I-565: The Huntsville Spur

Donna Crosby

A tale of public opposition, unique appraisal problems, and an unusual relocation situation in the face of exploding economic growth.

Early History

On October 24, 1968, the State of Alabama Highway Department requested Federal approval of the concept of a spur off of Interstate 65 into the City of Huntsville. And so it began.

The date was November 13, 1972. During the past 4 years, Highway Department personnel had been busy at work with location and environmental studies and were prepared (or so we thought) for the first public hearing on the Spur. Representatives of the Highway Department and the Federal Highway Administration were there to field a few questions from the citizens and to present to them an Environmental Impact Statement (EIS) of about 50 or so pages. The law requiring environmental impact statements had passed in 1969, and the Federal Highway Administration had since been trying to establish regulations to be followed by State Highway Departments and were still in the process of so doing. They had accepted the EIS we had prepared, both of us knowing we had further noise studies to do and willing to admit to this.

So here we were with our 50-page EIS and our top Highway Department and FHWA officials ready to convince the citizens of Huntsville that I-565 was the best thing to come along since sliced bread. Have you ever seen grown men in Brooks Brothers suits try to hide under the table?

These officials were ill-prepared to face what came before them. Approximately 500 to 600 people were present at the start of the public hearing. Most came to learn more about I-565 but were quickly swayed over to the opposition by a core group of less than 100 people calling themselves the Alabama Conservancy and bearing placards on tall supports declaring "STOP-I-565." They produced an extremely well-prepared, very detailed, and very embarrassing to us, EIS containing hundreds of pages. In addition, those of the group who wished to speak, presented resumes' which qualified each as an expert in the area of the EIS on which he would speak. Most of these people worked at NASA and were more familiar with the new environmental law than we were. They were very well-organized, with many well-prepared (and again, what proved to be very embarrassing) questions for the officials present. The people in attendance who remained in favor of the project were so intimidated by the opposition that they wouldn't even voice their support. The meeting lasted until 2:00 a.m.

Public Opposition

How could anyone be opposed to a 21-mile stretch of interstate connecting the City of Huntsville, including the Redstone Arsenal Complex, to the network of the National System of Interstate and Defense Highways; a highway that would provide high level highway traffic safety and service; a highway that would relieve traffic congestion on city streets and disperse traffic to desired destinations within the urban area; a highway that would decrease travel time for motorists traveling in this area of the state; a highway that would provide better movement of goods in Huntsville and from one point in Alabama to another; a highway that would permit quick ingress to and egress from the Civic Center and the downtown area; a highway that would provide improved access to the Huntsville-Madison County Airport; a highway that, studies showed, would produce a return of $1.72 for each dollar invested in its construction.

Most of the opposition centered on the environmental and sociological impact of the project as well as the projected cost. Many local organizations expressed opposition: Huntsville Council on Human Re-

Old historic post office building in the town of Mooresville was within the required right of way.

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Grade and drain on new location where I-565 veered south of Alabama Highway 20 to avoid newly and heavily developed area in the town of Madison.

I-565 will run immediately in front of NASA's Space and Rocket Museum.

lations; People United to Save Humanity; Right of Life; Sierra Club; Huntsville Organized Tenants; Huntsville-Madison County Welfare Rights; Huntsville Branch NAACP; Alabama Conservancy, to name but a few. The two main groups were the Alabama Conservancy and the NAACP.

The proposed highway would displace hundreds of families and businesses. Many of the families were of low to moderate income and lived in substandard housing with a high percentage of them being renters and elderly. These organizations expressed concern for the social and economic welfare of these people.

NAACP

The NAACP claimed that the State of Alabama, the City of Huntsville, and the County of Madison had an unwritten policy of racial discrimination concerning poor and black people and that the expenditure of Title VI funds had been and continued to be spent to practice racial discrimination. However, blacks accounted for a relatively small percentage (18%) of the displacees on this project. Nevertheless, they were successful in stirring these people up, and together with the Alabama Conservancy were able to get the Director of Civil Rights of the U.S. Department of Transportation (DOT) involved. In October, 1976, we were advised by the Acting Director of Civil Rights, DOT, that her office had reviewed the project from a Title VI standpoint and had determined that the proposed location of the Spur was not discriminatory and did not violate the 1974 Civil Rights Act.

However, in July, 1977, the newly appointed Director of Civil Rights, DOT, announced that the project was again being reviewed from a Title VI standpoint and requested certain information concerning the project. Thus began a lengthy involvement with this agency which resulted in the most comprehensive Relocation Plan ever developed by the Alabama Highway Department (door to door interviews prior to receiving design approval.)

Alabama Conservancy

The Alabama Conservancy felt that the project was not needed and the expenditure of millions of dollars on the Spur would be a waste of money and a venture that would prove uneconomical. This group expressed the loudest public outcry and involved every level and agency of government that would listen to them, all the way up to the President of the United States. They were given credit for spreading rumors about unfair treatment of people within the limits of the project by government agencies. At one point, the Conservancy filed a complaint in court objecting to the project saying that laws and regulations were not being followed. However, the U.S. 5th Circuit Court of Appeals found the Alabama Highway Department in compliance with Federal Statutes.

Alabama Highway 20 is a four-lane highway which runs from I-65 near Mooresville into Huntsville. Plans called for the Spur to run parallel to Alabama 20 in some areas and to be superimposed on Alabama 20 in others. The Conservancy contended that Alabama 20 was sufficient for the needs of the citizens and any funds available for transportation should be put into mass transit.

They never let up in their fight against the highway. As late as 1981, they were still running newspaper ads declaring that it was not too late to "STOP I-565" and claiming illegal actions on the part of the Alabama Highway Department. The ads also referred to the exorbitant cost of the project which had risen tremendously from the original estimate, saying that by the time the project was completed it would cost upwards of $700,000,000.

Other Opposition

There was other opposition in addition to the organized groups. Several political leaders were opposed for many of the same reasons already mentioned and some political races were won or lost on this issue alone. Many citizens expressed their opposition in letters to the editor of the Huntsville newspaper, verbally attacking governmental officials and agencies and pro-political leaders. Many claimed that the urban portion would divide Huntsville in half physically, with the well-do-do on one side and the poor people on the other.

Support

While the storm of opposition was raging, there were many citizens and groups in support of the project but their voices were barely heard among the loud cries of the opposition. Many people felt that the highway would bring more progress to Huntsville, encouraging industrial development and aiding the economy by provid-

ing more jobs and bringing in more tourists. The Chamber of Commerce, The Huntsville Industrial Expansion Committee, The Merchants Association, The Huntsville-Madison County Airport Authority all went on record stating they thought the road would be good for Huntsville. We believe the majority of the citizens of Huntsville and the city fathers were in favor of the project but those who were opposed spoke louder and were successful in delaying the project for several years. The main leader of the opposition even boasted of the fact that they had been able to delay the project, regardless of how many millions of dollars the delay cost the taxpayers. Of course, the cost of the project was supposedly one of his main concerns.

Subsequent to the "disaster" of November 13, 1972, which we spoke about earlier, the University of Alabama in Huntsville was commissioned to prepare a full scale EIS with the help and cooperation of the Alabama Highway Department. This was necessary because projects not having location approval prior to November 1, 1973, were required to address all the new environmental laws and rules. Two years later, another location hearing was held and the new EIS was presented. This time we were not so optimistic, although we knew we had a technically sound document. Also, from past experience we knew we should allow more time and the hearing lasted for 2 days. We were better prepared and presented much more material at this hearing, and the people from the University of Alabama in Huntsville who were primarily responsible for the EIS were there to answer questions and support the findings.

Gaining the Trust of the People

To overcome the adverse publicity and gain the trust of the people being displaced by the project seemed a monumental task. By this time, there had been so much publicity about the social and economic impacts of the project on the displacees, they didn't know who or what to believe. The Highway Department began a series of public involvement meetings which proved to be the beginning to the end of the war. The citizens began to learn what they were entitled to and to see that the Department was there to help them.

Speculation

Right of way authorization began in early 1983. The 21-mile corridor was broken into seven right of way projects with a total tract count of 718 and a total estimated cost of $109,989,757.00; a far cry from the estimated cost of $27,799,606.00 in February 1976 which is the earliest estimate our records reflect. At that time, our records also showed that there were 439 families, 193 businesses, and 8 nonprofit organizations to be relocated. When government moves in and cuts through a city, displacing people, homes and businesses, there is certain heartbreak. Not all damages are measured in dollars.

But for some, there is exhilaration. For them, the highway provides a path of riches, a concrete strip where even ordinary farmland can become a gold mine for the owner, the future home of motels, restaurants, and gas stations. The coming of an interstate can be a land speculator's dream. What the speculator knows and when he knows it are the keys to the big money. But there are so many steps in the years-long approval process to build an interstate (especially this one); it's difficult to pin down the exact date of public knowledge. Speculation starts when the engineers put their drafting pencils to the map.

Since the early 1980's, there has been a seemingly boundless upturn in Huntsville's real estate market and in the small town of Madison, which is in the path of the project. Added to this was the announcement by Boeing Company to construct a huge aerospace facility at the airport which would employ upwards of 3,000 people. Almost overnight, land prices in the Madison area jumped from $15,000 an acre to $80,000 an acre.

Then, Chrysler Corporation announced their decision to locate the mammoth "Chrysler Electronics City" here, and one piece of property sold privately for $200,000 an acre.

Acquisition Costs

All of this is going on around us as we attempt to purchase right of way for our project. It took 9 months for some appraisals to be submitted to the State—with prices climbing all the while—after the announcements were made. In some cases, we had to contract with appraisers to update their original evaluations because of drastic market changes. In just over 3 years, we have watched in astonishment as project land acquisition costs have skyrocketed. For example, in 1983, we budgeted $5,956,444 to purchase a section of the project. By the time we were through, we had paid out $13,113,691.

Boardwalk within Wheeler National Wildlife Refuge.

Johnston Concrete, Inc.

Johnston Concrete, Inc.

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Several months before Boeing announced, a 10.04 acre lot was purchased from a bank for $100,000. Some 18 months later, the State paid the new owners $716,400 for a 7.11 acre piece of the property.

Six months after a 3.07 acre lot was purchased for $295,000, the State paid $477,750 for 2.11 of these same acres.

In at least one instance, the gamble did not pay off. A 6-acre lot housing a vacant automobile dealership was purchased privately in June, 1986 for a reported $900,000. Our plans showed a ramp cutting a 0.61-acre chip off this corner lot. Competent appraisers determined the half-acre shaved from the dealership's parking lot would substantially damage the site and valued the taking and damages at near $2 million. We were flabbergasted. Rather than pay this amount, we went back to the drawing board, moved the road over a few feet, and dropped the acreage from the project. Needless to say, a visit from the owners did not convince us to change the plans back.

Battling the Courts

Another major culprit in the soaring costs of right of way, aside from land speculation and runaway property values, has been the courts. The courts long ago established a system to protect land owners from big government in the complex procedure of land condemnation. The system seems to have worked in the I-565 project—with a vengeance. In these cases, the landowners—big and small—are the winners, while the real victims are the taxpayers. It is the taxpayers' money that seems so liberally doled out by the court system in the battles of The Landowners versus Big Government.

Case in point: We needed 56.79 acres of a 253.94-acre tract along Highway 20 in the town of Madison and offered $462,100 based on a qualified appraisal. The owner took it to court, and won big. He got $1,991,350. We appealed to Circuit Court. The new award: $2,023,765.

In another cases, our offer to the owner for the needed right of way was $1,410,000. The Probate Court awarded him $1,735,000. Unhappy, we appealed to Circuit Court. There, the jury sided with the owner, upping the award to $3,170,340.

True, these are the big cases, but they are representative of what we are experiencing with the courts on this project.

Another Delay

In 1979, the Attorney General appointed two attorneys from one law firm as Special Assistant Attorneys General to handle the legal work in acquiring the right of way, all 718 tracts. To appoint local attorneys for this work is standard procedure. Although the Attorney General makes the appointment, it must have the approval and signature of the Governor.

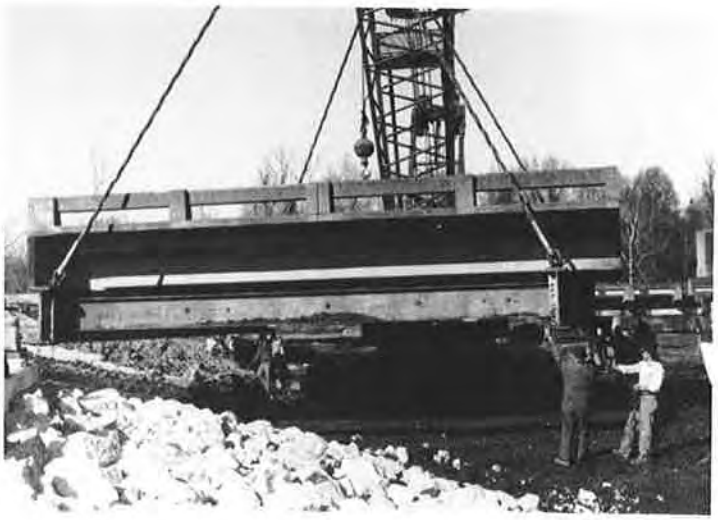
In 1983, we started appraising and acquiring right of way, with the assistance of our previously appointed attorneys who were very cooperative. By this time we had another Governor, although we had the same Attorney General. After several inquiries to the Governor's office by local attorneys who wanted a "slice of the pie," the Governor's Legal Advisor ordered all legal work on the project stopped. Of course this stopped our acquisition.

So there we were again, back on the front page of the newspaper. This time the public was irate because we had *stopped* working on the project and they were blaming the Attorney General. The Attorney General publicly defended himself, lashing out at the Governor and his Legal Advisor, saying they wanted to take the work away from the attorneys who were already deeply involved in the project and give it to their political cronies. The Governor's office contended that this one law firm would make a million dollars off the project and that it was neither expedient nor in the best interest of the State to let only two lawyers handle the entire project.

When the dust had finally settled, 11 additional attorneys had been appointed, and the work assigned as equitably as possible among them. This little squabble caused a 6- to 8-month delay in acquiring this project when real estate values were skyrocketing, costing the State and the Federal Government untold amounts of money. What was that said about the previous appointments not being expedient or in the best interest of the State?

Acquisition from the Famed Redstone Arsenal

The project crossed 304.54 acres of land belonging to the United States Army, Redstone Arsenal. The acquisition was a complicated affair. In addition to all the conditions set forth by the Army and the agreements involved in actual acquisition of the right of way and the construction of the



Some bridges in place already where I-565 is superimposed on Alabama Highway 20 were moved over to be used on the frontage roads since they did not meet standards to become part of the interstate.

highway, some unique problems were encountered.

Redstone Arsenal has an area which they use for laser beam testing. The lasers are shot towards the present Alabama Highway 20, using as a buffer, a dense stand of pine trees several hundred feet wide. The Army was not pleased to learn that our highway would require a 500-foot strip of right of way through these trees. Their first reaction was that they would have to move this entire operation to another facility. However, after several meetings and various recommendations for solving the problem, they agreed that a berm could be built to absorb the lasers and protect passing motorists. Thus, we built for them a berm 30 feet above road elevation and approximately 1,500 feet long. Borrow for the berm could not be taken from the immediate vicinity but had to be brought in. Why? The possibility of live ammunition below the surface.

This brings us to another interesting problem associated with this particular property. Years ago, probably during and prior to World War II, much of this area was used to train U.S. Soldiers. While much of the training was undertaken using so-called "duds," live ammunition was necessarily used as well.

All types of training exercises were performed here: from the firing of a rifle; to the operation of a tank; to the dropping of live bombs. We were advised by the Army of the possibility that unexpended ordnances (live ammunition) still existed on the property owned by the Army. The property had been given careful visual search and had been cleared of all dangerous and/or explosive material possible to detect on the surface. However, they expressed special concern for any subsurface operations involving Department of the Army lands.

A Memorandum of Understanding was executed by the State Highway Director, the Governor of Alabama, and an official of the Department of the Army setting forth the precautionary measures to be taken prior to any work being done on these lands. Alabama Highway Department personnel and its roadway contractor's personnel were required to attend a Department of the Army conducted training course where they were trained to recognize ordnances which might be found during construction of the project. The Memorandum further stated that in the event an ordnance was found during the course of work, the contractor would suspend operations in that area and immediately notify Army officials who would then move into the area, review the suspected ordnance, and remove it if necessary. This stipulation was also made a part of the construction plans.

Construction has been completed in this area, and the roadway contractor was required to suspend work on two occasions when suspicious metals were found below the surface. Fortunately, each time they were found to be harmless.

Wheeler National Wildlife Refuge

You would think that governmental agencies would be cooperative with each other. Well, someone forgot to tell this to the Department of Interior. Many years ago when Interstate 65 was built, we had to cross land belonging to the Wheeler National Wildlife Refuge. We needed some more of their lands for frontage roads along both sides of I-565 where it is superimposed on Alabama Highway 20. The amount needed was approximately 6 acres. The amount of acreage owned by the Refuge on the north side of Alabama Highway 20 was minimal, with the vast majority of their thousands of acres south of Alabama Highway 20.

Their land immediately south of the highway is covered by a Tupelo Swamp, which is a one-of-a-kind resource, so unique it has been designated as a unique natural area by the National Park Service. The Wildlife folks told us we were *not* going to cross these lands. The land north of the highway was also a Tupelo Swamp, but they acceded to our need here, although reluctantly. As a result of their refusal to allow the taking of any of their land south of the highway, we had to redesign this frontage road, ending it with a cul de sac on either side of the Refuge. This presented another problem.

Although we weren't now taking any land south of the highway, we were denying access. The Wildlife folks had a boardwalk beginning at a point just off Alabama Highway 20 and meandering through the swamp. Because we denied access, we had to construct a parking area at one of the cul de sacs and construct more boardwalk from this point into the swamp, connecting to the existing boardwalk. The contract for this work was very costly.

That's not all. Remember the land they allowed us to have north of the highway. They didn't want us to pay them for it,

Southern Cotton Oil Co.

they wanted us to build them another swamp. Eventually this was determined to be unfeasible. What we were required to do was almost as unbelievable. In exchange for the 3.93 acres we got from them, we purchased and deeded to them 53 acres.

First, we purchased 28 acres which had ended up being landlocked since the frontage road had been deleted. It was level land which was surrounded already by Wildlife Refuge lands except for the frontage along Alabama Highway 20. Due to denied access, we had already paid approximately 98% damages to the owner, and he was willing to sell. Since the Wildlife folks don't really want level land anyway, they have allowed us to use this area "for borrow" during the construction of the project.

In addition to these acres, we had to find 25 acres of swamp-type land to deed to them. We found suitable land adjoining the Refuge at a location distant from the project that the owner was willing to sell at the appraised value. This area was valuable hunting land, since it too was swampy and was adjacent to the Refuge where hunting is not allowed.

The Alabama Highway Department, along with the Federal Highway Administration, is environmentally conscious and has cooperated with the Department of Interior and Wheeler National Wildlife Refuge to the fullest possible extent. Any expression of disbelief for what we were required to do in this matter belongs solely to this writer. We have a duty to the citizens of our State and our country as do the employees of all governmental agencies.

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Southern Cotton Oil Company

One particularly interesting parcel housed a highly mechanized cotton seed processing facility which consisted of massive machinery and equipment affixed to the real estate, thus presenting a unique appraisal circumstance. First, under Alabama law, the real property had to be distinguished from the personal property, which was accomplished by our attorney. At this point also, a search began for specialty appraisers who could determine equipment value. Our Federal Highway Administration office was able, through their network, to furnish us with names of specialty appraisers who had been used in other areas where similar properties had been obtained in the recent past.

After the fixtures had been determined, bids were solicited and we contracted with three appraisers from various parts of the country. Based on the equipment appraisals received, a value of almost $2,000,000 was placed on the fixtures with an estimated salvage value of approximately $275,000. This value was then furnished to the real estate appraisers to be made a part of the total property appraisals. Once the real estate appraisals had been received and reviewed, a value of $3,288,100 was placed on the taking.

Not only was this parcel unique from an appraisal standpoint, but relocation problems were encountered as well. There were many factors to be considered. Due to environmental laws and regulations, it was speculated that it could take 18 to 24 months to obtain the necessary clearance from EPA and other agencies. Actual time of year to move is also a prime consideration. It is difficult to pinpoint actual best

months to move due to unknown cotton crop, market condition, etc. Relocation expenses could be enormous if they had to move when their warehouses are full.

As of this writing, an agreement has been worked out that appears to be mutually acceptable to both parties. The owners will occupy the structures rent-free until we need them to move. They will be given a 30-day notice if required to move between January and the end of July and a 90-day notice if they are required to move between August and the end of December. The 90-day notice is necessary since these are the months most likely for the processing of cottonseed to be going full steam. The other months are usually slack where they use only a skeleton crew. In return, we will pay no moving costs at all on this tract.

Johnston Concrete Products, Inc.

A parcel owned by Johnston Concrete Products, Inc., presented a similar circumstance. This property is improved with a manufacturing facility which produces various types of concrete products, mainly consisting of concrete blocks and ready mix. Their whole operation is completely automated. Similar equipment appraisals were obtained and made part of the real estate appraisals. Relocation of this parcel should not present a problem, as it is their intention to deplete their inventory at the present location and the only items to be moved will be office furniture and such.

The owner of this tract found our offer of $2,840,200 unacceptable and exercised his right to have the courts decide his compensation. He asked us to pay him $4,179,015. The Probate Court rendered an award of $3,100,000. The State and the owners are reviewing the award to determine if appeals to a higher court are desired.

Other Business Relocations

Businesses within the taking range from fruit stands, fireworks stands, palmists, pawn shops to large automobile dealer-

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Right of Way News

Missouri Seeks 200-Mile Rail-Trail

A 200-mile rail abandonment through the heart of Missouri and along the Missouri River has catapulted the "Show-Me State" into the national rails-to-trails movement's center stage, with both advocates and opponents declaring the corridor among their top priority efforts.

Trail supporters include the National Park Service, the state of Missouri, a broad array of environmental, recreation, and historic interests, two new citizen coalitions in St. Louis and Columbia, and the Rails-to-Trails Conservancy. In opposition are the Missouri Farm Bureau and a few hundred landowners who live near the track. A third group would like to see a tourist steam train use 44 miles of the route.

"This trail corridor is ideal from almost every perspective," explained RTC Program Director Peter Harnik. "It runs directly along the historic Missouri River for much of the way, passes through outstanding wildlife habitat along spectacular 100-foot-high bluffs, and connects the St. Louis area with the state's big college town, Columbia, and the capital, Jefferson City."

"Perhaps most important," Harnik added, "it would provide all Americans with the opportunity to walk or cycle along a key portion of the route Lewis and Clark took 180 years ago when they opened up the exploration of the West."

[Continued from p. 19]

ships, fast-food restaurants, apartment complexes, motels, and manufacturing and high-tech industrial plants.

Have you ever relocated a fishing worm bed? We did. If you ever do, make certain to insure the merchandise and use a *front-end* loader, not a *rear-end* loader. Also among the businesses were five topless "Go-Go" lounges. Mysteriously, two of them burned to the ground before negotiations began.

One day our right of way engineer was in Huntsville on a field trip and ate lunch at Shoney's South. Disappointed because they didn't have any cornbread, he told the cashier as he was leaving that he thought he would just buy the place. He did.

We acquired a partial taking on a tract where there was a Pizza Hut. The retained the building, jacked it up, put rollers underneath and rolled it to the remainder. A design change now requires a total taking of the property. How do you appraise a jacked-up Pizza Hut? As Personalty? Should you add cheese and mushrooms?

Next door to the Pizza Hut is a large auto parts outlet. We purchased the necessary right of way and allowed the owner the option of cutting the structure off at the right-of-way line. After the owner had cut off and refaced the building, the City of Huntsville came along and told him to cut it back further due to a city ordinance. He did. Yep, you guessed it. Due to the same design change, we now have to acquire the remainder of the tract.

Here's a good one. Have you ever paid moving expenses to "women of the night" to move out of motel rooms? That's right. We did that, too.

Conclusion

By the time construction of this project is completed, well over 20 years will have passed since the concept of the spur was approved, and the Conservancy's claim that costs could be as much as $700,000,000 may be a reality. The cost of right of way alone could rise to $150,000,000.

Land along the interstate is being developed with contagious enthusiasm. You can feel the electricity in the air everywhere you go. We are proud to provide this booming economic area with a safe, accessible transportation system, and look forward to being a part of its continued growth. IRWA

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