



California Fair Political Practices Commission

June 6, 1988

Kenneth J. Sertic, System Coordinator
Monterey Bay Area Cooperative Library System
Library Building, Monterey Peninsula College
980 Fremont Boulevard
Monterey, CA 93940

Re: Your Request for Advice
Our File No. A-88-155

Dear Mr. Sertic:

We have received your April 17, 1988 letter concerning the conflict of interest code provisions of the Political Reform Act.^{1/}

QUESTION

Must the affiliated (associate) library members be designated in the conflict of interest code for the Monterey Bay Area Cooperative Library System.

CONCLUSION

The associate library members participate in limited decisions of the Monterey Bay Area Cooperative Library System and should be covered by its conflict of interest code. The conflict of interest code should be narrowly tailored to require associate members to disclose only those financial interests which could foreseeably be affected by the types of decisions in which they participate.

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, *et seq.* All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

FACTS

The Monterey Bay Area Cooperative Library System (MOBAC) is an agency formed under a joint exercise of powers agreement to provide improved public library services to its residents through cooperative efforts of each public library.

The system is comprised of public library members such as the Monterey Public Library, Santa Cruz Public Library and the Steinbeck Public Library and associate libraries such as the Cabrillo College Library, Fort Ord libraries and the Monterey Peninsula College Library.

MOBAC receives its funding from local, state and federal sources.

According to your letter, the voting authority differs between the public members and the associate members.^{2/} For budget or program matters that are funded by the California Library Services Act (CLSA), the associate members may not vote. They do, however, vote on matters which are funded through the Public Library Services and Construction Act (LSCA), which is a federally funded program. The associate members also participate in decisions such as the selection, hiring, evaluation and termination of the system coordinator.

Attached to your letter was a sample agreement between MOBAC and associate members. That agreement provides that state regulations regarding the use of state-provided funds limit the participation of other libraries in some fiscal decisions.

During our telephone conversations during the week of May 16, we discussed further the participation of the associate members in MOBAC's decisions. You confirmed that the

^{2/} Facts have been provided to the Commission by Kenneth Sertic, System Coordinator for the Monterey Bay Area Cooperative Library System. The Commission does not act as a finder of fact when it issues written advice. Our advice is based on the facts provided. A different set of facts could produce a different result.

associate members may only participate in decisions affecting federally funded programs or expenditures. You went on further to say that the associate members do participate to a limited extent on certain MOBAC budget matters, such as the hiring and firing of the system coordinator. In fact, the treasurer of MOBAC is an associate member, but pays the bills incurred by MOBAC as directed by the board. It is my understanding that this person does not participate in contracting or vendor selection, but merely pays the bills as directed by the board.

ANALYSIS

Government Code Sections 87300-87302 provide that every agency shall adopt and promulgate a conflict of interest code. The code must enumerate the positions within the agency which make or participate in making governmental decisions which may have a material financial effect on any financial interest. It also must require the individuals in those positions to disclose those financial interests at certain times.

A member of an agency is making or participating in the making of decisions whenever he or she makes or prevents a final governmental decision, makes substantive recommendations which are regularly approved without significant amendment or modification, votes on a matter, appoints a person, obligates or commits the agency to any course of action, enters into a contractual agreement on behalf of his or her agency, or negotiates on behalf of the agency. Persons who perform solely ministerial, secretarial, manual or clerical duties do not normally possess decision-making authority. (Regulation 18700, copy enclosed.)

The associate members have authority to remove and appoint the new system coordinator. In that regard alone, they are participating in the making of governmental decisions and should be designated in the conflict of interest code. The next question is what kind of financial disclosure should be required by these members. Since their decisions may affect an individual who is a candidate for the system coordinator position or the current system coordinator, a category could be developed which would require the disclosure of income from persons the designated employee knows, or has reason to know, is either an applicant for a position within the System or is currently employed by the System.

Kenneth J. Sertic
June 6, 1988
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As to the associate member sitting as the MOBAC treasurer, if this person merely pays the bills as directed by MOBAC, and does not participate in vendor selection or have any discretion on the timeliness of paying bills, it could be argued that this person's functions are solely ministerial in nature. As indicated earlier, individuals whose duties are clerical or ministerial need not be designated. However, if this person does have any discretionary authority on the payment of accounts, then an additional category should be added which would read "Investments and business positions in, and income from sources which provide services, supplies, machinery or equipment of the type utilized by MOBAC."

I hope this has answered your question concerning the associate members of the Monterey Bay Area Cooperative Library System. If you have any further questions or concerns, please feel free to call me at (916) 322-5901.

Sincerely,

Diane M. Griffiths
General Counsel



By: Jeanette Turvill
Legal Assistant
Legal Division

DMG:JT:ld

Enclosure

MOBAC

Monterey Bay Area Cooperative Library System
Library Building, Monterey Peninsula College
980 Fremont Blvd., Monterey, CA 93940 • (408) 646-4258
APR 21 1988

April 17, 1988

Jeanette Turvill
Legal Assistant, Legal Division
Fair Political Practices Commission
428 J Street, Suite 800
Sacramento, California 95804-0807

RE: Conflict of Interest Code for the Monterey Bay Area Cooperative Library System

Dear Ms Turvill:

On April 8, 1988 we discussed those individuals who will be designated persons within our Conflict of Interest Code. You suggested I write a letter of clarification in order to clarify the roles and responsibilities of the affiliated, non-public library members of the MOBAC Administrative Council.

The relationship between the public and non-public library members is as follows:

*GOVERNANCE- The cooperative library system is governed by a Joint Powers Agreement and the cooperative was established by a number of public libraries. On most budgetary matters only the public library members can vote; for example CLSA funded programs (State monies) budget matters affiliated, non-public library members of MOBAC can not vote. On the otherhand, non-public, affiliated members may vote on budget matters relating to LSCA funded (Federal monies) projects. The federally funded project are awarded on a competitive basis and we do not count on receiving these monies every year.

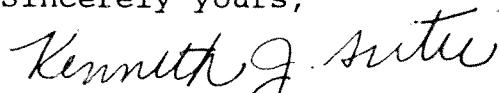
*PERSONNEL MATTERS-The non-public, affiliated library members participate in the selection, hiring, evaluation, and termination of the System Coordinator.

*AGREEMENT- Enclosed for your information is a copy of the agreement signed by the non-public, affiliated member of MOBAC.

I hope the information above has helped to clarify the roles and responsibilities of the non-public, affiliated members of MOBAC and I hope I can receive an opinion from you about their status as designated persons within our Conflict of Interest Code. I personally believe they can be removed as designated persons due to the present governance of the cooperative library system.

I plan to send the Notice of Intention to Adopt a Conflict of Interest Code for MOBAC no later than April 25, 1988. Thanks for all of you help with this matter and with the creation of our Conflict of Interest Code.

Sincerely yours,



Kenneth J. Sertic
System Coordinator

Enclosure

file:b/turvill

Agreement Between _____
and _____
Monterey Bay Area Cooperative Library System (MOBAC)

MOBAC was established in 1969 as a public library cooperative system. Funding for MOBAC comes from a combination of federal, state, and local monies.

The public library members of MOBAC recognize the extensive resources available through other types of libraries in the MOBAC area. Regulations by the State regarding the use of state-provided funds limits participation of other types of libraries in some fiscal decisions. Because of these limitations, MOBAC has established the opportunity for associate member status for other types of libraries in the Monterey and Santa Cruz County area.

MOBAC creates for its public and associate members the framework for providing improved information and library services. Through this cooperative system, each member of MOBAC benefits from having access to the collections, personnel, and services of other member libraries. Member libraries can also access the resources of MOBAC's reference referral and interlibrary loan networks. Through these cooperative exchanges each member library can provide services and access to collections for its patrons beyond its own individual capabilities.

The _____ is an important resource in the MOBAC area. It would be valuable for MOBAC libraries to have access to its collection.

As an Associate Member _____ will have access to all MOBAC libraries.

BENEFITS OF MOBAC FOR ASSOCIATE MEMBERS

1. Associate Member libraries will have access to MOBAC's reference referral network. Associate Members will screen and refer reference questions from their patrons/students to MOBAC's reference center. Services offered through MOBAC's reference center may include access to:

- multitype cooperative development
- third-level reference services
- California State Library
- On-line Reference Sources
- Member libraries, community agencies, and other outside sources

Participate how?

2. Associate Members may participate in system ILL program.
3. The Director of each Associate Member Library or an alternate designated by him/her participates in MOBAC's Administrative Council meetings. Votes involving expenditure of CLSA (state) funds are limited to public library members. Associate members may vote on all other matters.
4. Associate Member status permits mutual exchanges of ideas and provides additional opportunities for professional growth.

RESPONSIBILITIES OF ASSOCIATE MEMBERS

1. The Director of each Associate Member library will designate a staff person to serve as a liaison between MOBAC headquarters and the Associate library.
2. Associate Member libraries will extend borrowing privileges to MOBAC's reference staff.
3. Associate Member libraries will respond to ILL requests from MOBAC headquarters.
4. Associate Member's student/patrons have indirect access to other Associate Member's collections and services through MOBAC headquarters.
5. Associate Member libraries are encouraged to participate in MOBAC cooperative projects such as: union lists, workshops, directories.

WITHDRAWAL

This agreement may be terminated by either party by giving a 90-day written notice.

Accepted by:

Associate Member

Chair, Monterey Bay Area
Cooperative Library System
(MOBAC)

Date _____

EDUCATION CODE**§ 18710.****EDUCATION CODE**

§ 18512. **Repealed by Stats.1987, c. 1452, § 94**

§ 18514. **Repealed by Stats.1987, c. 1452, § 95**

§§ 18516, 18517. **Repealed by Stats.1987, c. 1452, §§ 96, 97**

CHAPTER 4. CALIFORNIA LIBRARY SERVICES ACT

Article 4.5. Families for Literacy Program [New] Section 18735

ARTICLE 1. GENERAL PROVISIONS

Administrative Code References Public library affiliation with an existing system, see 5
Library services, detailed analysis, see 5 Cal.Admin.Code Cal.Admin.Code 20190.
20100 et seq.

ARTICLE 2. DEFINITIONS**§ 18710. Definitions**

As used in this chapter, unless the context otherwise indicates or unless specific exception is made:

(a) "Academic library" means a library established and maintained by a college or university to meet the needs of its students and faculty, and others by agreement.

(b) "Act" means the California Library Services Act.

(c) "Cooperative Library System" means a public library system that consists of two or more jurisdictions entering into a written agreement to implement a regional program in accordance with this chapter, and which, as of the effective date of this chapter, was designated a library system under the Public Library Services Act of 1963 or was a successor to such a library system.

(d) "Direct loan" means the lending of a book or other item directly to a borrower.

(e) "Equal access" means the right of the residents of jurisdictions that are members of a Cooperative Library System to use on an equal basis with one another the services and loan privileges of any and all other members of the same system.

(f) "Independent public library" means a public library not a member of a system.

(g) "Interlibrary loan" means the lending of a book or other item from one library to another as the result of a user request for the item.

(h) "Interlibrary reference" means the providing of information by one library or reference center to another library or reference center as the result of a user request for the information.

(i) "Jurisdiction" means a county, city and county, city, or any district that is authorized by law to provide public library services and that operates a public library.

(j) "Libraries for institutionalized persons" means libraries maintained by institutions for the purpose of serving their resident populations.

(k) "Net imbalance" means the disproportionate cost incurred under universal borrowing or equal access when a library directly lends a greater number of items to users from outside its jurisdiction than its residents directly borrow from libraries of other jurisdictions.

(l) "Public library" means a library, or two or more libraries, that is operated by a single public jurisdiction and that serves its residents free of charge.

(m) "School library" means an organized collection of printed and audiovisual materials that satisfies all of the following criteria:

(1) Is administered as a unit.

(2) Is located in a designated place.

(3) Makes printed, audiovisual, and other materials as well as necessary equipment and services of a staff accessible to elementary and secondary school students and teachers.

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(n) "Special library" means one maintained by an association, government service, research institution, learned society, professional association, museum, business firm, industrial enterprise, chamber of commerce, or other organized group, the greater part of their collections being in a specific field or subject, e.g., natural sciences, economics, engineering, law, and history.

(o) "Special Services Programs" means a project establishing or improving service to the underserved of all ages.

(p) "State board" means the California Library Services Board.

(q) "System" means a cooperative library system.

(r) "Underserved" means any population segment with exceptional service needs not adequately met by traditional library service patterns; including, but not limited to, those persons who are geographically isolated, economically disadvantaged, functionally illiterate, of non-English-speaking or limited-English-speaking ability, shut-in, institutionalized, or handicapped.

(s) "Universal borrowing" means the extension by a public library of its direct loan privileges to the eligible borrowers of all other public libraries.

(Amended by Stats.1987, c. 1452, § 98.)

Administrative Code References

Interlibrary reference, see 5 Cal. Adm. Code 20157.

Reference system service components, see 5 Cal. Adm. Code 20154.

ARTICLE 3. ADMINISTRATION

§ 18720. California Library Services board; establishment; members; terms of office

There is hereby established in the state government the California Library Services Board, to consist of 18 members. The Governor shall appoint nine members of the state board. Three of the Governor's appointments shall be representative of laypersons, one of whom shall represent the handicapped, one representing limited- and non-English-speaking persons, and one representing economically disadvantaged persons.

The Governor shall also appoint six members of the board, each of whom shall represent one of the following categories: school libraries, libraries for institutionalized persons, public library trustees or commissioners, public libraries, special libraries, and academic libraries.

The Legislature shall appoint the remaining four public members from persons who are not representative of categories mentioned in this section. Two shall be appointed by the Senate Rules Committee and two shall be appointed by the Speaker of the Assembly.

The terms of office of members of the state board shall be for four years and shall begin on January 1 of the year in which the respective terms are to start.

(Amended by Stats.1987, c. 1452, § 99.)

Administrative Code References

Library board procedures, see 5 Cal. Adm. Code 20116 et seq.

§ 18721. Repealed by Stats.1987, c. 1452, § 100

§ 18724. Duties of the board

The duties of the state board shall be to adopt rules, regulations, and general policies for the implementation of this chapter. In addition, the state board, consistent with the terms and provisions of this chapter, shall have the following powers and duties:

(a) To direct the State Librarian in the administration of this chapter.

(b) To review for its approval all annual proposals submitted under this chapter.

(c) To annually submit budget proposals as part of the annual budget of the Department of Education.

(d) To expend the funds appropriated for the purpose of implementing the provisions of this chapter.

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(e) To require information which and manner for pi

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(e) To require *** participating libraries and systems to prepare and submit any reports and information which are necessary to carry out the provisions of this chapter, and to prescribe the form and manner for providing such reports and information.

(f) To develop formulas for the equitable allocation of reimbursements under Sections 18731, 18743, 18744, and 18765. Such formulas shall be submitted to the Department of Finance for approval.

(g) *** To require that any public library participating in programs authorized by this chapter provide access to its bibliographic records and materials location information consistent with the legislative policy of encouraging the sharing of resources between libraries.

(Amended by Stats.1978, c. 331, p. 680, § 2, urgency, eff. June 30, 1978; Stats.1979, c. 395, p. 1470, § 1, urgency, eff. July 27, 1979.)

Administrative Code References

Appropriating funds for each library system, see 5 Cal. Adm. Code 20158.

Definitions, see 5 Cal.Adm.Code 20235.

Library services, detailed analysis, see 5 Cal.Adm.Code 20100 et seq.

ARTICLE 4. LOCAL PUBLIC LIBRARY SERVICES

§ 18731. Universal borrowing

Any California public library may participate in universal borrowing. Public libraries participating in universal borrowing may not exclude the residents of any jurisdiction maintaining a public library. Public libraries that incur a net imbalance shall be reimbursed for the handling costs of the net loans according to the allocation formula developed pursuant to subdivision (f) of Section 18724. Reimbursement shall be incurred only for imbalances between:

- (a) System member libraries and independent public libraries.
- (b) Independent public libraries with each other.
- (c) Member libraries of one system with member libraries of other systems.

(Amended by Stats.1987, c. 1452, § 101.)

Administrative Code References

Direct loans, see 5 Cal.Adm.Code 20200.

Reimbursement for net direct loans, see 5 Cal.Adm.Code 20215.

§ 18732. Consolidation of two or more jurisdictions into a single library agency; establishment grants

If two or more public library jurisdictions wish to consolidate their libraries into a single library agency, an establishment grant in the annual maximum amount of twenty-thousand dollars (\$20,000) shall be made to the newly consolidated library jurisdiction for each of two years, provided that notice of such consolidation is filed with the State Librarian within one year *** after the consolidation.

(Amended by Stats.1979, c. 395, p. 1471, § 2, urgency, eff. July 27, 1979.)

Administrative Code References

Public library consolidations, see 5 Cal.Adm.Code 20180.

ARTICLE 4.5. FAMILIES FOR LITERACY PROGRAM [NEW]

Section

18735. Program created; services provided.
18735.1. Eligible libraries; eligible families.
18735.2. Public library services; acquisition of books; instruction; family book selection.
18735.3. State Library support and assistance; project grants.
18735.4. Program planning and evaluation; research.

Article 4.5 was added by Stats.1987, c. 1359, § 2.

§ 18735. Program created; services provided

There is hereby created the Families for Literacy Program, a library services program with the purpose of preventing illiteracy through coordinated literacy and preliteracy services to families that

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include illiterate adults and young children. The program shall provide reading preparation services for young children in public library settings and shall instruct parents in reading to their children. In addition, the program shall provide technical assistance, parent support, and any resources and materials necessary for its implementation.

(Added by Stats.1987, c. 1359, § 2.)

1987 Legislation

Section 1 of Stats.1987, c. 1359, provides:

"(a) The Legislature finds and declares that there are an estimated 4.8 million California adults who are functionally illiterate. The Legislature further finds that illiteracy tends to be perpetuated in a cycle from parents to children and, therefore, that without intervention many children of illiterate adults in California are likely to become functionally illiterate.

"(b) The Legislature recognizes that a strong and frequent reason for illiterate adults to begin literacy training programs is to learn to read to their children so that they can prevent the probable illiteracy of their children.

"(c) In addition, the Legislature recognizes that between 1980 and 1985, the population of infants and young children under six increased by 25 percent from 2.04 to 2.55 million. Of these, 800,000 live in families below or near the poverty line.

§ 18735.1. Eligible libraries; eligible families

To be eligible to receive funding for the Families for Literacy Program, a public library shall meet all of the following requirements:

(a) Is currently offering literacy services.

(b) Agrees to offer new services to families with young children with the goal of helping the children become successful readers by increasing their general competence, self-confidence, and positive emotional associations with reading as a family experience and familiarity with the lifelong use of library resources. Recruitment of parents not previously included in public library literacy programs is a high priority.

(c) Families eligible for the program shall include, but not be limited to, young children up to the age of five years.

(d) Program meetings shall be held in public library settings.

(e) The public library literacy program staff and children's services staff shall work in close coordination with the State Library in administering the Families for Literacy Program to assure maximum integration of literacy services to parents and preliteracy services to their children.

(Added by Stats.1987, c. 1359, § 2.)

§ 18735.2. Public library services; acquisition of books; instructions; family book selection

Services offered by a public library under this article shall include the following:

(a) Acquisition of books, of appropriate reading levels for, and containing subjects of interest to, children for ownership by young children of families participating in the program.

(b) Regular meetings of parents and children in public library settings during hours that are suitable for parents and their children.

(c) Storytelling, word games, and other exercises designed to promote enjoyment of reading in adults and children.

(d) Use of children's books and language experience stories from the meetings as material for adult literacy instruction.

(e) Instruction for parents in book selection and reading aloud to children.

(f) Services to enhance full family participation and to foster a family environment conducive to reading.

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(g) Assistance to topics as parenting,

(h) Other services Program.

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§ 18735.3. State Li

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§ 18735.4. Program

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§ 18740. Formation o

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(g) Assistance to parents in using services in order to access books and other materials on such topics as parenting, child care, health, nutrition, and family life education.

(h) Other services, as necessary to enable families to participate in the Families for Literacy Program.

(Added by Stats.1987, c. 1359, § 2.)

§ 18735.3. State Library support and assistance; project grants

The State Library shall provide administrative support and technical assistance to public libraries in the development and operation of local projects. The California Library Services Board shall award project grants for the Families for Literacy Program on a competitive basis to eligible public libraries and monitor the activities and progress of these projects once established.

(Added by Stats.1987, c. 1359, § 2.)

§ 18735.4. Program planning and evaluation; research

The State Library shall coordinate research to support program planning and evaluation of the Families for Literacy Program. Research activities shall include all of the following:

(a) Collection and interpretation of demographic data on children and families, including the number and ages of children, the location of children within rural and urban areas, the family characteristics of these children, and the ethnicity and primary language of these children.

(b) Formative evaluation of the program's effectiveness submitted to the Legislature by January 2, 1990, to determine: (1) if the program has been successful in engaging parents and children positively in reading together, (2) if the program has resulted in measurable literacy progress for adults and reading preparation for children, (3) the number of families served, and (4) the number of adults that have obtained basic literary skills through the program. The State Library shall include with its annual formative evaluation to the Legislature any recommendations it may have for changes in the program.

(c) Development of applications of the results of the program, as well as the collective experiences of other library programs, to teacher development and training.

(d) Review of public library children's services to identify key factors in the design and development of programs that enhance full family participation in reading and learning activities, especially those that are suitable to the needs of the disadvantaged child.

(Added by Stats.1987, c. 1359, § 2.)

ARTICLE 5. LIBRARY SYSTEM SERVICES

Administrative Code References

Budget request upon submitting plan of service, see 5
Cal.Adm.Code 20135.

§ 18740. Formation of library systems

A library system, eligible for funds under this article, may consist of the following systems:

(a) A cooperative library system that, as of the effective date of this act, was designated a system under the Public Library Services Act of 1963.

(b) A library system in which two or more systems consolidate to form a library system.

(c) A library system that is formed by adding independent public library jurisdictions to an existing system.

(d) A library system formed by any combination of the above.

(Amended by Stats.1987, c. 1452, § 102.)

§ 18741. Annual reference allowance

(a) Each system described in Section 18740 shall receive an annual allowance for the improvement and maintenance of coordinated reference service support to the members of the system. * * *

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Following the effective date of this chapter, if there occurs a consolidation among individual public libraries that, as of the effective date of this chapter, are members of a system, the per member allowance to the system shall continue at the same level as if the consolidation had not taken place.

(b) After identifying the needs of the underserved, each system shall use a fair and equitable portion of its reference allowance to improve the system's reference service to its underserved population through appropriate collection development, provision of reference specialists, and staff training. Funds for the reference grant may also be used for general and specialized reference collection development, employment of reference specialists, and system-wide reference training.

(Amended by Stats.1987, c. 1452, § 103.)

Administrative Code References

Reference system, rules and regulations. see 5 Cal.Admin. Code 20150 et seq.

§ 18743. Equal access to all residents of the system

Each member library of a system shall provide equal access to all residents of the area served by the system. Member libraries that incur a net imbalance shall be reimbursed through the system for the handling costs of the net loans according to the allocation formula developed pursuant to subdivision (f) of Section 18724.

(Amended by Stats.1987, c. 1452, § 104.)

Administrative Code References

Direct loans. see 5 Cal.Admin.Code 20200.

Reimbursement for net direct loans. see 5 Cal.Admin.Code 20215.

§ 18744. Interlibrary loans

Each member library of a system shall be reimbursed through the system to cover handling costs, excluding communication and delivery costs, of each interlibrary loan between member libraries of the system according to the allocation formula developed pursuant to subdivision (f) of Section 18724.

(Amended by Stats.1987, c. 1452, § 105.)

Administrative Code References

Interlibrary loans, rules and regulations. see 5 Cal.Admin. Code 20251 et seq.

§ 18745. Intrasystem communications and delivery

Each system shall annually apply to the state board for funds for intrasystem communications and delivery. Proposals shall be based upon the most cost-effective methods of exchanging materials and information among the member libraries.

(Amended by Stats.1987, c. 1452, § 106.)

Administrative Code References

Definitions. see 5 Cal.Admin.Code 20235.

§ 18746. Funds for planning, coordination and evaluation of overall systemwide services

Each system shall annually apply to the state board for funds for planning, coordination, and evaluation of the overall systemwide services authorized by this chapter.

(Amended by Stats.1987, c. 1452, § 107.)

§ 18747. Administrative council; advisory board

(a) Each system shall establish an administrative council whose membership consists of the head librarians of each jurisdiction in the system. Duties of the administrative council shall include general administrative responsibility for the system, adopting a system plan of service, and submitting annual proposals to the state board for implementation of the provisions of this article.

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(b) Each system shall include one member jurisdiction and one member to the a

(Amended by Stats.1987, c. 1452, § 103.)

Administrative Code References

System advisory board.

§ 18748. Repealed by Stats.1987, c. 1452, § 104.

See. now, § 18747.

§ 18750. Advisory board

Administrative Code References

System advisory board.

§ 18751. System consolidations

Administrative Code References

System consolidations. see 5 Cal.Admin. Code 20251 et seq.

§ 18752. Repealed by Stats.1987, c. 1452, § 104.

Section

18767. Computerized

§ 18765. State interlibrary loan

Each California library shall be a member of a statewide interlibrary loan system. The system shall be operated pursuant to subdivision (f) whenever the borrowing members of a cooperative interlibrary loan system are public schools or school districts operated by public agencies. The system shall be reimbursed according to the allocation formula developed pursuant to subdivision (f) of Section 18724.

(Amended by Stats.1987, c. 1452, § 105.)

Administrative Code References

Interlibrary loans, rules and regulations. see 5 Cal.Admin. Code 20251 et seq.

§ 18767. Computerized

The state board shall be responsible for the locations of all materials in the system. The legislative policy of the state board shall be to promote the use of materials in the system. (Added by Stats.1987, c. 1452, § 105.)

Library References

Schools and School Districts. see 5 Cal.Admin. Code 20251 et seq.

C.J.S. Schools and School Districts. see 5 Cal.Admin. Code 20251 et seq.

Asterisks * * * indicate changes or additions by amendment.

EDUCATION CODE

lation among individual public
of a system, the per member
solidation had not taken place.
shall use a fair and equitable
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ference specialists, and staff
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tem-wide reference training.

idents of the area served by
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ula developed pursuant to

direct loans, see 5 Cal.Admin.Code

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vision (f) of Section 18724.

stem communications and
of exchanging materials

stemwide services

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plan of service, and
visions of this article.

ditions by amendment

EDUCATION CODE

§ 18767

(b) Each system shall establish an advisory board consisting of as many members as there are member jurisdictions of the system. The governing body of each member jurisdiction shall appoint one member to the advisory board from among its residents.

(Amended by Stats.1987, c. 1452, § 108.)

Administrative Code References

System advisory board, see 5 Cal.Admin.Code 20145.

§ 18748. Repealed by Stats.1987, c. 1452, § 109.

See, now, § 18747.

§ 18750. Advisory board; duties

Administrative Code References

System advisory board, see 5 Cal.Admin.Code 20145.

§ 18751. System consolidation grant

Administrative Code References

System consolidations, see 5 Cal.Admin.Code 20185.

§ 18752. Repealed by Stats.1987, c. 1452, § 110

ARTICLE 6. STATEWIDE SERVICES

Section

18767. Computerized data base; bibliographic records and location of materials.

§ 18765. State interlibrary loan program; reimbursement

Each California library eligible to be reimbursed under this section for participation in the statewide interlibrary loan program shall be reimbursed according to the allocation formula developed pursuant to subdivision (f) of Section 18724 to cover the handling costs of each interlibrary loan whenever the borrowing library is a public library, except for the interlibrary loans made between members of a cooperative library system as provided in Section 18744. Libraries eligible for interlibrary loan reimbursement under this section shall include public libraries, libraries operated by public schools or school districts, libraries operated by public colleges or universities, libraries operated by public agencies for institutionalized persons, and libraries operated by nonprofit private educational or research institutions. Loans to eligible libraries by public libraries shall also be reimbursed according to the allocation formula developed pursuant to subdivision (f) of Section 18724.

(Amended by Stats.1987, c. 1452, § 111.)

Administrative Code References

Interlibrary loans, rules and regulations, see 5 Cal.Admin. Code 20251 et seq.

§ 18767. Computerized data base; bibliographic records and location of materials

The state board shall establish and maintain a computerized data base of bibliographic records and locations of all materials acquired by public libraries in this state, for the purpose of carrying out the legislative policy of enabling libraries to share resources efficiently.

(Added by Stats.1978, c. 331, p. 680, § 1, urgency, eff. June 30, 1978.)

Library References

Schools and School Districts § 47.

C.J.S. Schools and School Districts §§ 86 to 91.

Asterisks * * indicate deletions by amendment

SIERRA PACIFIC INDUSTRIES

P.O. Box 1189 Arcata, California 95521-1189
(707) 443-3111

March 22, 1988

William Abbott
County Counsel, Sierra County
Balfrey & Abbott
1210 G Street, Suite 2
Sacramento, CA 95814

Dear Mr. Abbott:

In connection with the Haypress Creek Hydroelectric projects proposed by Northwest Power Company, Inc. ("Northwest"), we have been asked whether Sierra Pacific Industries ("SPI") has any interest in the projects as a result of its ownership of the land (the "Property") on which a portion of the projects are to be located..

On February 29, 1988, SPI acquired all of the stock of Santa Fe Pacific Timber Company ("SFPT"), the owner of the Property. SFPT was subsequently merged into SPI.

Prior to February 29, 1988, the following events occurred which had the effect of severing hydroelectric rights from the Property:

1) SFPT quitclaimed to Southern Pacific Land Company ("SPL") a perpetual easement over the Property together with the right to exclusive use of the Property for the purpose of developing hydroelectric power and constructing, operating, renewing and replacing generating and transmission facilities and for other activities on the Property as appropriate in connection therewith, together with the right to use riparian and appropriative water rights as necessary and to access as necessary to the Property across adjoining and nearby lands owned by the grantor for the purpose of constructing, operating and maintaining transmission lines, roads and facilities necessary for the exercise of the rights under the quitclaim deed (the "Quitclaim Deed").

Under the Quitclaim Deed, SPI (as successor by merger to SFPT) is entitled to receive annual compensation, based on a formula using a "Timber Site Classification Multiplier," for acres of the Property occupied by or restricted in use for timber management by a hydroelectric development project. This compensation reflects payment for surface disturbance to the Property and not revenues or royalties from the projects.

The Quitclaim Deed does provide, under specified circumstances, an option for repurchase of the hydroelectric rights by SPI. Since, however, hydroelectric facilities have already been constructed on the Property, the option, by its terms, does not apply to the site where the projects are located.

2) SFPT executed two leases, effective as of July 1, 1986, in favor of Northwest, for the purpose of hydroelectric development on the Property. After executing the Quitclaim Deed, SFPT assigned all of its right, title and interest in these two leases to SPL.

3) After assigning the two leases to SPL, SFPT executed two deeds in favor of SPL ("Access Deeds") granting SPL a perpetual and exclusive easement over other property owned by SFPT for construction and operation of power transmission lines, roads and facilities with the exercise of hydroelectric rights on the Property. This deed was inadvertently dated with a 1987 date, although a 1988 date was intended. A correction deed is being prepared for execution and recording now. The annual compensation payable under the Quitclaim Deed is also payable under the Access Deeds. As noted above, this compensation reflects payment for surface disturbance to the property encumbered by the Access Deeds and not revenues or royalties from the projects.

It is our understanding that, once the above correction deed is in place, SPL and Northwest intend to subject the property covered by the Access Deeds to the leases to Northwest.

SPL, as lessor to Northwest, has an interest in the projects proposed by Northwest. Since SFPT (SPI's predecessor in interest in the property subject to the leases) quitclaimed an easement for hydroelectric rights as described above to SPL, SPI has no interest or rights in the projects proposed by Northwest. Similarly, SPI will receive no royalty payments or other revenue from the operation of the hydroelectric facilities. (As mentioned above, its only compensation will be for the surface disturbance of the property affected by the projects.)

As to the relative size of SPI, it is a privately held corporation with net tangible assets greater than \$18,000,000. In the last fiscal year, SPI had pre-tax income in an amount greater than \$2,500,000.

Very Truly Yours,


R.L. Smith
Treasurer

8/30/10
10
S7280

Recording Requested By and
When Recorded, Mail to:

AFTER RECORDING RETURN TO:
PRESIDENT, SANTA FE PACIFIC TIMBER CO.
2250 BENTON DRIVE, SUITE 100, REDDING, CA 96003

R.P. DOCUMENTARY TRANSFER TAX IS
I HEREBY DECLARE TRANSFER TAX IS COMPUTED ON
THE FULL VALUE OF PROPERTY ENTERED CONSIDERED
THE FULL VALUE LESS REMAINING ENCUMBRANCE

Jack J. Lueb
SIGNATURE AGENT SANTA FE PACIFIC TIMBER CO.

FILE

Space above this line for Recorder's use only

Hydroelectric

QUITCLAIM DEED

For a good and valuable consideration, receipt of which is hereby acknowledged, Santa Fe Pacific Timber Company, a Delaware corporation, Grantor, hereby quitclaims to Southern Pacific Land Company, a California corporation, Grantee, the following rights with the right to grant such rights, in whole or in part, to others with respect to the property ("Property") described in Exhibit "A," attached and made a part hereof:

Perpetual easements over, under, along and across, together with the right to exclusive use of the Property for the purpose of developing hydroelectric power and constructing, operating, renewing and replacing hydroelectric power generating and transmission facilities on the Property and for other activities on the Property as may be necessary or appropriate for the development of hydroelectric power or construction and operation of such facilities, together with the right to the use of such riparian and appropriative water rights necessary for such purpose, and to access as necessary to the Property over and across adjoining and nearby lands owned by Grantor for the purpose of constructing, operating and maintaining electric power transmission lines, roads and facilities necessary for the exercise of such right.

Subject to the following provisions:

1. Qualification. Grantee's rights under this quitclaim deed ("Deed") shall be subject to and qualified by
 - (a) all leases, contracts, deeds and other instruments in effect on the date hereof to the extent they affect any portion of the Property; and
 - (b) Grantor's reserved right to manage and enjoy the surface of the Property in a manner that does not unreasonably interfere with or impede Grantee's rights hereunder.

*SPLC PAYS
SPLC for Rights
for a Right*

The exercise of any one or more of the rights granted herein shall be consistent with the requirements of any timberland preserve zone ("TPZ") in which the Property is located; if the exercise of a right hereunder is not a use permitted by applicable laws and ordinances or is inconsistent with the requirements of a TPZ, then Grantee shall, at its sole expense, obtain the necessary permits, approvals and variances before exercising such right. At no cost to Grantor, Grantor shall cooperate with Grantee in obtaining and shall execute all documents necessary for Grantee to obtain such permits, approvals and variances.

2. Surface Disturbance. By accepting this Deed, Grantee covenants and agrees to pay Grantor as compensation for surface disturbance of the Property an annual payment equal to the sum derived by multiplying the number of acres of each Timber Site Classification (as hereinafter defined) of the Property occupied by, or upon which Grantor's timber management activities are restricted or limited by, any project of Grantee utilizing the surface of the Property ("Project") by the Timber Site Classification Multiplier (as hereinafter defined) appropriate for each acre or portion thereof so occupied and adding the products thereby obtained.

- (a) ✓ Shown on the map attached hereto as Exhibit "B" and made a part hereof is the Timber Site Classification of each acre of the Property. The portion of the Property to be occupied by any Project may be adjusted by Grantee at the beginning of each year to show additions and deletions.
- (b) The term "Timber Site Classification" as used herein shall mean the five categories of forest land referred to in California Public Resources Code Sec. 4528 (d) as amplified in Section 1060 of Title 14 and Section 1021 (b) of Title 18 of the California Administrative Code for Ponderosa Pine, Jeffrey Pine, Mixed Conifer and True Fir as taken from A site classification for the mixed-conifer selection forests of the Sierra Nevada, by Duncan Dunning.
- (c) It is agreed that each acre or portion thereof of the Property has an annual compensation which varies in accordance with its Timber Site Classification. The term "Timber Site Classification Multiplier," as used herein, is the varying annual compensation for each acre shown in Exhibit B, which annual compensation varies in accordance with the Timber Site

Classification of each acre. The following table sets forth the agreed dollar amounts of the Timber Site Classification Multiplier:

<u>Timber Site Classification</u>	<u>Multiplier</u>
I	\$280/Ac./Yr.
II	\$200/Ac./Yr.
III	\$120/Ac./Yr.
IV	\$ 60/Ac./Yr.
V	\$ 40/Ac./Yr.

(d)

The Timber Site Classification Multipliers provided for in Subparagraph (c) above shall be adjusted annually on January 1 by multiplying the same by One Hundred Percent (100%) of the increase or decrease in the Western Wood Products Association (WWPA) Lumber Price Index for Coast-Inland North Ponderosa Pine occurring during the preceding year and the amount thereby determined shall be added to or subtracted from the base annual compensation specified in Subsection (c) above, provided, however, that the amount of such decrease shall not reduce the individual Timber Site Classification Multipliers below seventy-five percent (75%) of the amount shown in Subparagraph (c). Should the WWPA discontinue the publication of the above Index, or publish same less frequently, or alter same in some other manner, then a substitute index or substitute procedure reasonably acceptable to Grantor which reasonably reflects and monitors the price of lumber in the same manner as the WWPA Index shall be used.

3. Road Costs. Grantee shall reimburse Grantor for Grantee's proportionate share of the cost of road construction and maintenance costs, for roads constructed by Grantor and utilized by Grantee in exercising its right hereunder.

Grantor shall reimburse Grantee for its proportionate share of the cost of road construction and maintenance costs, or roads constructed by Grantee, and utilized by Grantor in its operations.

4. Taxes. Grantee shall pay all taxes imposed upon the Property as a result of Grantee's improvements on the Property and activities in exploiting hydroelectric resources on the Property and all taxes assessed against land underlying the

improvements on the Property made by or through Grantee as long as such improvements remain on the Property. Grantee may contest the assessment of any tax in accordance with the law if it has first paid such tax under protest.

5. Non-Use of the Surface. At any time Grantee may discontinue its use of any surface portion of the Property ("Discontinued Portion"). In such event, Grantee's obligation to pay Grantor compensation for surface disturbance of the Discontinued Portion under Section 2 hereof shall cease for as long as Grantee's use is so discontinued. Upon Grantee's discontinuance of its use of the Discontinued Portion, Grantee shall remove from the Discontinued Portion all facilities connected with the Project, and shall restore the Discontinued Portion as nearly to its original condition as is reasonably practical; however, Grantee shall not be obligated to restore timber, crops or any other things for which it has previously paid Grantor damages under Section 2 above.

6. Covenants Run with the Land. All of Grantee's covenants hereunder shall run with the land and shall be binding upon Grantee's successors in interest for the benefit of the surface estate of the Property.

7. Option to Repurchase. In consideration of this Deed and by its acceptance hereof, Grantee hereby grants to Grantor and any successor owner of the surface estate in the Property (each such owner being herein referred to as an "Optionee"), the exclusive option (the "Option") to purchase the rights and interests transferred to Grantee hereunder which Option may be exercised with respect to all or any portion or from time to time with respect to portions of the Property. The Option shall have a term of ten (10) years, commencing upon and running from the tenth (10th) anniversary of the date of this deed, and expiring at the close of business (Pacific Standard Time) on the twentieth (20th) anniversary of the date of this deed. The Option shall not apply to any portion of the Property upon which Grantee shall have developed or is in the process of developing facilities for utilization of the rights granted hereunder, or which is the subject of an option to lease, a license, a lease, or any other form of agreement or instrument granting to others the right to utilize or exploit the rights granted in this deed provided such party shall have developed or be in the process of developing facilities for utilization of such rights. The Option shall be exercisable by written notice solely in the event that the Optionee desires to sell or exchange a small parcel of the Property for purposes other than utilization of the rights granted hereunder, or to transfer to the United States government or agency or department thereof, or the State of California or agency, department, or political subdivision thereof, the Property or

portion thereof with respect to which the Option is then being exercised. The purchase price for the rights and interests subject to the Option shall be the fair market value as agreed upon by the parties or, in the event the parties fail to agree within thirty (30) days after Optionee's notice, as shall be determined by appraisal as hereinafter provided. The purchase and sale of the rights and interests subject to the Option, shall be consummated within thirty (30) days of the date of the determination of the fair market value, or such later date as the parties may agree in writing, by the delivery to Optionee of a Quitclaim Deed duly executed and acknowledged by Grantee, of all of Grantee's right, title and interest in the Property or portion thereof subject to the exercise of the Option, and the delivery to Grantee of the purchase price, in cash. Property taxes shall be prorated between Grantee and Optionee as of the date the Quitclaim Deed is recorded.

In the event the parties are unable to agree upon the fair market value of the interests subject to the exercise of the Option within thirty (30) days of Optionee's notice of exercise, Optionee shall appoint a disinterested appraiser with not less than ten (10) years experience appraising rights and interests of the nature of the rights and interests subject to the Option in the State of California to determine the fair market value as to which the parties are unable to agree. If Grantee does not accept the appraisal delivered by the appraiser so appointed by Optionee, Grantee may request a second appraisal by appointing a second appraiser with not less than ten (10) years experience in appraising rights and interests of the nature of the rights and interests subject to the Option in the State of California within thirty (30) days of receipt of the first appraisal, which second appraiser shall deliver an appraisal within sixty (60) days of such appointment. If the amount of the two appraisals does not differ by more than 5% of the highest appraised amount, the fair market value shall be the average of the two appraisals. If the amount of the second appraisal differs from the amount of the first appraisal by more than 5% of the highest appraised amount, the two appraisers shall appoint a third appraiser, similarly qualified, who shall deliver an appraisal within sixty (60) days of this appointment. The average of the two (2) closest appraisals shall be the fair market value.

8. Arbitration. Any dispute regarding the interpretation or enforcement of any provision of this Deed shall be settled by arbitration in the county in which the Property or any portion of the Property is located. Except as otherwise provided with respect to the selection and number of arbitrators, said arbitration shall be conducted in accordance with the Rules of Commercial Arbitration of the American Arbitration Association or its successor, provided that the parties shall have the

rights of discovery provided under the provisions of California Code of Civil Procedure section 1283.05, or any successor or amended statute or law containing similar provisions. Each party shall appoint one arbitrator and notify the other party of such appointment. Promptly after their appointment, the arbitrators shall meet and shall attempt to resolve the dispute, controversy or claim submitted to arbitration hereunder. In the event that the arbitrators are not able to agree upon a resolution of the matter submitted to arbitration, the arbitrators shall agree upon and appoint a third arbitrator and each arbitrator shall submit to the third arbitrator in writing his or her proposed determination of such matter. The third arbitrator shall review the matter submitted to arbitration and each party shall be entitled to present evidence which respect to its position to the third arbitrator. At the request of any party to the arbitration proceeding, the third arbitrator shall conduct a hearing at which all parties may present evidence supporting the proposed determination of their respective arbitrators. The third arbitrator shall resolve the matter by choosing the proposed determination that most closely corresponds to the determination that the third arbitrator would have made if he or she were to have determined the matter independently. The party whose arbitrator's determination is so chosen shall be deemed to be the prevailing party in such arbitration. The expenses of arbitration shall be borne equally by the parties, provided that each party shall be responsible for the fees and expenses of its own experts, evidence and attorneys; provided, however, that if the final determination is made by a third arbitrator, the expenses and fees of the third arbitrator shall be paid by the non-prevailing party and the third arbitrator may, in his discretion, require the non-prevailing party to pay the attorneys' and experts' fees of the prevailing party. Judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof.

IN WITNESS WHEREOF, the parties hereto have executed this Quitclaim Deed on the 6th day of January, 1988.

GRANTOR:

SANTA FE PACIFIC TIMBER COMPANY

BY: J. D. Miller

TITLE: President

ATTEST: J. D. Miller

03679

VICE PRESIDENT & CORPORATE SECRETARY

GRANTEE:

SOUTHERN PACIFIC LAND
COMPANY

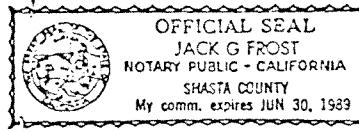
BY: D. G. Baldwin

TITLE: Director, Property Services

Attest: W. S. Sloane

Assistant Secretary

STATE OF CALIFORNIA
COUNTY OF Shasta



The document is only a general form which may be proper for use in simple transactions and in no way acts, or is intended to act, as a substitute for the advice of an attorney. The person does not make any warranty either express or implied as to the legal validity of any provision or the suitability of these forms in any specific transaction.

Cowdery's Form No. 28 — Acknowledgement to Notary Public — Corporation (C. C. Secs. 1190-1190.1) — (Rev. 1-83)

On this 6th day of January, in the year 1988, before me, a Notary Public, State of California, duly licensed and sworn, personally appeared W. F. Herbert,

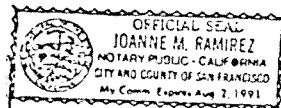
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument as President or on behalf of the corporation therein named and acknowledged to me that such corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal in the County of Shasta, on the date set forth above in this certificate.

Jack E. Head
Notary Public, State of California
My commission expires June 30, 1989

STATE OF CALIFORNIA
City and County of San Francisco

On this 8th day of January, in the year One Thousand Nine Hundred and Eighty 8, before me, JOANNE M. RAMIREZ, a Notary Public, is and for the City and County of San Francisco, State of California, personally appeared



personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument as the Executive, Project Manager personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument as the President

M. E. Head President Secretary or on behalf of the Corporation therein named and acknowledged to me that such corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal

Joanne M. Ramirez

Notary Public for and for the City and County of San Francisco, State of California.

Corporation
My commission expires on August 2, 1991.

EXHIBIT A

SIERRA COUNTY

MOUNT DIABLO MERIDIAN

SEC-TWP-RGE	PARCEL DESCRIPTION
25-20N-12E	ALL, EXCEPT N1/2 OF NW1/4 OF NW1/4, SW1/4 OF SE1/4 OF NW1/4, AND NW1/4 OF NE1/4 OF SW1/4
35-20N-12E	N1/2 AND SE1/4

8-130-10

8-130-12

EXHIBIT "B"

to Quitclaim Deed

Dated January 6, 1968

There is no map as contemplated by paragraph 2(a) of the Quitclaim Deed to which this Exhibit "B" is attached at this time. Upon the delineation of each specific Project site for the development of hydroelectric rights and facilities, as determined by Grantee, Grantor shall provide a map which will show specific Timber Site Classifications for the acreage identified by Grantee. The method to be used for determining the Timber Site Classifications shall be as set forth in A site classification for the mixed-conifer selection forests of the Sierra Nevada, by Duncan Dunning, USDA Forest Service, California Forest and Range Experiment Station, 1942. References to Exhibit "B" in the Quitclaim Deed to which this Exhibit "B" is attached shall be deemed to refer to this Exhibit "B" and to each map prepared as provided above.

97280

OFFICIAL RECORDS
RECORDING REQUESTED
BY: Santa Fe Pacific Timber Co

88 JAN 14 PM 2:51

SIERRA COUNTY, CA
SANDRA LOVING, RECORDER
VOL 121 PG 119 FEE 21 00

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97280

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