Rights Action April 9, 2015

Militarized Mining in Guatemala: Struggles to Hold Companies Accountable for Murder and Repression



Guatemalan troops escort mining equipment vehicle through peaceful protest at "La Puya" in Guatemala, where villagers oppose the illegal and violently imposed gold mine of Kappes, Cassiday and Associates, formerly owned by Radius Gold.)

As Hudbay Minerals' former head of security (and former Colonel in the Guatemala military) is on trial in Guatemala for a mining-related execution and other crimes:

• <u>http://www.rightsaction.org/action-content/hudbay-mineralscgn-former-head-security-trial-guatemala-mining-related</u>,

As Tahoe Resources is on trial in Canada for shooting and injuries ordered by Tahoe's former head of security (and former Peruvian military man):

- <u>http://www.cbc.ca/news/canada/british-columbia/tahoe-resources-vancouver-</u> mining-firm-in-court-today-over-guatemalan-workers-lawsuit-1.3024121
- <u>http://tahoeontrial.net/2015/04/07/wiretap-transcripts-raise-troubling-questions-about-tahoe-resources-militarized-security-detail/</u>,

As yet another community member – Telesforo Pivarel – was executed, quite possibly for his years of peaceful opposition to Tahoe Resources' mine in Guatemala:

<u>http://myemail.constantcontact.com/Tahoe-Resources--Deadly-Mining-Operation-In-Guatemala--Telesforo-Pivarel-Assassinated.html?soid=1103480765269&aid=KLSjfQElqnw,</u>

... read this extensive article by Guatemalan investigator Luis Solano, that sets out how the Guatemalan regime, headed by President Otto Perez Molina (former CIA asset, former military general, and alleged war criminal), has worked with Canadian and American mining companies, and with international private "security" companies (established by ex-military from the U.S. and elsewhere) to "militarize" the delivery of "security" so that mining operations can proceed without opposition.

What to do?: see below

Guatemala: How a Pseudo-Military Project Was Created to Protect the Tahoe Resource's Mine

by Luis Solano, Translation by NISGUA (<u>www.nisgua.org</u>), 09 April 2015 <u>http://upsidedownworld.org/main/guatemala-archives-33/5274-guatemala-how-a-pseudo-military-project-was-created-to-protect-the-escobal-mine-</u>

An affidavit given on November 24, 2014 by Donald Paul Gray, vice president of the Canadian mining company Tahoe Resources Inc., has shed light on the strong interests at play since 2011 in contracting private security companies for the Escobal mining project in San Rafael Las Flores, Santa Rosa.

His affidavit points to the relationship between private security companies, with ties to military and intelligence services that carry out large military projects in Afghanistan and Iraq, and the mining and construction operations in Guatemala.

The affidavit was given by the vice president of the mining company to the Supreme Court of British Columbia in response to a lawsuit filed against Tahoe Resources on June 18, 2014 by community members of San Rafael Las Flores. The lawsuit stems from an attack carried out by private security acting on orders from the head of mine security, Alberto Rotondo Dall'Orso, in which the seven plaintiffs were injured.

Tahoe Resources Inc., a mining company with offices in Reno, Nevada, United States and in Vancouver, British Columbia, Canada, operates the mining project in San Rafael through its subsidiary, Minera San Rafael, S.A. (MINERASA). It is for this reason that the plaintiffs filed their lawsuit with the Supreme Court of British Columbia, where it is currently being processed.

Tahoe Resources Inc. was founded by senior executives of the Canadian mining industry, particularly linked to Glamis Gold and Goldcorp. The company came to the forefront in 2010 thanks to the Escobal project, which it acquired from Goldcorp on May 3, 2010, seven months after Tahoe was incorporated under the Business Corporations Act of British Columbia. The sale was finalized on June 8, 2010 and included control of the Minera San Rafael, S.A., recently registered by attorney Jorge Asencio Aguirre, and of which Goldcorp maintains 40% of shares. Asencio Aguirre is an important cornerstone to this process. He is the legal representative of the mining companies Montana Exploradora [Goldcorp Inc.], Entre Mares [Goldcorp Inc.], Explotaciones Mineras of Guatemala (EXMINGUA) [Kappes, Cassiday & Associates] and MINERASA [Tahoe Resources] and helped create reforms to the 1997 Mining Law, according to statements he made on January 23, 2005 on the television program "Libre Encuentro."

Since 2011, when the Escobal mining project came under the control of Tahoe Resources, community opposition has intensified as demonstrated by protest marches and municipal consultations that have taken place in the neighboring municipalities of Nueva Santa Rosa, Santa Rosa de Lima and Casillas.

During this period, several acts of violence have occurred. One of the most dramatic events took place on April 27, 2013, when private security guards from the company Alfa Uno – associated with the Israeli company Golan Group - acted on orders of the then-head of security Alberto Rotondo Dall'Orso and indiscriminately shot at community members who were peacefully protesting in front of mining facilities in San Rafael Las Flores. Seven community members were injured.

"We have to protect investors." Óscar Berger, President of the Republic of Guatemala. Press conference, January 11, 2005.

As a result, on May 2, 2013, the government declared a State of Siege in four municipalities in the departments of Jalapa and Santa Rosa, militarizing the area under the guise of combating organized crime. The underlying reasons for the government's response were published by Plaza Pública and revealed the contradictions between the actions taken and the real purpose behind them: to protect private mining interests.

On June 18, 2014, the seven people injured filed a lawsuit against Tahoe Resources Inc. with the Supreme Court of British Columbia. The plaintiffs are: Adolfo Agustín García, Luis Fernando García Monroy, Artemio Humberto Castillo Herrera, Wilmer Francisco Pérez Martínez, Erik Fernando Castillo Pérez, Noé Aguilar Castillo and Misael Eberto Martínez Sasvin.

The lawsuit charges the company with the violent repression of peaceful protesters, based on the fact that Tahoe controls all important aspects of the operation of the Escobal mine, including security practices and policies, and community relations.

The lawsuit states, "Tahoe expressly or implicitly authorized the conduct of Rotondo and security personnel" and was negligent in preventing Rotondo and other security personnel from using excessive force. The plaintiffs argue that as owner of the subsidiary MINERASA, Tahoe is responsible for what transpired.

Tahoe denies that Rotondo is responsible. Instead, the company places blame on the Golan Group for not following international standards for security service providers. This stance is expressed by the company in the 2014 Annual Report of the Board of Ethics for the Government Pension Fund Global of Norway, published on January 26 of 2015. The

report recommends the "exclusion of Tahoe Resources Inc. due to unacceptable risks of the company contributing to serious human rights violations."

Rotondo and the Affidavit's Revelations

A September 2013 article by Plaza Pública explains that little is known about the history of Rotondo (Peruvian) in the mining industry. According to Andrés Dávila, spokesperson for MINERASA, Rotondo was an external consultant who came to Guatemala as contracted by a security company. Dávila explains that due to a confidentiality agreement, he cannot name the company nor give the date in which Rotondo took over as head of mine security.

One year later, the company handed over documentation about the hire, as cited in the Norwegian Pension Plan report: "[After] the armed attack against our security forces in January 2013, in which two security guards were killed and several injured, we began private consultations with an international security consultant."

The report does not specify who the consultant was. However, this fact appears together with Rotondo's history in the affidavit given by the vice president of Tahoe Resources, Donald Paul Gray.

The document, written in English, has a section entitled Security and Other Operations in Guatemala, and says that in 2011, MINERASA "contracted International Security and Defense Management, LLC (ISDM), a security company with global operations and based in California, to assess its security needs during the construction phase of the Escobal project. As part of that contract, ISDM managed a process of soliciting proposals for security services for MINERASA and made recommendations."

Under paragraph 54, it describes that "as a result of the solicitation process, MINERASA came to contract with the Golan Group, formally called Alfa Uno, Sociedad Anonima ("Grupo Golan")...in order to develop and implement MINERASA's security plan. The Golan Group is an internationally known security company that specializes in providing security products and services to multinational organizations."

Gray acknowledged that the Golan Group provided security services to MINERASA before, during, and after the incidents that took place on April 27, 2013, both to the Escobal project as well as to its operations in Guatemala City. The company provided between 80 and 125 security guards to protect facilities and transportation. The contract between MINERASA and the Golan Group was signed in November 2011.

Under paragraph 56, Gray indicates "Rotondo initially provided services to MINERASA through the ISDM. In 2012, MINERASA [contracted] him as the security manager. MINERASA received and reviewed information about Rotondo's experience and qualification, including information from ISDM, as part of the due diligence that led MINERASA to retain his services."

According to Gray, Rotondo was asked to supervise the security contracts that MINERASA signed with entities like the Golan Group. MINERASA employed two or three Guatemalans to provide supportive roles to Rotondo. Gray explained in some detail the cases of violence against mining operations and private security personnel and declared that Rotondo resigned two days after the April 27, 2013 incident, ending his relationship with MINERASA. Nevertheless, Gray does not say why Rotondo continued to live in the mining facilities while he was under house arrest - measures given to him after his first criminal hearing in 2013.

Failing to mention the State of Siege imposed on May 3, 2013, Gray indicates that at the end of that month, the government "increased the quantity of permanent police forces in a variety of municipalities of the region, including San Rafael Las Flores. There has been a noticeable reduction in tension since that date."

Private Security to Counter-Insurgency and Military Intelligence

Why did Tahoe Resources contact ISDM to assess the security needs of the project? There is still no complete answer to this, but some insight can be gained from David Paul Gray's affidavit.

ISDM is a company founded by U.S. military veterans James V. Earl and William J. Earl, who have extensive international military experience. ISDM makes the list as one of the most important private military companies in the world. It also appears on the list of private military companies with mercenary roots, founded in the midst of the wars in Iraq and Afghanistan.

ISDM offers a variety of security and defense services ranging from threat assessment and kidnapping prevention, to training in military operations, military intelligence, counterintelligence and counterterrorism. It provides services to other private companies and is contracted by the U.S. government.

When Tahoe Resources hired ISDM, the military company had just signed a second contract with Fluor Intercontinental, Inc. (FII) to provide qualified personnel to be deployed to Afghanistan. These personnel were required by FII to meet contractual requirements for the Logistics Civil Augmentation Program (LOGCAP) that FII signed in 2007 with the U.S. government to carry out U.S. army operations in Afghanistan. FII is part of the U.S. transnational corporation Fluor Corp.

Among the conglomerate of companies that make up Fluor Corp. is the American Equipment Company, Inc. (AMECO), which incorporates equipment and construction companies, many of which are in Latin America. It is unknown whether the link between ISDM and Fluor Corp. played a role in the hire, to be managed through subsidiary companies.

In Guatemala, AMECO has a subsidiary - Maquinaria Ameco Guatemala, Limited - that trades as Ameco Guatemala. The subsidiary was registered in 2007 in the Commercial Registry and legally represented by Allen Robert Krebs Wickfors. Maquinaria Ameco Guatemala shares its headquarters with Equipos Múltiples of Guatemala, S.A. (Multiequipos), Pavimentadora Company of Guatemala, S.A., and Pavimentos of Guatemala, S.A. (PADEGUA), all of whom are represented by Krebs Wickfors and registered in the Commercial Registry in different moments between 1970 and 1997. Out of this group of companies, Multiequipos and PADEGUA provide services to MINERASA at the Escobal project. In 2011, PADEGUA built the access road to the Escobal mine and in 2012, built the sub drainage system and retaining wall.

Tim Pascuarelli, another U.S. military veteran with ample experience in conducting military security consultations, including in Iraq and Afghanistan, took part in ISDM's assessment that led to the hiring of the Golan Group in 2011. Pascuarelli was in Guatemala on contract with the ISDM between May and September of 2011.

The Golan Group is an Israeli private security company founded in 1983 by officers of the Special Forces of the Israeli Army. Its president is the Army Captain Yoram Yasur, and its directors are Vered Yasur and Yehuda Senderey. In Guatemala, its origins date back to the counterinsurgent war [1970s-1980s] that was backed by the Israeli army and intelligence agency.

The Golan Group was established in November 1987 under the name Golan, S.A. In 1990, it registered the company Alfa Uno, S.A., and in 1997, it registered Tiendas Golan, S.A. and Golan Armas y Municiones, S.A., all members of the Golan Group. Their legal representatives are Yoram Yasur and Gerardo Antonio Wurmser Ordóñez, who is also its general manager and was chairman of GGCA Inc. (Golan Group Central America), registered in Panama in 2007.

Wurmser Ordóñez is the brother of Juan Mauricio Wurmser Ordóñez, Finance Minister during the Jorge Serrano Elías administration and current president of the public relations company Wurmser Ogilvy & Mather. He is also the brother of the engineer and bishop Francisco Rolando Wurmser Ordóñez, an Opus Dei vicar in Central America.

The Golan Group has offices in Central America, Mexico, Venezuela, Colombia and Israel. Its central offices are in Florida, United States.

When Tahoe Resources hired the Golan Group, the company was already known within the mining world for the many legal complaints filed against them. Between 2005 and 2009, the Golan Group provided security services to Glamis Gold and HudBay Minerals at their Marlin and Fenix projects, respectively. In both cases, Golan was accused of violating human rights. HudBay Minerals is facing a lawsuit in Canada for the murder of the teacher Adolfo Ich.

In the case of Alberto Rotondo Dall'Orso, first hired by ISDM and later as the security manager of MINERASA, his curriculum vitae also lists military training in counterinsurgency. He graduated in 1974 from the Peruvian Navy, and between 1980 and 1981, was trained at the U.S. Naval Special War Command (US NSWC) based in Coronado, San Diego, California, where ISDM's headquarters are also located.

Between 1985 and 1986, he received training for officers in psychological operations, civil affairs and low-intensity terrorism at the John F. Kennedy Special Warfare Center and School in Fort Bragg, Mendocino, California, which is where the Center and School

of Psychological Operations of the U.S. Military is based. These were the years in which the counterinsurgent war was at its most intense in Peru.

Public information on him ends in 1991, when he was studying at the Inter-American School of Defense in Washington, D.C.

According to the Peruvian National Customs and Tax Administration (SUNAT), Alberto Rotondo Dall'Orso identifies with RUC number 15157523276, and was enrolled in 2008. According to the International Standard Industrial Classification (ISIC), one of Rotondo's primary activities outlined with the SUNAT is the "Construction and Restoration of Ships" and lists as secondary activities "Investigation and Security" and "Corporate advisory activities."

These activities are related to the last job that Rotondo has listed on the internet in 2009. Rotondo appears as the director of Jungle Xports, a Peruvian maritime transportation company that focuses on "Inland Navigation," with the primary two activities being: river tourism along the Amazon River and the restoration of boats. The company has three boats for conducting tours.

Jungle Xports was founded by Roberto Antonio Rotondo Mendoza, Alberto Rotondo Dall'Orso's cousin, and Peruvian Minister of Industry, Tourism and International Business between 1980 and 1981. In 2003, the Peruvian government authorized the use of a Private Protected Area, which is where the company's tourist services are carried out. Currently, Jungle Xport is run by Rotondo Mendoza's daughter, Mariana Rotondo Pawlikowski.

The same year that Rotondo registered with the SUNAT, ISDM del Perú, S.A. stopped operating.

Other Security Companies and Intelligence Agencies

Another document published in connection with the lawsuit against Tahoe Resources is the affidavit given by Roger Barany, who translated into English wiretaps of Rotondo as authorized by a trial judge. The document is dated January 21, 2015.

Several media outlets published extracts from these wiretaps when they were released on May 7, 2013, in the public hearing that took place in the First Instance Court of Santa Rosa. Through these wiretaps, Rotondo is heard ordering security personnel to shoot indiscriminately, using strong, racist language.

Tahoe denies that Rotondo is responsible. Instead, they place blame on the Golan Group for not having followed international norms in providing security services.

The wiretaps record several conversations between Rotondo and Juan Pablo Oliva Trejo during the incident on April 27, 2013. Based on these conversations, Rotondo was arrested on April 30, 2013 and Oliva Trejo on May 4, 2013.

Oliva Trejo held a high-ranking position in the military until 2005, achieving the rank of Infantry Sub commander in 2000. His name carries greater notoriety for being the legal representative of Counter Risk, S.A., a company established in 2008 and hired by Tahoe Resources in order to carry out risk assessment and press monitoring. Part of this information also appears in the lawsuit by the seven community members of San Rafael Las Flores, where it indicates that "Tahoe's security personnel for the Escobal mine were made up of Rotondo and private security employed under contract with the companies Golan Group (Alfa Uno) and Counter Risk, S.A."

The communication style present in the wiretap denotes a high level of trust between Rotondo and Oliva Trejo. This level of trust also extended to Oliva Trejo's father, retired Colonel Juan Guillermo Oliva Carrera, president and director of the Association of Military Political Studies (AEPM). Oliva Carrera has been prosecuted for being one of the intellectual authors of the murder of anthropologist Myrna Mack in September 1990.

The AEPM is the headquarters for Counter Risk, S.A. - legally represented by Oliva Trejo and Supervivencia Urbana, S.A, in which Oliva Carrera is the director of political risk analysis and Oliva Trejo is a firing-range shooting instructor.

Supervivencia Urbana, known as the Southern Firing Range, is directed by Army General Alfredo Augusto Rabbé Tejada, who was elected to Congress and declared himself independent after gaining his seat through the UCN party. Rabbé Tejada is one of the business partners for the company Maya Químicos, S.A. (MAQUISA), one of the companies created by the Institute for Military Security (IPM) in charge of supplying explosives to Minera San Rafael for its mining operations and owner of the explosives that were stolen weeks before April 27, 2013 - one of the reasons the government cited in order to implement the State of Siege in the area on May 1, 2013.

The State of Siege took place after strong pressures were exerted by mining companies against the government, made evident by an injunction filed with the Constitutional Court by MINERASA. The injunction was dismissed by the Constitutional Court on February 26, 2013.

The injunction was filed by the Administrative Manager and legal representative of MINERASA, Carlos Roberto Morales Monzón, against the President of the Republic of Guatemala, the Minister of the Interior, the Minister of National Defense, the Director of the National Civil Police (PNC), the PNC Commissioner of Division 22 of the Department of Jalapa, and the PNC Commissioner of Division 32 of the Department of Santa Rosa.

Effectively, MINERASA argued that the State was not guaranteeing that mining activities could be carried out in the approved license areas and was not providing the necessary security. The record states, "the State is not guaranteeing [the mine's] security by allowing residents to protest against mining activities, for which the authorization and corresponding licenses were already granted, committing crimes and effectively blocking the roadway in front of the mining operations and impeding free transportation."

The arguments by MINERASA were given months before the exploitation license was APPROVED for Escobal. After the Constitutional Court's resolution in February, the

Ministry of Energy and Mines announced the approval of the exploitation license, on April 3, 2013.

In the end, the State of Siege was supported by a number of subcontractors for MINERASA, by way of a paid ad campaign published in print media on May 7, 2013. It was signed by 36 companies involved with the construction of the mine and expressed their "respect and backing to the decision made by the Guatemalan government to reestablish public order and the rule of law in the municipalities of Santa Rosa and Jalapa." Amongst the signatories were Cementos Progreso, Aceros Arquitectónicos, Mixto Listo and PADEGUA.

Following the ruling of the Constitutional Court, an important governmental decision was made. The Escobal mining project became listed as a "strategic natural resource," as defined by the National Security Council (CNS), and as a result, the problem in San Rafael Las Flores became one of national security.

The 2013 annual report of the Technical Secretary of the National Security Council specifies that in March 2013, the Council approved the Inter-Institutional Office for Integral Development to begin operations in San Rafael Las Flores "with the goal of developing policies, strategies, projects and recommendations to the Council, with holistic attention to security and development issues that allows for the improvement of the quality of life of the population and the guarantee of environmental protection."

The Commission continued to operate after a proposed Governmental Agreement was approved, first brought forward by the Technical Secretary of the National Security Council (CNS), directed by General Ricardo Bustamente Flgueroa. The goals for the Governmental Agreement were presented on March 2013, including the constitution for the Interinstitutional Group of Strategic Natural Resources (Mining), and presented by the Assessment and Planning Commission of the National Security Council.

In its 2013 report, the Ministry of Energy and Mines (MEM) describes the creation of this Commission in the following manner: "the tangible outcome of having created the Interinstitutional Office for Integral Development in the municipality of San Rafael Las Flores, Santa Rosa to address the issues in the area, is directed by MEM through the Vice ministry of Sustainable Development."

Meanwhile, Tahoe Resources' annual report published March 12, 2014 mentions, "The government set up an inter-institutional commission to address community issues and oversee security matters, the first of its kind in Guatemala. It is managed by the Technical Secretary of Intelligence and is comprised of members from Ministry of Interior, Energy and Mines, Environment and the National Dialogue Table. MINERASA helped the Commission to locate suitable office space in San Rafael Las Flores and get established."

Within the context, Tahoe Resources hired a new security company in order to safeguard its interests - Centurion Security, S.A., registered in the Commercial Registry in 2013 and who received its operating permits as a private security company in the first quarter of 2014.

Donald Paul Gray, vice president of Tahoe Resources, said in his affidavit: "At the beginning of 2013, MINERASA hired Peter Snell to assess security issues. Snell was the general manager of the security company Yantarni. At this time, Snell was in the process of forming the company Centurion Security, S.A. (Centurion), a new security company that provided protection services to operations."

The private security company Corporación Yantarni, S.A., was founded in Guatemala by British military veterans on June 5, 2006. According to Snell, Yantarni is a British company that "offers assessments in each aspect of security, from corporate operations, business risk, and foreign investment, to terrorism and espionage to the governments in the region." Yantarni is a company recommended by the British Embassy in Guatemala. The company began by providing private security to the oil import and distribution company Blue Oil, S.A., registered in Guatemala on December 19, 2005.[1]

"In June 2013, Centurion was contracted to manage the Golan Group contract. In April 2014, MINERASA ended its contract with the Golan Group and contracted Centurion in order to provide complete protection services to the Escobal mine."

It was under these conditions that the State of Siege was carried out, to protect private investment interests. Looking forward, the Xinca task force, to be implemented by the Ministry of the Interior at the end of this year, will close the security circle. "Pacifying" the region, the business of mining will continue on.

Notes

[1] Argueta, Otto (2010), Private Security in Guatemala: The Pathway to Its Proliferation. Page. 93. NOMOS. Verlagsgesellschaft, Baden-Baden 2013. Printed in Germany. Edition 2013. 296 pages.

What To Do

The Tahoe Resources and Hudbay Minerals cases are two of many cases of repression linked to Canadian/American mining interests.

Send, and keep on sending copies of this information, and your own letters, to your own contact lists, and to your own elected politicians (MPs, Congresspersons, Senators), media, and to pension and investment funds, asking: Why our governments, companies and investment firms do nothing about the poverty, repression and violence, and environmental and health harms associated with North American businesses, while benefiting from these economic relations with the Guatemalan and Honduran (and Mexican) political, military and economic elites?

Canada Pension Plan & Other Pension Funds ~ Do you know where your pension funds are invested?

In Tahoe Resources, Goldcorp Inc, Hudbay Minerals, Barrick Gold, Send, and keep on sending copies of this information, and your own letters, to your own pension and investment funds, asking ...

INFORMATION

- Civil lawsuit against Tahoe Resources in Canada: Canadian Center for International Justice, <u>http://www.ccij.ca/programs/cases/index.php?DOC_INST=24</u>, info@ccij.ca, 604-569-1778 // NGO website: www.TahoeOnTrial.net
- Criminal trial for murder and other crimes, against Hudbay Mineral's former head of security in Guatemala: info@rightsaction.org (If you are in Guatemala, please consider attending the continuation of the trial in Puerto Barrios on April 14, 2015.
- Civil lawsuits against Hudbay Minerals/CGN in Canada: Klippensteins Barristers and Solicitors: www.chocversushudbay.com
- Tahoe / Hudbay / Barrick Gold / Goldcorp Shareholder and Investor education activism, April-May 2015: MISN (Mining Injustice Solidarity Network): <u>http://www.solidarityresponse.net/</u>

"Defensora"

In your community, screen this award winning film by Rachel Schmidt that documents the lives and vision of the Mayan Qeqchi people and their efforts to seek justice in Canadian courts against Hudbay Minerals and CGN. Trailer/Information: www.defensorathefilm.com

Tax-Deductible Donations (Canada & United States)

Rights Action sent an emergency grant to the Committee in Defense of Life and Peace in San Rafael Las Flores, to support the family needs of Telesforo Pivarel, assassinated on April 5, 2015.

To support campesino and indigenous communities in Guatemala, working for community-controlled development and defense of human rights and the environment, and working to denounce harms and violations caused by resource extraction companies, make check payable to "Rights Action" and mail to:

- Canada: (Box 552) 351 Queen St. E, Toronto ON, M5A-1T8
- USA: Box 50887, Washington DC, 20091
- Credit-Card Donations: <u>http://www.rightsaction.org/tax-deductible-donations</u>
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