 3:10 brief 10:11</p> <hr/> <p style="text-align: center;">C</p> <p>C 2:1 called 1:10 camera 7:18 Carrie 2:4 3:17 Carter 2:3 3:10 6:23 8:5 9:21 10:19,22 cause 1:9 certify 14:1,8 Chairman 2:2 3:12 3:21 10:19 changes 5:3,20 Chicago 1:13 3:16 8:3 11:5 clarification 9:4 clarity 5:20 8:24 clear 4:7,14 clearly 4:12 clerk 6:7 Code 1:6 3:6 commencing 1:14 comment 4:12 5:14 5:14 6:14 8:16 9:20 10:12,18 11:14,15 12:1,1 comments 6:20 8:9 9:14,16,17 11:18 12:4 communicate 8:19 Community 7:13 complete 4:8 conference 11:5 confusing 4:21 consider 5:11 11:19 considered 8:23 constitutes 14:6 Control 1:2,10 3:3</p>	<p>COOL 12:21 copies 12:13 counsel 3:14 7:5,9 course 5:7 court 4:11 12:17 CSR 1:11 14:21</p> <hr/> <p style="text-align: center;">D</p> <p>date 12:11 14:4 day 1:13 14:14 deadline 6:4,11 11:6,13 December 1:13 6:9 6:17 11:3,7 12:9 12:19 decision 4:8,9 definition 8:20,22 9:3 deputy 7:5 determine 4:20 develop 4:7 directed 4:19,24 5:24 discuss 12:24 docket 3:7 5:7,10 6:16 document 6:6,13 12:9</p> <hr/> <p style="text-align: center;">E</p> <p>E 2:1,1 earlier 12:4 economy 4:22,23 eight 5:15 either 9:13 employee 14:9 entitled 1:9 3:5 Environmental 4:17 EPA 8:18 exactly 11:17 Excuse 3:22 executive 4:18,19 exhibit 6:6,13 12:10</p>	<p>exhibits 6:11 expect 12:19 expected 12:14</p> <hr/> <p style="text-align: center;">F</p> <p>filed 4:17 5:2 6:14 11:18 12:4,11 filing 11:17 financial 14:11 finish 11:1 first 5:22 13:5 five 10:3 foregoing 14:2,5 Fox 2:8 3:18 Frost 2:14 7:12,12 further 14:8</p> <hr/> <p style="text-align: center;">G</p> <p>Gabriel 2:13 7:8 general 3:14 7:5 General's 8:10,15 generally 5:14 give 10:3 go 7:10 9:24 10:3,7 going 3:23 9:12 10:24 11:8,12 12:9 Good 3:1 governed 4:1 governor's 4:18,19 guess 9:4 11:1 guessing 12:15</p> <hr/> <p style="text-align: center;">H</p> <p>hand 14:13 happy 8:18 harmful 4:22 hearing 1:9 3:1,3,4 4:1 5:23,24 6:1,5 6:6,9,10,13,15 7:1 7:6,10,14,17 8:2,6 8:13 9:6,11,22 10:6,10,16,23 11:3,11,22 12:2,7 12:8,8,10,12,14 12:18 13:2,5</p>	<p>held 1:8 14:3 help 4:7,14 hereof 14:5 hereunder 14:13 holding 5:22 hour 1:14 hours 6:8 12:11 housekeeping 3:24</p> <hr/> <p style="text-align: center;">I</p> <p>identify 7:3 IEPA 5:2,4 6:20 9:16 ILL 1:5 Illinois 1:2,10,12 1:13 3:3,5 4:16 8:18 information 4:2 intended 4:7 5:20 intending 6:1 interest 14:11</p> <hr/> <p style="text-align: center;">J</p> <p>January 4:16 Joanne 2:15 7:4 8:10 June 5:12 11:21</p> <hr/> <p style="text-align: center;">K</p> <p>Kari 1:11 14:1,21 Katie 2:2 3:12 kind 9:9 Klein 2:11 3:20 know 1:7,7 3:6 5:6 5:12 7:19</p> <hr/> <p style="text-align: center;">L</p> <p>language 5:18 8:24 late 10:1 left 3:18 let's 6:17 letting 7:19 little 4:15 long 9:23 looked 9:1</p>
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<p style="text-align: center;">M</p> <p>manager 7:12 March 5:9 Marie 2:10 3:14 Martin 2:11 3:20 matter 1:4 14:3,12 matters 3:24 5:15 6:21 12:23 mean 11:24 means 14:3 mechanical 14:3 Member 2:3,4 3:10 3:17,19 10:19 mentioned 7:20 12:3 mind 4:5 minds 9:23 minutes 9:24 10:3 move 3:23 8:9</p> <hr/> <p style="text-align: center;">N</p> <p>N 2:1 name 3:2 7:4 Nancy 2:16 8:12,13 8:14,15 Natalie 1:9 2:9 3:2 necessary 5:1 Neibergall 2:13 7:8 non-substantive 5:21 note 8:20 notice 8:20 9:2,3 November 5:23 6:2 number 3:7 numerous 5:3</p> <hr/> <p style="text-align: center;">O</p> <p>O 1:6 3:6 5:11 offer 4:12 10:12,18 offered 6:6 12:10 office 3:11,13,16 7:13 8:11,15 11:5 11:6 officer 1:9 3:1,4</p>	<p>5:24 7:1,6,10,14 7:17 8:2,6,13 9:6 9:11,22 10:6,10 10:16,23 11:11,22 12:2,18 13:2 Okay 7:6,10,14 9:6 9:11,22 10:23 11:11,22 Olson 2:15 7:4,4 11:9,10,16,24 opened 5:10 opinion 9:15 12:6 opinions 9:15 order 4:18,19,24 5:2 12:6 orders 9:15 outcome 14:12 outdated 4:21 5:18 outside 8:19</p> <hr/> <p style="text-align: center;">P</p> <p>P 2:1,1 p.m 1:14 6:10,17 11:4 page 14:5 panning 7:18 Papadimitriu 2:2 3:12 10:5,20,21 Papadimitriu's 3:21 participants 6:1 participate 10:2 participated 13:4 parties 14:9,11 period 11:14 person 4:13 phrases 5:18 place 14:4 please 4:5,12 7:3 point 6:12 9:23 Pollution 1:2,10 3:3 posed 4:6 post 12:21 post-hearing 9:17</p>	<p>11:13 pre-file 6:2 7:23 11:7,13 pre-filed 6:3 7:21 9:17 present 2:7 3:9,19 printed 12:22 privileged 4:3 probably 11:16 12:19 procedural 4:1 6:21 PROCEEDINGS 1:8 13:6 produce 4:14 proposal 4:9,18 5:13 11:19 propose 5:5 proposed 5:3,16,16 5:20 Protection 4:17 provide 9:20 public 4:12 5:13 6:14 8:9 published 11:20</p> <hr/> <p style="text-align: center;">Q</p> <p>questions 4:6,10 9:8,13</p> <hr/> <p style="text-align: center;">R</p> <p>R 2:1 R18-30 1:5 3:8 5:10 Rabczak 2:12 3:22 3:22 Randolph 1:12 really 8:21 reason 7:18 receive 6:3,10 7:21 received 6:7 8:21 12:5 receives 12:20 record 4:4,8 7:2 9:24 10:7 redundant 5:17</p>	<p>reflect 4:9 regulations 4:20 5:1,6,12 related 5:15 14:8 14:10 Relations 7:13 relevant 4:2 reminder 11:2 remove 5:17 reorganize 5:19 repeal 5:1 repetitious 4:3 repetitive 4:21 replace 5:18 REPORT 1:8 reported 14:2 reporter 4:11 12:17 representing 14:10 requested 5:14 response 5:2 7:16 8:1 13:1 review 4:20 5:9 revising 8:24 right 1:6,7 3:6,17 3:23 5:6,11 7:2,20 8:7 9:7 10:7,24 11:19 12:3 13:3 rulemaking 1:6 3:5 3:7,11 4:16,17 5:3 5:23 10:2 rules 4:2 5:4,9 6:12 running 10:1</p> <hr/> <p style="text-align: center;">S</p> <p>S 2:1 sake 4:10 scheduled 6:8,16 11:3 12:11 se 8:24 second 6:15 11:2 sections 5:19 see 3:14 6:17 7:19 8:3 9:2 Seeing 8:8 sentence 5:19</p>	<p>set 14:4 short 10:8 showed 10:17 solely 4:7 someplace 9:2 sorry 8:14 speak 4:12 speaking 4:13 specific 5:15 specifically 5:10 6:12 Springfield 3:11,13 8:4 9:20 10:12,17 11:6 staff 4:6 start 6:8 12:11 state 1:12 4:20 state's 4:23 status 11:18 stenographic 14:2 Street 1:12 structure 5:19 subject 5:7 subscribed 14:13 subsequent 9:15 12:6 Subsequently 5:12 substantive 8:23 Subtitle 1:6 3:6 5:5 5:11 sure 8:22 10:5 11:18,24</p> <hr/> <p style="text-align: center;">T</p> <p>taken 1:11 10:9 testify 4:11 6:1 7:23 8:7 testimony 4:10 6:2 6:4 7:21,23 9:17 11:7,13 Tetyana 2:12 3:21 thank 7:2,7,15 8:7 9:12,18 10:7,15 10:16,24 11:23 12:3 13:3</p>
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<p>think 3:13 9:23 10:2 11:12 13:3 Thursday 12:19 Tikalsky 2:16 8:10 8:12,14,17 9:9 10:13,15 Tikalsky's 11:15 Tim 3:18 time 4:13 11:14,17 14:4 TIMOTHY 2:8 Tipsord 2:10 3:15 6:24 title 14:5 today 3:9 4:6 5:22 7:24 12:5 today's 12:14 transcript 4:14 12:13,20 14:6 true 14:6</p> <hr/> <p style="text-align: center;">U</p> <p>unnecessary 4:22 5:17</p> <hr/> <p style="text-align: center;">V</p> <p>video 6:5 11:4 12:7 12:8 viewed 12:21</p> <hr/> <p style="text-align: center;">W</p> <p>want 6:11,20 wanted 8:17,19 wants 10:1 Wednesday 6:16 11:3 week 12:15 Welcome 3:2 West 1:12 Wiedenhaupt 1:11 14:1,21 Winqvist 1:10 2:9 3:1,2 7:1,6,10,14 7:17 8:2,6,13 9:6 9:11,22 10:6,10 10:16,23 11:11,22</p>	<p>12:2,18 13:2 wish 4:11 wishes 10:12 witnesses 8:9 Wonderful 9:12 words 5:17 works 10:4</p> <hr/> <p style="text-align: center;">X</p> <hr/> <p style="text-align: center;">Y</p> <p>yesterday 6:9</p> <hr/> <p style="text-align: center;">Z</p> <p>Zalewski 2:4 3:17 Zalewski's 3:20</p> <hr/> <p style="text-align: center;">0</p> <p>0 5:6</p> <hr/> <p style="text-align: center;">1</p> <p>100 1:12 10th 4:16 12th 11:7 13th 12:19 16-13 4:19 19th 6:17 11:3 12:9</p> <hr/> <p style="text-align: center;">2</p> <p>2:00 6:10,17 11:4 2:02 1:14 2:15 10:4 2008 6:3 2018 1:14 4:16 5:9 5:13,24 6:17 11:7 14:14 21st 5:12 22nd 5:9 24 6:8 12:11 29th 6:2</p> <hr/> <p style="text-align: center;">3</p> <p>35 1:5 3:5</p> <hr/> <p style="text-align: center;">4</p> <hr/> <p style="text-align: center;">5</p>	<p>5th 6:9</p> <hr/> <p style="text-align: center;">6</p> <hr/> <p>6th 1:13</p> <hr/> <p style="text-align: center;">7</p> <hr/> <p style="text-align: center;">8</p> <hr/> <p>8th 5:23</p>		
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